

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation Into)	
)	DOCKET NO. UT-003022
U S WEST COMMUNICATIONS, INC.'s)	
)	
Compliance with Section 271 of the)	
Telecommunications Act of 1996.)	
<hr/>		
In the Matter of)	
)	DOCKET NO. UT-003040
U S WEST COMMUNICATIONS, INC.'s)	
)	
Statement of Generally Available Terms)	
Pursuant to Section 252(f) of the)	
Telecommunications Act of 1996.)	

**AT&T'S RESPONSE TO QWEST'S NOTICE OF UPDATED
STATEMENT OF GENERALLY AVAILABLE
TERMS AND CONDITIONS**

AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle and Oregon (collectively, "AT&T") hereby file their Response to Qwest's Notice of Updated Statement of Generally Available Terms and Conditions ("Notice"). As stated during the April 2nd Prehearing Conference, the purpose of this review is to determine Qwest's compliance with the Washington Commission's 24th, 25th, 26th, and 28th Supplemental Orders.¹

¹ AT&T would note that Qwest apparently made some revisions in its January 29th SGAT submission that purport to comply with other Commission orders. These changes were not red-lined in Qwest's April 5th SGAT submission. AT&T has done its best to identify issues regarding such revisions, however, because the changes were not redlined in the April 5th submission, AT&T may not have caught everything. By failing to address such non-redlined revisions here, AT&T does not waive its right to raise any issues regarding such revisions at a later time.

A. WA-LOOP 1(b) and 8(b) - Section 9.1.2.1 – Obligation to Build.

Qwest has modified its SGAT to address the Commission's requirements that Qwest construct facilities for CLECs under the same terms and conditions that Qwest constructs facilities for retail customers. Qwest's modifications, however, are not consistent with the Commission's orders. Qwest has retained separate construction provisions for "provider of last resort (POLR)" and "eligible telecommunications carrier (ETC)" and adds a separate category "for UNEs above DS0 level or for Local Exchange Service quantities above POLR." The Commission never endorsed such distinctions. Qwest's creation of a multi-tiered hierarchy of UNE construction unnecessarily complicates the SGAT, which should reflect only the Commission's order. Qwest also has not made any revisions to SGAT Section 9.19, which reflects Qwest's original proposal for constructing UNEs.

Accordingly, attached to these comments are SGAT Sections 9.1.2 and 9.19 (Attachment A and B) with proposed revisions to the language in Qwest's April 5, 2002 version of the SGAT that better reflect the Commission's order. The proposed revised language requires Qwest to construct facilities for UNEs under the same terms and conditions that Qwest constructs comparable facilities used to serve Qwest retail customers and establishes a separate policy for constructing other facilities. In addition, in the revisions to Section 9.1.2 discussed above and set forth in Attachment A, AT&T proposes some additional language that will allow the Commission and CLECs to have access to information that will allow them to assess and ensure that the parity mandate required by the Commission is not just reflected in policy. Without this additional information, there would be no way to ensure that CLECs were in fact being treated in a

nondiscriminatory manner, in practice. The Commission should adopt AT&T's proposed revisions as more consistent with its Orders.

B. WA-LOOP 8 - Section 9.1.2.1.5 – Held Order Policy.

AT&T concurs with the submission filed by Covad on Qwest's compliance on this Ordering provision.

C. WA-LOOP 12 - Section 9.1.14 – Redesignation of IOF Facilities.

In its revised SGAT, Qwest proposes the following revision to comply with ¶ 50 of the 28th Order:

9.1.14 Qwest will redesignate interoffice facilities (IOF) for CLEC where available, with the exception of interoffice facilities Qwest maintains to ensure sufficient reserve capacity. Separate and apart from the foregoing, in the event Qwest removes from interoffice service, an entire copper IOF cable that is capable of supporting Telecommunications Services, Qwest will make that facility available as Loop facilities for Qwest and CLEC alike.

