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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation Into)
U S WEST Communications, Inc.'s) Docket No. UT-003022
Compliance with Section 271 of the)
Telecommunications Act of 1996)
_____)

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) QWEST'S REPLY TO AT&T'S
Telecommunications Act of 1996.) RESPONSE TO QWEST'S
COMPLIANCE FILING
_____)

**REPLY TO AT&T'S RESPONSE TO QWEST'S COMPLIANCE FILING
MODIFYING QWEST'S SGAT TO ADOPT COLLOCATION
PROVISIONING INTERVALS SET BY THE FCC**

Qwest Corporation ("Qwest") hereby replies to AT&T and Joint Intervenors (hereinafter collectively referred to as "AT&T"), who argue, on both procedural and substantive grounds, that the Washington Utilities and Transportation Commission ("Commission") must deny Qwest's request to implement interim collocation provisioning intervals that the Federal Communications Commission ("FCC") specifically approved for Qwest.¹ Procedurally, AT&T asserts that

¹ See *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, FCC 00-297 (rel. Aug. 10, 2000) ("Order on Reconsideration" or "August Order"), as

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2 because the Commission's newly adopted collocation provisioning rules will take effect before
3 the interim intervals approved by the FCC, Qwest should amend its SGAT to comply with the
4 Commission's rules rather than the FCC interim standards. Substantively, AT&T asserts that
5 Qwest should not be permitted to condition the 90 day collocation interval on receipt of a timely
6 collocation forecast from a CLEC. These arguments are misguided.

7 **I. THE COMMISSION SHOULD ALLOW QWEST'S SGAT TO BE AMENDED BY**
8 **THE FCC'S INTERIM INTERVALS SUBJECT TO COMPLIANCE WITH WAC**
9 **480-120-560.**

10 AT&T asserts that Qwest is ignoring Washington's collocation rules. This is not so. As
11 Qwest stated unequivocally in its Compliance Filing, it will ". . . make modifications to its
12 SGAT to reflect the new Washington Collocation Rules (WAC 480-120-560) recently adopted
13 by the Commission as soon as those rules become effective."² Thus, to the extent that revisions
14 to Qwest's SGAT are required in order to comply with Washington's specific collocation
15 provisioning rules, Qwest has assured the Commission that it will timely make such revisions.
16 The Commission's new collocation rules, however, do not supercede the FCC's interim intervals
17 in all instances. For this reason, the Commission must allow the interim intervals to take effect,
18 in addition to requiring Qwest to amend its SGAT to comply with the Commission's new rules.

19 The FCC clearly intended its national default standards to apply only in the absence of
20 state standards or the adoption of other intervals by mutual agreement of the parties. Referencing
21 this intent, AT&T asserts that the Commission's newly adopted collocation rules "will supplant
22 the FCC's rules."³ While Qwest agrees that to the extent the Commission establishes its own

23 amended by Memorandum Opinion and Order, FCC 00-2528 (rel. Nov. 7, 2000) ("*Amended Order*" or "*November*
24 *Order*"). The FCC's *Amended Order* clarified its earlier decision and specifically established interim standards that
25 apply during the pendency of the FCC's ongoing reconsideration of its *August Order*.

26 ² *Qwest Compliance Filing*, at 1, lines 14-16. WAC 480-120-560 was adopted by the Commission in its Open
Meeting on October 25, 2000 (Docket UT-990582). The rules are scheduled to take effect on the thirty-first day after
November 30, 2000, the day of filing with the code reviser, which would be December 31, 2000. Because this is a
Sunday and the following day is a holiday, the rules should take effect on January 2, 2001.

³ *AT&T Response*, at 7.

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2 standards, they will supercede FCC default standards, Qwest maintains that the FCC's interim
3 standards still apply where a CLEC fails to forecast its collocation space needs at least three
4 months in advance of an order. Under such circumstances, the Commission's new collocation
5 rules specifically defer to the FCC national default standard. Where a CLEC fails to adequately
6 forecast its collocation needs, "the Commission declines to apply the forty-five calendar day
7 interval in (3)(b) and the national standards adopted by the FCC shall apply."⁴ In such
8 instances, Qwest must be permitted to apply the interim intervals approved by the FCC
9 specifically for Qwest, until such time as the FCC concludes its reconsideration of the national
10 default standard.⁵ In order for this to be possible, the Commission must allow the interim
11 intervals in Qwest's SGAT to take effect by operation of law.

