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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

<p>In the Matter of the Continued Costing and Pricing of Unbundled Network Elements, Transport, Termination, and Resale</p>	<p>Docket No. UT-003013</p>
<p>In the Matter of the Investigation Into U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996</p>	<p>Docket No. UT-003022</p>
<p>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</p>	<p>Docket No. UT-003040</p> <p>QWEST'S WRITTEN COMMENTS IN RESPONSE TO THE COMMISSION'S MAY 3, 2001 NOTICE OF PREHEARING CONFERENCE</p>

In connection with the above-captioned dockets, the Commission issued a Notice of Prehearing Conference on May 3, 2001. Contained in that Notice was an invitation to present written comments on four separate questions concerning interfacing issues between the above dockets. Qwest hereby responds as follows:

- **What issues could be addressed in either docket, and how should they be handled?**

The Commission is, and has been, conducting two separate proceedings in the above-captioned matters. Docket No. UT-003013 is the Commission's Continued Costing and

1 Pricing docket for Unbundled Network Elements and Transport and Termination. That docket
2 was opened in early 2000 to address certain UNE remand issues, as well as issues which
3 remained unresolved after the first generic cost docket. Those latter issues included physical
4 collocation and OSS cost recovery. The issues for consideration in that docket have been
5 limited to issues of the appropriate costs and prices for elements mandated under the
6 Telecommunications Act of 1996. Additionally, the compliance filings that resulted from the
7 order in that docket, and the orders in the previous cost docket, were compliance tariffs that
8 contained only prices and a description of the rate element – pursuant to requests by various
9 parties, and Commission order, those tariffs do not contain terms and conditions.

10 The other proceeding identified above is the consolidated docket addressing Qwest’s
11 compliance with Section 271 of the Act and Qwest’s Statement of Generally Available Terms
12 (SGAT) pursuant to Section 252(f) of the Act. That docket has been conducted as a series of
13 workshops which have essentially developed into a large-scale negotiation of terms and
14 conditions for various elements and other requirements under the Act. Costing issues have
15 not been addressed in that consolidated proceeding, but rather have been addressed in Docket
16 No. UT-003013, and its predecessor, Docket Nos. UT-960369, et al.

17 Given the above description of the two dockets, Qwest believes that the answer to the
18 first question presented in the Notice of Prehearing Conference is that there are not any issues
19 that could be addressed in either docket, and that any issue raised can be identified as either a
20 “cost and pricing” issue or a “terms and conditions” issue and assigned to the proper docket
21 for resolution. The division of issues to date has been accomplished in this manner and there
22 has been little dispute over which docket is appropriate for a particular issue. Qwest does not
23 believe that there are any issues that could be appropriately handled in either docket. Of
24 course almost all of the issues have both a cost element and a terms and conditions element –
25 for example, the issue of access to building cable in a multiple tenant environment has created
26 disputes between the parties as to both costs and terms and conditions for access. However,

1 that does not mean that the entire issue should be relegated to one docket or the other.
2 Instead, the cost issues are appropriately decided in Docket No. UT-003013, and the terms and
3 conditions issues should be addressed in the SGAT proceeding.

- 4 • **What issues will not be ripe for decision and should not be addressed in either**
5 **docket or for some other reason cannot be addressed in either docket, and how**
6 **should they be handled?**

7 Qwest is not aware of any issues that were or will be raised in the 271/SGAT docket
8 which are not ripe for decision. In the cost docket, it appears as though at least one issue, the
9 provision of line sharing over fiber-fed DLC loops, is not fully developed and may not be ripe
10 for decision. This issue will be briefed in briefs that are currently due on May 29, 2001, and
11 Qwest's position on this issue will be more fully set forth in that filing. However, whether the
12 issue is addressed in the cost docket or not, Qwest will comply with FCC requirements
13 regarding line sharing over fiber-fed loops.

- 14 • **What issues appear not to be ready for decision in one docket but perhaps could**
15 **be addressed in the other?**

16 Given the discussion above with regard to the division of issues, Qwest states that it
17 does not believe that there any issues that are not ready for decision in one docket but could be
18 addressed in the other. If other parties believe that there are such issues, Qwest will be
19 prepared to discuss those at the Prehearing Conference on May 16, 2001.

