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**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with § 271 of the Telecommunications Act of 1996	Docket No. UT-003022
In the Matter of U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996	Docket No. UT-003040

QWEST’S PETITION FOR RECONSIDERATION OF THE 15TH SUPPLEMENTAL ORDER: INTERCONNECTION, COLLOCATION, LNP AND RESALE

Qwest Corporation ("Qwest") respectfully requests reconsideration of the Washington Utilities and Transportation Commission's ("Commission's") 15th Supplemental Order Addressing Workshop Two Issues: Checklist Items No. 1, 11, and 14 in the above-captioned proceedings. This petition is filed in accordance with the provisions of that Order, which allow reconsideration on questions involving errors of fact or law.

Qwest's petition is limited to just two issues. On issues related to Interconnection, Qwest seeks reconsideration of the Commission’s decision regarding “ratcheting” or proportional use and payment of interconnection and special access facilities. On issues related to Resale, Qwest seeks reconsideration of the decision that it must tariff (or file in the SGAT) its Centrex Prime pricing. Each of these requests is

1 premised on Qwest's belief that the Commission made an error of law or fact in reaching the decision, as
2 will be more fully explained in each section below.

3 **I. ISSUES FOR RECONSIDERATION**

4 **A. Ratcheting**

5 Qwest asks the Commission to reconsider its decision regarding Issue WA-1-5, addressing the
6 proportional sharing of cost on entrance facilities that are purchased as private lines and used partially for
7 interconnection/access to UNEs and partially for private line or special access and switched access
8 services. Qwest has agreed to permit CLECs to use private line facilities, but asked the Commission to
9 affirm that the pricing should be entirely at the private line rate, not "ratcheted" as AT&T and WorldCom
10 requested. The Commission agreed with this proposal in Workshop 1 when discussing reciprocal
11 compensation.

12 Ratcheting, as discussed in Workshop 1, is the discounting of a Private Line Transport Service
13 charge at the point in time when it begins to carry local traffic. The issue arose in Workshop 1 in the
14 context of Checklist Item 13, Reciprocal Compensation, but it is essentially an "interconnection" issue,
15 and thus arose again in Workshop 2. In paragraph 251 of the August 31, 2000 Revised Initial Order in
16 Workshop 1, the ALJ approved Qwest's pricing proposal and disallowed ratcheting. The ALJ found
17 that CLECs still received considerable benefits under that proposal ". . . because it gives the CLECs the
18 ability to achieve the network efficiency they say they want. Given their willingness to purchase the spare
19 capacity for economic reasons even at the higher private line rate, the CLECs are in essence saving the
20 cost of purchasing separate interconnection entrance facilities in addition to the private line facilities."¹

21 Again, the Commission agreed with this conclusion.

22 Ratcheting was discussed in Workshop 2 as an interconnection issue. In Workshop 2, the ALJ
23 recommended that CLECs be permitted to pay proportional pricing for the proportional use of the private
24 line. In paragraphs 12-20 of the 15th Supplemental Order, the Commission discusses this issue, and

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26 ¹ Revised Initial Order, Docket No. UT-003022 and UT-003040, In the Matter of the Investigation into US WEST
27 Communications Compliance with Section 271 of the Telecommunications Act of 1966 ("*Revised Initial Order*") at ¶251. The Commission adopted this recommendation in its June 11, 2001 final order on the issue.

1 resolves the inconsistency between the Workshop 2 and Workshop 1 decisions. Qwest respectfully
2 suggests that the recommended and final decision in Workshop 1 is the correct outcome from both a legal
3 and policy standpoint. Qwest thus asks the Commission to reconsider its decision in Workshop 2 and
4 disallow the proportional pricing of entrance facilities.

5 Qwest believes that the decision to allow proportional pricing is inconsistent with FCC rulings on
6 this very issue. As set forth in Qwest's July 17, 2000 brief in Workshop 1, the FCC has already
7 considered and rejected the AT&T and WorldCom pricing proposal, and Qwest asks this Commission
8 for the same result here.²

9 In an *ex parte* submission to the FCC in CC Docket 96-98, WorldCom proposed the very type
10 of commingling AT&T and WorldCom propose here.³ Specifically, WorldCom requested that CLECs
11 be permitted to purchase their local transport facilities at TELRIC rates instead of as special access,
12 converting DS-1 lines used to carry local traffic to TELRIC-rate facilities, bring those facilities to an
13 incumbent LEC end office at DS-3, and "multiplex the DS-1s onto the DS-3 they have purchased out of
14 the ILECs' special access tariffs."⁴ Just as AT&T argued in this case, WorldCom claimed that a
15 prohibition on this type of commingling would be inefficient and require CLECs to operate duplicative
16 networks.⁵ As AT&T and WorldCom argued here, WorldCom also claimed that the local circuits would
17 be segregated from toll circuits, and that ratcheting of rates should be permissible to reflect that a portion
18 of the facilities are used to carry local traffic.⁶

19 The FCC considered *each* of these claims and specifically *rejected* all of them as well as
20 WorldCom's commingling proposal.⁷ Thus, the FCC has already heard and rejected the argument posed

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22 ² Qwest also notes that this issue raises substantial jurisdictional questions. What AT&T and WorldCom effectively
23 request is for this Commission to modify the federally tariffed special access rates. It is the FCC, not state
24 commissions, that review and approve these tariffed rates.