AT&T suggests the following revision to clarify the percentage of spare that can be designated as reserve:

9.1.14 Qwest will redesignate interoffice facilities (IOF) for CLEC where available, with the exception of interoffice facilities Qwest maintains to ensure sufficient reserve capacity **as defined in Section 9.7.2.5.a**. Separate and apart from the foregoing, in the event Qwest removes from interoffice service, an entire copper IOF cable that is capable of supporting Telecommunications Services, Qwest will make that facility available as Loop facilities for Qwest and CLEC alike.

There was extensive discussion regarding Qwest's need to maintain reserves for maintenance spare, particularly the percentage of spare required, in the discussion of dark fiber in Workshop 3. The parties ultimately agreed to the language set forth in Section 9.7.2.5.a. Because only dark fiber, as opposed to lit fiber, would be designated as maintenance or reserve spare capacity, the cross-reference to Section 9.7.2.5.a is appropriate.

D. WA-LOOP 22 - Section 9.2.2.1.3 and 9.2.2.1.3.1 – Access to IDLC.

With respect to Section 9.2.2.1.3, AT&T has no objection to its inclusion or that its location in the SGAT has been moved, since this identifies the procedure that Qwest represented in the workshops that it would go through when a specific loop that resides on IDLC is unbundled. However, AT&T objects to the inclusion of Section 9.2.2.1.3.1, as that language was never agreed to by AT&T during the workshops, was never approved by the Washington Commission and is inconsistent with the Commission's order relating to access to loop qualification information. Rather, this language was adopted by the Hearings Commissioner in Colorado and, therefore, has been inappropriately ported into the Washington SGAT. It should be eliminated from Qwest's SGAT in Washington.

E. WA-LOOP 3(a) and 3(b) - Section 9.2.2.8 - Access To Loop Qualification Information.

As noted in its Answer to Qwest's Petition for Reconsideration, AT&T had concerns regarding the scope of the manual process Qwest indicated it would provide to CLECs in connection with the implementation of obligations regarding access to loop qualification information. That concern remains, based upon the SGAT language submitted by Qwest to comply with the Commission's Order. Specifically, Section 9.2.2.8 was revised by Qwest to add the following:

If the Loop make-up information for a particular facility is not contained in the IMA Loop qualification tools or if the IMA Loop qualification tools return unclear information, then CLEC may request that Qwest perform a manual look-up of the Loop make up information. After completion of the investigation, Qwest will load the information into the LFACS database, which will populate the fields in the IMA Loop qualification tools. Qwest will perform the manual look up and notify CLEC via email, within seventy-two (72) hours, that the requested LFACS information is available through the IMA Loop qualification tools. In the event the

manual look up will take longer than seventy-two (72) hours, Qwest will notify CLEC within seventy-two (72) hours of the expected date upon which Qwest can provide the manual loop make up information.

In its Order, the Washington Commission noted that SWBT is required to provide the so-called “backend” information and that such information must be made available in the same time frame and manner as it provides such information to itself.

The manual look-up that Qwest proposes that it will undertake is undefined and should be further clarified. There is no indication what Qwest will review as part of the manual look-up. The Commission directed Qwest to provide a process by which Qwest would review its back office records. That is what both SBC and Verizon provide. Both RBOCs offer the CLEC the ability to request a manual search of the RBOC’s company’s records, including engineering records and other back office systems and databases to determine actual loop information.² Qwest’s proposed language should be clarified as set forth below to ensure parity of access to loop information.

In addition, Qwest proposes that, rather than supplying the back office information directly to the CLEC, Qwest will update its tool and the CLEC can review the additional loop data there. This proposal would delay the CLEC’s access to this important information and give Qwest the opportunity to, once again, filter what is provided to the CLEC. Both SBC and Verizon provide the information directly to the CLEC. Verizon provides the information directly to the CLEC, while SBC gives the

² *In the Matter of 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, Memorandum Opinion and Order*, CC Docket No. 00-217, FCC 01-29, ¶ 122 (released January 22, 2001) (“*SBC Kansas/Oklahoma 271 Order*”)(Citations omitted); *In the Matter of Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, CC Docket No. 01-8, FCC 01-130, ¶ 58 (released April 16, 2001) (“*Verizon Massachusetts 271 Order*”).