12 Qwest further notes that the difference between the Commission's 45 day interval and the
13 FCC's 90 day interval is not 45 days because the intervals are calculated differently. While the
14 FCC's default interval measures the time allowed for the entire collocation process, from receipt
15 of a CLEC application to delivery of space, the Commission's 45 day interval does not include
16 the 25 days that an incumbent may take after receipt of an application to conduct a feasibility
17 study and provide a price quote, and the seven days a CLEC may take to respond to such quote.
18 Specifically, the 45 day interval in Washington, which applies only where a CLEC has provided
19 a forecast at least three months in advance of its order, begins "after the CLEC's acceptance of
20 the written quote and payment of one-half of the nonrecurring charges specified in the quote."⁶
21 The 45 days measures the period of time an ILEC may take to "complete construction of, and
22 deliver, the ordered collocation space and related facilities."⁷ Thus, because the incumbent has

23 ⁴ WAC 480-120-560(3)(b)(*emphasis added*).

24 ⁵ These intervals, approved by the FCC specifically for Qwest, provide for a ninety day interval only where the
25 CLEC adheres to Qwest's forecasting requirements, a 120 day interval where the CLEC fails to adhere to Qwest's
26 forecasting requirements and the provisioning does not require major infrastructure modifications, and a 150 day
interval where such modifications are required.

⁶ WAC 480-120-560(3)(b).

⁷ *Id.*

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2 25 days from the receipt of an application to provide a price quote, and the CLEC has 7 days
3 from its receipt of the quote to accept it and tender partial payment, the entire collocation
4 provisioning process in Washington will take 70 to 77 days [25 + (0 to 7) + 45], depending on
5 how long the CLEC takes to accept the quote and tender payment.⁸

6 In contrast, the FCC provisioning interval ends “. . . 90 calendar days after receiving an
7 acceptable collocation application.”⁹ This 90 day interval starts upon the receipt of an acceptable
8 CLEC application and includes the time required for the ILEC to conduct a feasibility study and
9 prepare a price quote, and up to seven days for the CLEC to accept the quote.¹⁰ The interim
10 intervals approved by the FCC for Qwest also condition the delivery of collocation within 90
11 days on the receipt of a timely and accurate forecast, 60 days in advance of the CLEC
12 application.¹¹ Thus, while the FCC interval is 13-20 days longer than the Washington interval, it
13 only requires a forecast 60 days in advance of the application, where the Washington rule calls
14 for a forecast three months in advance. Therefore, from the date a CLEC submits its forecast, the
15 total FCC provisioning process time is 150 days, where the total time frame in Washington is
16 160-167 days. While at first glance the Washington rule appears to provide collocation in half
17 the time of the FCC default rule, in actuality the total time required pursuant to the Washington
18 rule is longer.

19 Because the Washington rule defers to the FCC standard where the CLEC fails to provide
20 a forecast at least three months in advance, and the FCC has approved interim intervals for Qwest

21 ⁸ See UT 990582, October 25, 2000, *Proposed Rulemaking Concerning Physical Collocation for Central Office
22 Telecommunications Facilities, in which Commission Staff also recognized that “[u]nder Staff’s proposed rule, the
23 interval would be 70-77 days, depending on whether the CLEC takes the full seven days to respond to the ILEC’s
24 quote.”*

25 ⁹ *Order on Reconsideration*, at ¶ 27.

26 ¹⁰ *Id.*, at ¶ 26. The Commission specifically allowed for a seven day interval for CLEC acceptance to conform with
the time allowed by the FCC for this purpose.

¹¹ *Amended Order*, at ¶¶ 18, 19.

