

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Washington Utilities and Transportation Commission,	)	Docket No. UT-033011
	)	
Complainant,	)	GLOBAL CROSSING REPLY TO
	)	STAFF RESPONSE TO
v.	)	DISPOSITIVE MOTIONS
	)	
Advanced TelCom, Inc., et al.	)	
	)	
Respondents.	)	
_____	)	

Global Crossing Local Services, Inc. (“Global Crossing”) provides the following reply to Commission Staff’s Response to Motions to Dismiss or for Summary Determination (“Staff Response”). The plain language of the settlement agreements between Global Crossing and Qwest Corporation (“Qwest”) demonstrates that neither agreement establishes enforceable, ongoing interconnection rates, terms, or conditions. The Commission, therefore, should grant Global Crossing’s motion.

**DISCUSSION**

1. Staff essentially ignores the substance of Global Crossing’s motion and cryptically mischaracterizes the settlement agreements between Global Crossing and Qwest. Staff states that Agreement No. 47, the Confidential Billing Settlement Agreement dated July 17, 2001, “establishes a going-forward rate for conversions from resale to UNE-P.” Staff Response at 20, paragraph 44. The Agreement actually provides, in relevant part,

For those lines or private lines that have not been converted from resale or other lines to UNE-P or EEL, *Qwest will bill Global Crossing at the appropriate resale or other rate, until the date that each such line*

*has been converted to UNE-P or EEL* (the “Conversion Date”). With respect to each such line (including Centrex and Centrex-like lines) that is converted, the Effective Billing Date (“EBD”) shall be the Conversion Date. ***Upon the Conversion Date, Qwest shall bill Global Crossing with respect to each such line that has been converted, the applicable UNE-P or EEL rate*** and shall cease billing interstate and intrastate access and related charges (including primary interexchange carrier charge) with respect to each such line, but shall in no way be precluded from billing the appropriate charge to change the primary interexchange carrier on any such line. Qwest will bill Global Crossing applicable interstate and intrastate access and associated charges, with respect to each such line. In order for Global Crossing to receive a UNE-P or EEL rate, it must submit an accurate and complete order, and follow Qwest’s processes to convert services to UNE-P or EEL. Also, Global Crossing must meet applicable restrictions, as they may exist or change from time to time, on UNE conversion. Qwest shall process such orders in a timely and accurate manner in accordance with standard provisioning intervals as may be specified in applicable tariffs, interconnection agreements or state commission regulations or rulings.

Agreement No. 47 paragraph 2 (pages Q110428-9) (emphasis added). The plain language of the Agreement provides only that Global Crossing will pay the resale rate for a line until the date on which the line is converted to UNE-P, after which Global Crossing will pay the applicable UNE-P rate. Nothing in this unremarkable language even suggests, much less establishes, any rates, much less a “going forward rate for conversion from resale to UNE-P.” Rather, the sole references to rates are to “applicable” rates, *i.e.*, rates previously established by the Commission and incorporated into the Parties’ interconnection agreement or tariffs.

2. The language in Agreement No. 52, the Settlement Agreement and Release dated September 2000, similarly fails to support Staff’s allegations. Staff claims that this Agreement “provides for an extension of standard service intervals for orders for more than 2000 UNE-P

lines in any one month in any one state, notwithstanding the parties' interconnection agreements." Staff Response at 20, paragraph 46. The Agreement, however, states:

Installation Intervals for Subsequent UNE-P Requests Through IMA. Notwithstanding anything to the contrary in the interconnection agreements between Global Crossing and Qwest, ***Global Crossing and Qwest agree to work in good faith, on all issues, including, if necessary, extending standard provisioning intervals*** if Global Crossing orders and/or projects orders for more than Two Thousand (2000) UNE-P lines in any one month in any one state. The Parties agree that this provision applies only to those UNE-P orders placed, or projected to be placed, using IMA.

Agreement No. 52, paragraph 7 (emphasis added). The only obligation this language provides is for the Parties to work together in good faith on installation intervals. The Agreement does not *require* an extension of standard provisioning intervals, but only suggests such an outcome is possible *if necessary* as a result of the Parties' good faith efforts. This provision thus is nothing more than an agreement to agree on future terms, not a binding, enforceable, going-forward obligation.

3. Staff also contends that Agreement No. 52 "establishes an ongoing obligation for installation intervals for manual UNE-P requests." Staff Response at 20, paragraph 46. The Agreement states:

Installation Intervals for Subsequent Manual UNE-P Requests for Design Circuits (Non-IMA orders). Notwithstanding anything to the contrary in the interconnection agreements between Global Crossing and Qwest, in the event the Parties anticipate significant delay past normal intervals due to high volumes or other reasons, ***Global Crossing and Qwest shall agree upon an appropriate implementation schedule for UNE-P orders placed manually for design circuits.*** The effective billing date for such orders shall be the first day following the standard interval, notwithstanding the

implementation schedule agreed to by the Parties.

Agreement No. 52, paragraph 8 (emphasis added). This language is a classic agreement to agree on future terms, not an enforceable obligation that would have required submission to the Commission for its approval as part of an interconnection agreement.

### CONCLUSION

For the foregoing reasons, as well as the reasons stated in Global Crossing's Motion, the Commission should grant Global Crossing's Motion and should dismiss, or grant summary disposition in favor of Global Crossing on, all claims against Global Crossing in the Complaint.

DATED this 5th day of January, 2004.

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By \_\_\_\_\_  
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