CLEC the option of getting the information directly or reviewing the results in LFACs.³

Qwest should provide the information directly to the CLEC and then load whatever corrections are required in to the tool.

In addition, Qwest states that this information will be updated in the tool within 72 hours, unless the manual look up takes longer than 72 hours. A standard interval should be established for this review. Verizon has established a standard interval of three business days.⁴ Because Qwest apparently believes it can provide this information for the most part in 72 hours, a standard interval of 72 hours should be established. The results of the manual review should be provided to CLECs within 72 hours.

Finally, Qwest has failed to provide any compliance language related to the audit requirement established by the Commission. Given that the Commission rejected Qwest's Petition for Reconsideration on this issue, AT&T proposes the audit language below, as well.

If the Loop make-up information for a particular facility is not contained in the IMA Loop qualification tools, ~~or~~ if the IMA Loop qualification tools return unclear or incomplete information, or if the CLEC questions the accuracy of the information in the IMA Loop Qualification tools, then CLEC may request that Qwest perform a manual ~~look-up~~ review of the company's records, back office systems and databases where loop information resides ~~of the Loop make-up information.~~ Qwest will provide the CLEC the loop information identified during the manual review within three business days of Qwest's receipt of the CLEC's request for manual review. After completion of the investigation, Qwest will load the information into the LFACS database, ~~which will populate the fields in the IMA Loop qualification tools.~~ Qwest will perform the manual look up and notify CLEC via email, within seventy two (72) hours, that the requested LFACS information is available through the IMA Loop qualification tools. ~~In the event the manual look up will take longer than seventy two (72) hours, Qwest will notify CLEC within seventy two (72)~~

³ *Id.* SBC offers the CLEC the option of receiver the results of the manual review via email or in LFACs. However, as discussed in prior submissions, SBC affords CLECs direct access to LFACS, while Qwest selectively extracts information out of LFACs and feeds it into the RLDT.

⁴ See *Verizon Massachusetts 271 Order*, ¶ 58.

~~hours of the expected date upon which Qwest can provide the manual loop make-up information.~~ CLECs shall have the ability to audit Qwest's company records, back office systems and databases to determine that Qwest is providing the same access to loop and loop plant information to CLECs that any Qwest employee has access. Such audit will be in addition to the audit rights contemplated by Section 18 of this Agreement, but the processes for such audit shall be consistent with the processes set forth in Section 18.

F. WA-LOOP-10 - Section 9.2.6.7.

In the Twentieth Supplemental Order, Qwest was order to replace the language in Section 9.2.6.7 with the following:

If Qwest rejects a CLEC's request to deploy an advanced service technology on a Qwest provided Unbundled Loop, Qwest must provide the CLEC with the specific reason why the request was rejected, including information with respect to the number of loops using advanced services within the binder group(s) and types of technologies deployed on those loops. The CLEC may submit such denial to the Commission for resolution or follow procedures in Section 5.1.8 of this Agreement.⁵

This ordered provision does not appear in the April 5th version of the SGAT. In the January 29th SGAT, Qwest has deleted the former Section 9.2.6.7 stating that there was agreement reached between WCOM and Qwest during the workshop to delete that section of the SGAT. That consensus was known to the ALJ when she issued the Twentieth Supplemental Order. Thus, it is unclear whether the ALJ intended for Qwest to add the above language, despite WCOM and Qwest's agreement or if the inclusion of this language was an oversight. The Commission should clarify this issue.

⁵ Twentieth Supplemental Order, ¶ 116.

