

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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 SUPPLEMENTAL REPORT OF QWEST CORPORATION REGARDING SECTION 272

Pursuant to the Commission’s Twenty-Eighth Supplemental Order (“Order”),¹ Qwest Corporation (“Qwest”) respectfully submits this supplemental report describing an internal corporate restructuring in which LCI International Telecom Corp. (“LCI”) merged into Qwest Communications Corporation (“QCC”).

In its Order, the Commission found Qwest to be in compliance with the requirements of Section 272 of the Act, with one condition. The Commission noted that AT&T had referred in a post-hearing filing to a July 2001 invoice “that implied that QCC had merged with another Qwest affiliate, LCI.” Order ¶ 147.² The Commission agreed that Qwest should provide details of this merger to the Commission to determine whether QCC complies with Section 272 requirements since the merger with LCI. *Id.* ¶¶ 154, 272. Qwest submits this supplemental report in order to comply with this condition of the Commission’s Order.

In February 2001, QCC entered into an Agreement of Merger with LCI, pursuant to which LCI, a direct subsidiary of QCC, would be merged into QCC. A copy of this merger agreement is attached

¹ Twenty-Eighth Supplemental Commission Order Addressing Workshop Four Issues: Checklist Item No. 4, Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272, Docket Nos. UT-003022 and 003040, March 13, 2002, ¶ 272.

² This reference was contained in a supplemental affidavit filed by AT&T in January 2002. *See* Supplemental Affidavit of Cory W. Skluzak (January 4, 2002).

1 hereto as Exhibit 1. Section 4(d) of the agreement provided that all of the assets of LCI would, upon the
2 effectiveness of the merger, be transferred to QCC. Under Section 4(c) of the agreement, the merger
3 was to become effective only following approval by relevant state public service commissions and boards.

4 Pursuant to Section 4(c), QCC filed with this Commission on June 29, 2001, an application for
5 approval of the QCC-LCI merger.³ This application described the nature of the transaction. It identified
6 each of the relevant operating certificates of QCC and LCI, noting that LCI held operating certificates to
7 provide the resale of interexchange services, alternate operator services, and the resale of local exchange
8 services and interexchange services. The post-merger organizational chart proposed in that application
9 (and which is currently still in effect) is attached hereto as Exhibit 2. It further noted that this transaction
10 was designed to “reduc[e] the administrative burdens associated with duplicative operations” and
11 promote “[a] more efficient corporate structure.”⁴

12 On October 5, 2001, the Commission Staff issued a statement advising that the Commission’s file
13 on this application should be closed, given that these companies “have been competitively classified.”⁵
14 The Commission closed the application during the week of October 15, 2001. Having received notice of
15 such Commission action, QCC consummated this merger on December 31, 2001, in accordance with the
16 terms of the merger agreement. A total of approximately 2,300 LCI employees transferred from LCI to
17 QCC. The assets transferred from LCI to QCC were transmission equipment, switching equipment,
18 other communications assets, and general and support assets. As noted above, the merger was designed
19 to avoid duplicative operations and had no other financial impact, particularly because LCI’s financial
20 results were already consolidated with those of QCC prior to the merger.⁶

21 The invoice to which AT&T referred in its post-hearing filing was dated July 2001. It was for

22 _____
23 ³ See Application for Approval of Internal Corporate Restructuring, June 29, 2001 (Docket No. UT- 010956). As
noted in that application, LCI’s previous direct parent (LCI International, Inc.) had earlier been acquired by QCC’s
parent corporation, Qwest Services Corporation. See *id.* at n.5.

24 ⁴ *Id.* at 7.

25 ⁵ E-mail to tjensen@uswest.com from Kathy Folsom, Regulatory Consultant, WUTC, October 5, 2001. A copy of this
e-mail is attached hereto as Exhibit 3.

26 ⁶ Because this purely intracorporate transaction also did not have any material impact on the operating results or
financial condition of the ultimate parent company, it accordingly was not described in that parent company’s SEC
Forms 10-Q or 10-K.