25 ³ See Ex. 169 at 6-8.

26 ⁴ *Id.* at 6.

27 ⁵ *Id.* at 7.

⁶ *Id.* at 7.

⁷ Supplemental Order Clarification, *In the Matter of Implementation of the Local Competition Provisions of the
Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 00-183 (June 2, 2000) ("Supplemental Order
Clarification"); Supplemental Order Clarification ¶ 28 & n. 79 (expressly rejecting commingling as proposed by

1 by AT&T and WorldCom. Indeed, the FCC stated that it was not convinced that lifting the prohibition
2 would not lead interexchange carriers to use TELRIC-rate facilities to bypass switched access.⁸ The
3 outcome Qwest proposes is of course interim, pending a final decision on this issue by the FCC. It is
4 precisely because this issue is still being decided that it is important to maintain the status quo in the interim
5 period.

6 The other state commissions to consider this issue have agreed with Qwest. The Colorado,
7 Oregon, and Multi-State 271 proceedings have all considered the same issue, have rejected the
8 AT&T/WorldCom proposal, and have agreed with Qwest's position. The Colorado Commission issued
9 a detailed written opinion that refused the AT&T proposal, in part because the issue is presently before
10 the FCC. The Colorado Commission also found that ratcheting would affect special access rates,
11 thereby significantly affecting a known implicit Universal Service subsidy.⁹ In the Multi-State proceeding,
12 the Facilitator, Mr. Antonuk, found similarly and stated "the FCC, along with most state commissions,
13 has identified universal service as an important regulatory goal. Access charges have been and continue
14 to be an important mechanism for commissions in achieving the goal of universal service. Adoption of
15 SGAT provisions that have the potential to undermine the effectiveness of the current pricing mechanism
16 for special access requires a more comprehensive review of all Qwest pricing policies and their effect on
17 universal service than has been accomplished in this proceeding."¹⁰

18 The Colorado Commission adopted Qwest's proposal that permits CLECs to use spare special
19 access facilities for local interconnection, but with the stipulation that all circuits used are to be priced at
20 special access rates, concluding that this provides AT&T and WorldCom the opportunity to enjoy the
21 available efficiencies but protects the integrity of the pricing system.

22 Thus, the AT&T and WorldCom proposal was rejected, in part on the basis that they had failed

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WorldCom and citing WorldCom's April 4, 2000 *ex parte* submission submitted in this workshop as Ex. 169).

24 ⁸ *Id.* ¶ 28.

25 ⁹ A copy of the relevant portions of the Colorado Commission's decision is attached hereto as Exhibit A.

26 ¹⁰ Second Report, Workshop One, May 15, 2001.

1 to distinguish their proposal from those about which the FCC has expressed concern and about which it
2 may be expected to provide further guidance in the future.

3 That failure is material here, given the standard that the FCC has applied to its examinations under
4 Section 271:

5 Because the substantive interim rules we have adopted in our orders on
6 this subject define the nature of SWBT's statutory obligations, SWBT's
7 adherence to them cannot constitute a basis for finding noncompliance
8 with the checklist. It would be quite unfair to a BOC applicant to deny it
9 approval to compete in the long-distance market on the basis of conduct
10 that, in other proceedings, we have explicitly authorized. For the section
11 271 process to work, potential BOC applicants must have a reasonable
12 degree of certainty about what they need to do to bring themselves in
13 compliance with statutory requirements, and they therefore need to be
14 able to rely on our rules for guidance.¹¹

15 Thus, Qwest believes that upon reconsideration, the Commission should determine that the sound
16 legal and policy result on this issue is the one stated in the Workshop 1 orders, and the Commission
17 should revise the 15th Supplemental Order disallow proportional pricing until the FCC further addresses
18 the issue.

19 This issue is also of considerable importance because the Commission decision would require
20 Qwest to implement ratcheting right away. This will require Qwest to undergo a time consuming and
21 expensive exercise that may, in time, be rejected by the FCC. As stated above, this issue is before the
22 FCC at this time. Moreover, the only reason Qwest must implement is due to the recent Washington
23 Commission's decision, as the 11 other jurisdictions have rejected ratcheting. Qwest respectfully
24 requests that the Commission reverse course and reaffirm its decision from Workshop No. 1.