G. Issue WA-SB3: Intervals for Determining Facility Ownership

In its Twenty-Eighth Supplemental Order⁶, the Commission reversed two decisions from its Twentieth Supplemental Order⁷ related to intervals and the need for LSRs, which were originally decided in favor of AT&T. AT&T submitted a Motion for Reconsideration on those issues. On April 15, 2002, the Commission issued its 31st Supplemental Order,⁸ denying reconsideration on these issues.

Dicta in the Commission's denial of AT&T's Motion for Reconsideration demonstrates that there is a need for Qwest to clarify the language related to the interval provisioning in §9.3.5.4.1. which states (relevant section bolded) as follows:

CLECs shall notify its account manager at Qwest in writing, including via email, of its intention to provide access to Customers that reside within an MTE. Upon receipt of such a request, Qwest shall have up to ten (10) calendar Days to notify CLEC and the MTE owner whether Qwest believes it or the MTE owner owns the intrabuilding cable. **In the event that there has been a previous determination of on-premises wiring ownership at the same MTE, Qwest shall provide such notification within two (2) business days.** In the event that CLEC provides Qwest with a written claim by an authorized representative of the MTE owner that such owner owns the facilities on the Customer side of the terminal, the preceding ten (10) Day period shall be reduced to five (5) calendar Days from Qwest's receipt of such claim.

In its Reconsideration Order, it appears that the Commission interpreted the bolded section to mean that even after a CLEC has initially requested MTE inside wire ownership information and waited the requisite ten days before accessing the MTE, that

⁶ See Twenty-Eighth Supplemental Order, Commission Order Addressing Workshop Four Issues: Checklist Item No. 4 (Loops) Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272, In the Matter of the Investigation Into U.S. West Communications Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996, et.al., *UT-003022, UT-003040 (March 12, 2002)*.

⁷ See Twentieth Supplemental Order; Initial Order (Workshop Four): Checklist Item No. 4; Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272 (*November 14, 2002*).

⁸ See Thirty-First Supplemental Order; Order Granting Qwest's Petition for Reconsideration of the 24th Supplemental Order and Granting and Denying Petitions for Reconsideration of the 28th Supplemental Order (*April 15, 2002*).

same CLEC will be impeded for two more days from capturing a customer, at the same MTE, in order for Qwest to again determine if it owns the inside wire.⁹

The language at issue was ported into this record, being crafted by John Antonuk, a facilitator for the states of Montana, Iowa, Utah, Wyoming, North Dakota, New Mexico and Idaho. In his report regarding this issue, he clearly specified that the two-day interval was for situations where “the issue (of wire ownership) had already been raised by **another CLEC** at the same MTE.”¹⁰

Obviously, the Facilitator’s interpretation makes sense. When Qwest has already communicated ownership information to a CLEC, there is no reason why that CLEC should have to again contact Qwest and delay servicing its customer in the same MTE for Qwest to purportedly conduct the same ownership determination that it previously conducted and communicated. This is especially true when considering that the current SGAT contemplates that CLEC will have already been advised on how to proceed pursuant to the access protocol, and Qwest will already know the status of the MTE and will be receiving LSRs from that CLEC purportedly to build an inventory. Thus, there is no purpose, except to slow down CLEC entry, for a CLEC to wait two days for Qwest to determine subloop ownership every time it accesses an MTE.

As the Facilitator indicates, it is only when Qwest has conducted an analysis regarding inside wire ownership, and provided that information to a **different** CLEC, should Qwest be allowed two days to provide the information to the different CLEC.¹¹

AT&T had not taken issue to that concept.

⁹ *Id* at ¶37-38 stating “(a)fter the initial request, the interval is only two days and should not interfere with the CLECs’ ability to serve customers according to the rule.”

¹⁰ See Attachment C: Excerpt of Third Report-Emerging Services, (June 11, 2001) at pp.35-37.