1 advice provided by Qwest to QCC designed to ensure that any services provided to QCC by LCI
2 employees prior to the merger complied with Section 272. However, virtually all of the requirements of
3 Section 272 and the FCC's associated rules relate to transactions or other relationships between QCC
4 and the BOC, not between QCC and its non-BOC affiliates. Thus, Qwest does not believe that any of
5 the conclusions in the Commission's Order concerning the remaining Section 272 requirements should be
6 affected by the LCI-QCC merger:

7 1. Since LCI no longer exists, it does not provide any services to QCC. Restrictions on the
8 provision of services to the 272 affiliate are therefore not implicated by the merger.

9 2. LCI employees transferred to QCC received the same training with respect to Section
10 272 requirements applicable to other QCC employees generally.⁷

11 3. The FCC has prohibited any joint ownership by QCC and the BOC of transmission or
12 switching facilities, or the land or buildings associated therewith. The LCI assets transferred to QCC
13 would be subject to this prohibition. However, all such assets were acquired by LCI prior to the merger
14 of QCC's ultimate parent, Qwest Communications International Inc. ("QCI"), with U S WEST, Inc. ("U
15 S WEST") and thus could not have been jointly owned with the BOC.⁸ In any event, even after the U S
16 WEST merger, LCI's assets, like those of QCC, have always been maintained in a separate ledger
17 system (PeopleSoft FRED) from that of the BOC (which uses PeopleSoft PROFIT). Qwest has also
18 reviewed the Washington transmission and switching assets transferred from LCI to QCC and confirmed
19 that none are jointly owned with the BOC.

20 4. Section 272(b)(4) prohibits the extension of credit to QCC with recourse to the assets of
21 the BOC. As the Commission has found, QCC has taken steps to ensure compliance with this obligation.

22 _____
23 ⁷ See Ex. 1095-T Supplemental Direct Testimony of Judith L. Brunsting, May 16, 2001, at 25. Additional employee
training was conducted concluding on January 30, 2002. Section 272 compliance training is conducted as new
employees join the 272 Affiliate.

24 ⁸ To assure that the post-merger entity complied with Section 271, QCI arranged for the interLATA services of QCI
25 and QCI's subsidiaries to be divested to Touch America. The FCC endorsed this divestiture plan. See Memorandum
Opinion and Order, *In the Matter of Qwest Communications International, Inc and US West, Inc., Application for*
26 *Transfer of Control of Domestic and International Sections 214 and 310 Authorizations and Applications to Transfer*
Control of a Submarine Cable Landing License, CC Docket No. 99-272, June 23, 1999, ¶ 5. Following the merger, LCI
withdrew all service offerings in Qwest's 14-state region.

1 QCC has also verified that, to the extent it has inherited any debt from LCI, that debt is also non-
2 recourse to the BOC. As noted above, prior to QCI's June 2000 merger with U S WEST, there would
3 obviously have been no reason for any BOC assets to have been pledged for any such LCI credit. And
4 after that merger, as with QCC itself, any such credit would have been recourse only to Qwest Capital
5 Funding, Inc. ("QCFI") and to QCI. As the record makes clear, QCFI is a separate subsidiary of QCI,
6 which provides funding for all Qwest entities other than the BOC.⁹ QCC has in any event reviewed all
7 such contracts inherited from LCI and determined that all such contracts pre-date the merger between
8 QCI and U S WEST and that none of these contracts includes any recourse to BOC assets.

9 Accordingly, for the reasons set forth above, Qwest requests that the Commission confirm that
10 the QCC-LCI merger does not affect the Commission's prior finding that Qwest is in compliance with the
11 requirements of Section 272.

12 Dated this 10th day of April, 2002.

13 QWEST CORPORATION

14
15 By: _____
16 John Munn
17 QWEST CORPORATION
18 1801 California Street, Suite 4900
19 Denver, CO 80202
20 (303) 672-2709

18 Lisa A. Anderl
19 QWEST CORPORATION
20 1600 Seventh Avenue, Room 3206
21 Seattle, WA 98191
22 (206) 345-1574
23 *Attorneys for Qwest Corporation*

22 ⁹ See Ex. 1125-T, Supplemental Direct Testimony of Marie E. Schwartz, May 16, 2001, at 22.