

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation Into U S WEST Communications, Inc.'s Compliance With Section 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
_____	)	

**STATEMENT OF SUPPLEMENTAL AUTHORITY REGARDING  
THE PUBLIC INTEREST**

Qwest Corporation (“Qwest”) hereby submits this Statement of Supplemental Authority in connection with the Commission’s consideration of whether Qwest’s section 271 application is consistent with the public interest, convenience, and necessity, as required by 47 U.S.C. § 272(d)(3)(C).

In its post-hearing and reply briefs on Track A and the public interest, as well as in its December 14, 2001 Comments on the Twentieth Supplemental Order, Initial Order on Workshop, Qwest set forth the FCC’s three-part test for determining whether a BOC’s application is consistent with the public interest: (1) whether granting the application “is consistent with promoting competition in the local and long distance telecommunications markets,” giving substantial weight to Congress’s presumption that when a BOC is in compliance with the competitive checklist, the local market is open

and long-distance entry would benefit consumers;<sup>1</sup> (2) whether there are assurances that the market will stay open after a section 271 application is granted (reviewing the BOC's performance assurance plan (if the BOC has adopted one) and other available enforcement tools for adequate assurances that the BOC "would continue to satisfy the requirements of section 271 after entering the long distance market");<sup>2</sup> and (3) whether there are any remaining "unusual circumstances that would make entry contrary to the public interest under the particular circumstances of these applications."<sup>3</sup>

Each of these elements is factually independent and is being considered in a separate proceeding. The first two elements of the public interest are being addressed comprehensively in the separate workshops on checklist compliance and Qwest's performance assurance plan (the "QPAP"), respectively. This public interest workshop addressed the third prong. Qwest has argued that the Commission should now issue a decision finding that approval of Qwest's section 271 application is consistent with the public interest, contingent upon a showing of checklist compliance, the completion of the ROC OSS test, and a finding that the QPAP is acceptable. Since there would be no reason to review the findings of the checklist, QPAP, and OSS workshops a second time here in the public interest proceeding, there is no reason to delay the issuance of such a conditional order until after those other proceedings have run their course.

The commissions of at least two other states have now issued decisions finding that approval of Qwest's section 271 application is consistent with the public interest, contingent upon the adoption of the QPAP, a finding of checklist compliance, and completion of the ROC OSS test, without waiting for completion of the QPAP and OSS proceedings. In a Conditional Statement Regarding the Public Interest and Track A, issued on January 25, 2002, the Utilities Board of the State of Iowa declared that it was "prepared to indicate at this time its conclusion that Qwest has conditionally satisfied the . . .

---

<sup>1</sup> Memorandum Opinion and Order, *Joint Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd 6237 ¶ 268 (2001).

<sup>2</sup> *Id.* at ¶ 269.

<sup>3</sup> *Id.* at ¶ 267; *see also id.* at ¶¶ 281-82.