¹¹ *Id.*

In order to cure the apparent ambiguity, AT&T would request the following edit:

CLECs shall notify its account manager at Qwest in writing, including via email, of its intention to provide access to Customers that reside within an MTE. Upon receipt of such a request, Qwest shall have up to ten (10) calendar Days to notify CLEC and the MTE owner whether Qwest believes it or the MTE owner owns the intrabuilding cable. **In the event that there has been a previous determination of on-premises wiring ownership communicated to another CLEC at the same MTE, Qwest shall provide such notification to CLEC within two (2) business days.** In the event that CLEC provides Qwest with a written claim by an authorized representative of the MTE owner that such owner owns the facilities on the Customer side of the terminal, the preceding ten (10) Day period shall be reduced to five (5) calendar Days from Qwest's receipt of such claim.

H. ISSUE WA-SB4/5: LSRs for Ordering Subloop

In its Twenty-Eighth Supplemental Order, the Commission reversed its position “in the interest of uniformity,” requiring CLECs to submit an LSR for each Qwest owned inside wire that the CLEC captures.¹² However, the Commission indicated “(w)e believe CLECs should not be subjected to costly burdens when they are making additional efforts to become facilities –based carriers, especially when they are attempting to bring these facilities closer to their customers. We consider the number of subloop orders affected to be significant. The FCC is concerned that costly interconnection and delays might impede the ability of the CLECs to gain access to inside wire. We urge Qwest to automate the LSR process for subloop orders as soon as practicable. We will require Qwest to file a status report on this topic subsequent to the issuance of this Order.”¹³

On April 10, 2002, Qwest filed “Qwest’s Status Report Re: Automation of the Subloop Ordering Process.” and included documents that should contain provisions on ordering what the FCC considers internal customer premises wiring and what Qwest

¹² See Twenty-Eighth Supplemental Order *at p.28*.

¹³ *Id.*

considers Intra Building Cable (IBC). Contrary to Qwest's statements contained in its pleading, the relevant documents have not been updated to establish an automated ordering system for IBC.

Qwest indicates that the PCAT has been updated to include automated ordering provisions for IntraBuilding Cable (IBC). The current version of the subloop PCAT does not have any information on automated ordering of IBC. It describes the ordering process by referring to other documents. Specifically, the PCAT refers to the IMA Guide for ordering processes.¹⁴ A search of the new IMA 7.0 guide in the section on ordering does not have IBC at all. There is no reference or instructions on how to order IBC in an automated manner, nor is there even information on manual ordering.

The PCAT also refers to the Technical Publication 77405 on subloop. The current version of Technical Publication 77405 is dated September 2001 and is Issue C. This Tech Pub briefly describes IBC. The definition of IBC has the incorrect language regarding termination points. The Tech Pub does not have NC/NCI codes for IBC, which are needed before IBC can be automatically ordered.

Qwest indicates in its "Status Report" that the process for ordering IBC is clearly automated. However, the documentation they attach does not at all establish that it is automated. In fact, currently a CLEC cannot order IBC automatically because they would not know the process or the NC/NCI codes that should be used to order them. Qwest must change Tech Pub 77404 and the IMA manual to include the new ordering procedure in order to be in compliance with the Commission's Order.

I. WA-13-1, WA-I-5 – Sections 7.1.2.1 and 7.3.1.1 *et. seq.*

¹⁴ Attachment D are the relevant sections from the PCAT that refer to the IMA guide and to the Tech Pub that AT&T utilized in its analysis.

Qwest's SGAT in regard to proportional pricing is not in Compliance with the Commission's 26th Supplemental Order.

In its 26th Supplemental Order the Commission acknowledged that CLECs should be able to acquire the most technically and economically efficient means of interconnection and use of facilities accordingly by paying proportionally for the type of traffic used for particular circuits within a larger trunk group.¹⁵ Nevertheless, Qwest apparently refuses to fully comply with the Commission's order, and its April 5th SGAT continues to reflect that defiance, although masked by a façade of artificial compliance.