- 20 • **What principles should govern the ongoing resolution of such issues both before**
21 **the completion of the currently contemplated phases in these dockets and after**
22 **those phases are completed?**

23 Qwest believes that this question raises the important issue of how new wholesale
24 prices and new terms and conditions should be determined on a going-forward basis. Qwest
25 believes that there is likely more than one way that these issues could be addressed, but offers
26 the following suggestions as a starting point for discussion.

Prices

With regard to new prices for wholesale elements, Qwest proposes that it will follow

1 the existing tariff process for changes to already approved wholesale rates. In other words,
2 Qwest already has Commission-approved tariffs establishing a wholesale discount from its
3 retail prices and establishing recurring and non-recurring rates for unbundled network
4 elements. If Qwest wishes to change the price for any of those items, Qwest will simply file a
5 revised tariff with the Commission, on 30 days' notice. After 30 days, the tariff change would
6 automatically become effective unless the Commission took action to suspend the tariff. If
7 the Commission determined that no action would be taken to suspend the tariff, the tariff
8 could be placed on the no action agenda or the consent agenda at a Commission open meeting.
9 Additionally, if Qwest wanted the tariff change to become effective on less than 30 days'
10 notice, Qwest would request a less than statutory notice effective date for the tariff change, in
11 the same way that it does today for retail tariff changes.

12 With regard to prices for new rate elements not previously decided or approved by the
13 Commission, Qwest proposes that it would also submit new tariff sheets, with cost support for
14 those prices, when and if Qwest proposed prices for those new rate elements. Under the
15 current law in the State of Washington, those tariffs for new services would become effective
16 on 30 days' notice. If the Commission wished to conduct further investigation into those
17 prices, the Commission could institute a new cost docket proceeding, or it could include that
18 tariff filing as a part of an ongoing cost docket if such a docket were underway at the time of
19 the filing.

20 **Terms and Conditions**

21 Existing terms and conditions are contained in interconnection agreements and in the
22 SGAT. Those terms and conditions would be changed either through revision to the SGAT or
23 a change to a party's interconnection agreement. A change to a party's interconnection
24 agreement can be accomplished through pick and choose provisions, negotiation between the
25 parties, or, if no agreement can be reached, through an arbitration. Alternatively, changes to
26 the SGAT are being accomplished on an ongoing basis through the 271 proceeding.

1 Workshop #4, to be held in July, will address general terms and conditions, including the
2 SGAT change process. After the 271 proceeding is concluded, Qwest proposes that changes
3 to the SGAT will be accomplished in a manner consistent with the outcome of workshop #4.
4 Additionally, Section 252(f)(3) of the Act permits a state Commission to allow SGAT filings
5 to become effective 60 days after filing. Under those circumstances, the Commission may
6 continue to review the filing after it is effective. Qwest believes that this provision would
7 apply to SGAT changes as well as to entirely new SGAT filings.

8 Thus, Qwest believes that there is a process which can be used for changes to existing
9 costs and prices and existing terms and conditions. Qwest also believes that there is an
10 appropriate process for the proposal of new costs and prices and new terms and conditions.

11 In direct response to the question raised in this section with regard to what principles
12 should govern the resolution of these issues, Qwest submits that the following principles
13 should apply:

- 14 1. Existing processes should be used wherever possible;
- 15 2. Cost and pricing issues should be handled via the existing tariff process;
- 16 3. Terms and conditions issues should be handled via negotiations and
17 arbitrations (if necessary) for individual interconnection agreements, and the SGAT change
18 process (to be discussed in workshop #4 under general terms and conditions);
- 19 4. Resolution of these issues should be timely, giving parties an opportunity to be
20 heard, but without unreasonable delay.

21 Qwest looks forward to discussing these issues in greater detail on May 16, 2001.

22 Dated this 11th day of May, 2001.

23 Qwest Corporation

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25 _____
26 Lisa A. Anderl, WSBA # 13236