25 **B. Requirement to Tariff Centrex Prime**

26 Finally, Qwest asks the Commission to reconsider the requirement that Qwest publish its Centrex
27 Prime prices in the SGAT or tariff. This issue is discussed under Issue WA 14-13, paragraph 103 of the

¹¹ Memorandum Opinion and Order, *Application Of SBC Communications, Inc. Southwestern Bell Telephone Company And Southwestern Bell Communications Services, Inc. d/b/A Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65 FCC 00-238 ¶ 23 (June 30, 2000) ("*SBC Texas Order*") *SBC Texas Order* ¶ 228.

1 15th Supplemental Order. The basis for reconsideration is that Qwest believes that this requirement is
2 premised on a mistake of fact. It appears as though the ALJ and the Commission believed that absent
3 such a requirement, CLECs would have no way to know the Centrex Prime prices and consequently no
4 way to know what might be available for resale. That is not the case, as will be explained more fully
5 herein. In fact, CLECs do have the ability to review Centrex Prime pricing by reviewing any Centrex
6 Prime contract that is filed with the Commission. Additionally, the Commission has previously approved
7 Qwest's Centrex Prime terms and conditions, which explicitly state that pricing will be on a special
8 contract basis. Qwest submits that MetroNet has not established a basis to modify that tariff requirement.

9 The rationale for requiring the publication of a standard pricing schedule for Centrex Prime is
10 contained in the Administrative Law Judge's February 23, 2001 order on this issue, at paragraph 279.
11 The concern raised there was that Qwest's sales personnel have access to the standard prices, but
12 CLECs do not, and that the data available to CLECs from contracts filed at the Commission is insufficient
13 to allow CLECs to truly understand what is available for resale. Qwest believes that MetroNet, the
14 CLEC who made these arguments, is mistaken.

15 CLECs do have access to Centrex Prime standard prices. The price sheet containing the
16 standard prices was admitted in this proceeding as non-confidential exhibit 512, and an updated price
17 sheet would be provided to any CLEC at any time upon request. Further, CLECs have access to
18 individual Centrex Prime contracts that are filed with the Commission. Although Qwest does file these
19 contracts as confidential documents, that designation is to protect the customer proprietary network
20 information contained in those agreements. Qwest would permit public disclosure of the contract after
21 redacting the customer's name.

22 Qwest has appended just such a contract to this petition as Exhibit B. That contract was
23 approved by the Washington Commission on August 9, 2000, and provides all the detailed information
24 regarding the service. For example, paragraph 279 of the Initial Order on this issue expressed concern
25 that CLECs could not tell what Centrex features are being provided, how many lines are served at each
26 location, what the prices for the lines and features are, etc. However, as can be seen from reference to
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1 the contract, attachments 1-3 provide detailed information. Further, attachment 4 would be provided as
2 redacted, which would allow the CLEC to obtain additional information about the contract without
3 impermissibly disclosing customer proprietary network information in violation of Section 222 of the Act.

4 Further, Qwest's current effective tariff for Centrex Prime explicitly states that pricing is on an
5 individual contract basis. WN U-40 Section 9.1.18. C.1. That tariff has the force and effect of law, and
6 absent a showing that any CLEC is negatively impacted by that provision, it should be allowed to remain
7 in effect. Qwest acknowledges that the Initial Order considered the unavailability of standard pricing to
8 be an unreasonable restriction on resale, but Qwest believes that the explanation contained herein
9 regarding the information that is actually available to CLECs should address that concern.

10 Finally, there are practical difficulties with the requirement to file a tariff or include the prices in the
11 SGAT. Including retail prices in the SGAT is inconsistent with how Qwest handles all of its other retail
12 services, and could introduce confusion into the SGAT pricing exhibit. Qwest's retail prices are
13 contained in its tariff, price list, or contracts. Thus, if Qwest is required to publish its standard prices, it
14 will do so in one of those forms. The 15th Supplemental Order requires Qwest to include the prices in its
15 tariff. However, the tariff is not entirely appropriate for these prices, because the underlying services are,
16 in some cases, competitively classified. Specifically, the Commission has competitively classified Centrex
17 features statewide, and has competitively classified the entire Centrex service in some wire centers. Thus,
18 the prices will have to be published partially in the tariff and partially in the price list. The prices for
19 Centrex Prime are not currently structured in a way so as to allow this type of division. Thus, the
20 requirement to publish the prices is also effectively a requirement to redesign the rates. Given the
21 explanation above about the information that is available to CLECs through other channels, Qwest asks
22 the Commission to reconsider this requirement and find that it is unnecessary.

23 II. CONCLUSION

24 Qwest respectfully requests that the Commission reconsider certain limited aspects of the 15th
25 Supplemental Order as set forth herein. Specifically, Qwest asks that the Commission reinstate its
26 previous ruling on the shared use of private line and interconnection facilities so that the pricing of the
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1 facility is at the private line rates, and the ratcheting requested by AT&T and WorldCom is disallowed as
2 contrary to relevant FCC decisions. Qwest also asks that the Commission reverse its requirement that
3 Qwest tariff its standard pricing for Centrex Prime.

4 RESPECTFULLY SUBMITTED this _____ day of August, 2001.

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