Several SGAT Sections reflect Qwest's intransigence; they are:

7.1.2.1 Qwest-provided Facility. Interconnection may be accomplished through the provision of a DS1 or DS3 entrance facility. An entrance facility extends from the Qwest serving Wire Center to CLEC's Switch location or POI determined by CLEC. *Entrance Facilities may not extend beyond the area served by the Qwest Serving Wire Center. The rates for entrance facilities are provided in Exhibit A. Qwest's Private Line Transport service is available as an alternative to entrance facilities, when CLEC uses such Private Line Transport service for multiple services.* Entrance facilities may be used for interconnection with Unbundled Network Elements.¹⁶

and SGAT section:

7.3.1.1 Entrance Facilities

7.3.1.1.1 Recurring and nonrecurring rates for Entrance Facilities are specified in Exhibit A and will apply for those DS1 or DS3 facilities dedicated to use by LIS.

7.3.1.1.2 If CLEC uses an existing facility purchased as Private Line Transport Service from the ~~state of Qwest~~ FCC Access Tariff, the rates from ~~these~~ the FCC Tariff will apply.¹⁷

7.3.1.1.2.1 If CLEC has purchased a multiplexed, DS3 Private Line Service from the Qwest Tariff, and uses this

¹⁵ 26th Supplemental Order at ¶ 13.

¹⁶ SGAT § 7.1.2.1, emphasis added.

¹⁷ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

existing facility for local Interconnection, the rates for the DS3 shall be ratcheted as follows:¹⁸

a) DS1's identified as Local Interconnection Service (LIS) DS-1's shall be billed in accordance with the provisions for DS3 Entrance Facilities, DS3 Direct Trunked Transport, or DS3 to DS1 MUX as applicable and as described in this Section 7.3. The actual rate shall be calculated as: (the number of Local Interconnection Service (LIS) DS1's)/(28) times the appropriate Entrance Facility/DTT/Multiplexed DS3 rate.¹⁹

b) DS1's identified as Private Lines shall be billed in accordance with the DS3 rates specified in Qwest's intrastate Private Line Tariff. The actual rate shall be calculated as: (the number of Private Line DS1's)/(28) times the appropriate Private Line DS-3 rate.²⁰

c) DS1's associated with a DS3 Private Line that is used to access UNEs in accordance with Section 7.1.2.1 and subject to the local use restrictions described in Section 9.23.3.7 shall be billed in accordance with the DS3 rates specified in Qwest's intrastate Private Line Tariff. The actual rate shall be calculated as: (the number of DS1's associated with DS3 Private Lines that are used to access UNEs)/(28) times the appropriate UNE DS3 rate.²¹

d) Any DS1's on the Private Line DS3 that are spare or unused, shall billed at a rate equal to (the number of spare DS1's)/(28) times the appropriate DS3 rate specified in Qwest's intrastate Private Line Tariff.²²

e) To qualify for the above-ratcheted rates, the

¹⁸ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

¹⁹ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

²⁰ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

²¹ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

²² WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

DS3 Private Line Facility must qualify for purchase as an intrastate facility out of the state Tariff. To qualify, CLEC must demonstrate that no more than ten percent (10%) of the traffic on the circuit is interstate in jurisdiction.²³

First, AT&T will address SGAT § 7.3.1.1 and then turn its attention to SGAT § 7.1.2.1.

With respect to SGAT § 7.3.1.1, Qwest's avoidance strategy contained in SGAT § 7.3.1.1.2.1 is fairly clever if it is intentional. While the additions of SGAT §§ 7.3.1.1.2.1 appear to comply with the Commission's 26th Supplemental Order, the changes to SGAT § 7.3.1.1.2 coupled with the addition of SGAT § 7.3.1.1.3.1 (e) undermine or completely destroy compliance.

It is important to note, first, that Qwest offers private line-type services in both its interstate or "FCC" tariffs²⁴ and its intrastate or Washington tariffs.²⁵ In the FCC tariffs, private line is offered as a wholesale special access service and in the State tariff private line is offered as a retail private line service employing State rates. CLECs typically buy private line service from the FCC Access Tariff because the prices are better and their traffic includes the percentage of interstate distances usage that warrants using the FCC tariff. On its face, removing from SGAT § 7.3.1.1.2, the option to purchase private line service from the State tariff appears to be nothing more than an acknowledgement of industry practice. However, if one examines subparagraph (e) of SGAT § 7.3.1.1.3.1, it apparently disallows purchase out of the FCC tariff by mandating that the CLEC may obtain proportional pricing only if its need

²³ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

²⁴ See generally, Qwest Corp. Access Service Tariff FCC No. 1, formerly FCC No. 5.

²⁵ See generally, Qwest Corp. WN U-41 Private Line Transport Services Washing Tariff.

qualify[ies] for purchase as an intrastate facility out of the state Tariff. To qualify, CLEC must demonstrate that no more than ten percent (10%) of the traffic on the circuit is interstate in jurisdiction.²⁶

To interpret this arcane stuff, if the CLEC has purchased out of the FCC Tariff as mandated by the changes to SGAT § 7.3.1.1.2, it necessarily follows that more than 10% of the usage of the traffic on the circuit is interstate.²⁷ Unfortunately, that would then disqualify the CLEC from receiving the proportional pricing if it uses some of the circuits on the DS3 for interconnection. Stated another way, what Qwest provides with one hand, it takes away with the other.

In addition to hollow compliance, this percent interstate or percent intrastate usage (“PIU”) approach does nothing but confuse the issue by attempting to interject a bogus jurisdictional battle between Washington State and the FCC. ***That is, when the CLEC designates certain circuits within a DS3 trunk group for interconnection, the usage on those circuits is solely for local interconnection traffic, not a mix of inter and intrastate traffic on the same circuit. Neither PIU nor the tariff have any application in that context.*** Within the DS3 group the remaining circuits—those not designated as interconnection circuits and those that are merely spares—would employ the PIU factor to determine the appropriate tariff and rate.

An example will better illustrate the situation. Imagine, for simplicities’ sake, that a DS-3 has 28 DS-1 channels and that 8 out of 28 channels are designated as solely for interconnection service. Those 8 channels would not employ a PIU factor for any rate determination. Rather, they would be paid for as interconnection trunks. The remaining

²⁶ SGAT § 7.3.1.1.2.1(e) at 74.

²⁷ Wnu-14 Private Line Transport Services Washington at § 2.3.11, Section 2, Original Sheet 10, August 30, 2000.

20 channels, whether designated for interstate service or merely unused spares, would be billed according to the PIU calculation, which determines the proper tariff from which rates derive (*e.g.*, the Private Line Tariff or the FCC Access Tariff). Universal service requirements would, appropriately, attach to the remaining 20 channels.

Whether the DS3 is originally purchased out of the FCC or State Tariff, the PIU calculation may change over time and the rates for the remaining 20 channels in the DS3 trunk group would likewise change tariff designations and rates wholly consistent with the way Qwest's tariff's function today. Thus, Qwest's FCC versus Washington State jurisdictional arguments fail as a matter of law and fact, and the confusion created by use of the State Tariff over the Federal Tariff and PIU factors are merely "red herring" arguments.

To bring Qwest's SGAT § 7.3.1.1.2.1 into full compliance and make it consistent with the SGAT section describing interconnection, AT&T recommends the following modifications:

7.3.1.1 Entrance Qwest Provided Facilities

7.3.1.1.1 Recurring and nonrecurring rRates for Entrance Qwest-provided Interconnection Facilities are specified in Exhibit A and will apply for those DS1 or DS3 facilities dedicated to use by LIS.

7.3.1.1.2 If CLEC uses an existing facility purchased as Private Line Transport Service or FCC Access Service from the State or Qwest FCC Access Tariff, the rates from those ~~the FCC~~ Tariffs²⁸ will apply

7.3.1.1.2.1 If CLEC has purchased a multiplexed, DS3 Private Line Service from the Qwest Tariff, and uses this existing facility for local Interconnection, the rates for the

²⁸

WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

DS3 shall be ratcheted as follows:²⁹

- a) DS1's identified as Local Interconnection Service (LIS) DS-1's shall be billed in accordance with the provisions for DS3 Entrance [Qwest-provided Interconnection Facilities](#), [DS3 Direct Trunked Transport](#), or [DS3 to DS1 MUX](#) as applicable and as described in this Section 7.3. The actual rate shall be calculated as: (the number of Local Interconnection Service (LIS) DS1's)/(28) times the appropriate Entrance Facility/DTT/Multiplexed DS3 rate.³⁰
- b) DS1's identified as Private Lines shall be billed in accordance with the DS3 rates specified in Qwest's intrastate Private Line Tariff or [FCC Access Tariff](#). The actual rate shall be calculated as: (the number of Private Line DS1's)/(28) times the appropriate Private Line DS-3 rate.³¹
- c) DS1's associated with a DS3 Private Line that is used to access UNEs in accordance with Section 7.1.2.1 and subject to the local use restrictions described in Section 9.23.3.7 shall be billed in accordance with the DS3 rates specified in Qwest's intrastate Private Line Tariff or [FCC Access Tariff](#). The actual rate shall be calculated as: (the number of DS1's associated with DS3 Private Lines that are used to access UNEs)/(28) times the appropriate UNE DS3 rate.³²
- d) Any DS1's on the Private Line DS3 that are spare or unused, shall billed at a rate equal to (the number of spare DS1's)/(28) times the appropriate DS3 rate specified in Qwest's intrastate Private Line Tariff or [FCC Access Tariff](#).³³
- e) To qualify for the above ratcheted rates, the

²⁹ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

³⁰ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

³¹ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

³² WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

³³ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

~~DS3 Private Line Facility must qualify for purchase as an intrastate facility out of the state Tariff. To qualify, CLEC must demonstrate that no more than ten percent (10%) of the traffic on the circuit is interstate in jurisdiction.~~³⁴

Moving to the issue concerning SGAT § 7.1.2.1, it states “Qwest’s Private Line Transport service is available as an alternative to entrance facilities, when CLEC uses such Private Line Transport service for multiple services.” The definition of “Qwest’s Private Line Transport Service” is unclear, but likely references the Washington State tariff WN U-41 by the same name. So, SGAT § 7.1.2.1, aside from its problems defining entrance facilities,³⁵ seems to indicate that CLECs obtain the right to efficiently use large trunk groups only when purchased out of the State Tariff in contrast to SGAT § 7.3.1.1.2.1 which requires purchase out of the FCC Tariff. The offending sentence in SGAT § 7.1.2.1 should, therefore, be modified. It should read “Qwest’s Private Line Transport Service or FCC Access Service is available as an alternative to entrance facilities, when CLEC uses such Private Line or Access Service for multiple uses.”

³⁴ WUTC Twenty-Sixth Supplemental Order Denying Qwest's Petition for Reconsideration of the Fifteenth Supplemental Order, February 8, 2002 at paras. 13-16.

³⁵ Qwest’s limitations on interconnection via entrance facilities is the subject of an AT&T Motion to Further Modify the SGAT, and Qwest’s SGAT § 7.1.2.1 demonstrates yet another area of non-compliance.

CONCLUSION

WHEREFORE for all the reasons set forth herein, Qwest's Updated Statement of Generally Available Terms and Conditions does not comply with Commission's 24th, 25th, 26th, and 28th Supplemental Orders and should be rejected. The Commission should not endorse Qwest's application for Section 271 relief in Washington until Qwest's SGAT fully complies with the 24th, 25th, 26th and 28th Supplemental Orders.

Respectfully submitted this 16th day of April, 2002.

**AT&T COMMUNICATIONS OF
THE PACIFIC NORTHWEST,
INC. AND AT&T LOCAL
SERVICES ON BEHALF OF
TCG SEATTLE AND TCG
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