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2 pending reconsideration of its *August Order*, when read together, the FCC and Commission
3 intervals that apply to Qwest until such reconsideration are as follows:

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- 5 1. Collocation forecast received at least 3 months in advance: 45 day installation
6 interval (in addition to the 25 days that the ILEC has to prepare a feasibility study
7 and price quote and the up to seven days the CLEC has to accept it, for a total
8 interval of 70-77 days);
 - 9 2. Collocation forecast received at least 60 days in advance but less than 3 months in
10 advance: 90 days (FCC-approved interim interval);
 - 11 3. No timely collocation forecast and no major infrastructure modifications required:
12 120 days (FCC-approved interim interval); and
 - 13 4. No timely collocation forecast and major infrastructure modifications required:
14 150 days (FCC-approved interim interval).

15 Thus, contrary to AT&T's suggestion that Qwest must choose between SGAT revisions
16 that reflect the FCC's interim intervals and SGAT revisions that comply with the Commission's
17 newly adopted collocation rules, because the Commission's rules defer to FCC standards which
18 are currently being reconsidered, Qwest must be permitted to use the interim intervals where the
19 FCC standards are indicated. Qwest respectfully requests that the Commission allow its SGAT
20 to be modified to comport with the requirements of WAC 480-120-560. However, to the extent
21 WAC 480-120-560(3)(b) defers to the ninety day national default standard where CLEC's fail to
22 provide adequate and timely forecasts, Qwest will comply with the FCC's interim intervals.

23 **II. THE SUBSTANTIVE ISSUES RAISED BY QWEST IN ITS COMPLIANCE**
24 **FILING SHOULD BE RESOLVED IN THE COURSE OF SECTION 271**
25 **WORKSHOPS.**

26 Qwest reiterates that it did not, in the context of its Compliance Filing, seek to implement
provisioning intervals longer than those specifically approved by the FCC in its *November Order*.
Far from seeking "numerous opportunities" to extend intervals, Qwest merely introduced its

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2 concerns regarding the ability of ILECs to comply with a standard 90 day interval in order to
3 inform this Commission of its intent to seek longer provisioning intervals during the course of
4 Section 271 Workshops. AT&T also asserts that the intervals set forth in Qwest’s Compliance
5 Filing are not supported by the FCC’s decisions. This assertion is baseless. Qwest will not
6 attempt to describe why intervals in excess of 90 days are necessary in certain circumstances as it
7 is not seeking such intervals here. Qwest will instead leave that for the 271 workshops.
8 However, to the extent that AT&T has asserted that Qwest’s interpretation of the FCC Orders are
9 misleading and unsupported by the evidence, Qwest now responds to these allegations.

10 **A. AT&T’s Assertion that the FCC Does Not Support Qwest’s**
11 **Position Regarding Extended Collocation Provisioning**
12 **Intervals is Misplaced.**

13 AT&T cites extensively from the FCC’s *Order on Reconsideration* to support its
14 assertion that the FCC does not approve of collocation provisioning intervals that exceed ninety
15 days. The FCC, however, is currently reconsidering the intervals established in its *Order on*
16 *Reconsideration* and has specifically granted Qwest an interim waiver from its national default
17 standards pending this reconsideration. AT&T relies almost exclusively on the FCC’s initial
18 *August Order* and ignores the controlling language in the FCC’s *November Order* which
19 specifically granted Qwest an interim waiver and set interim provisioning intervals. The
20 *November Order* in fact recognizes that some modification to the FCC’s collocation provisioning
21 intervals may be appropriate.

22 AT&T cites to the FCC’s *November Order* only to point out that Qwest need not amend
23 its SGAT to comply with the FCC’s *Order on Reconsideration* and that Qwest cannot
24 “incorporate[] time periods of its own choosing into its SGATs.”¹² Qwest agrees with both of

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26 ¹² *AT&T Response*, at 4-5, quoting *Amended Order*, at ¶¶ 5, 7.

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2 these contentions. The time periods that Qwest seeks to incorporate into its SGAT have also
3 been specifically approved by the FCC. Although the FCC still clearly intends to establish
4 national default collocation provisioning intervals, it is currently reconsidering those originally
5 established, in part, due to the fact that they were based on the record that was before the FCC
6 five months ago. Additional evidence has since been introduced that supports Qwest's
7 contentions regarding extended collocation provisioning intervals. As the FCC stated in its
8 *Amended Order*, "we also note that these petitions for reconsideration and the comments on them
9 greatly expand the record on reasonable physical collocation intervals beyond what was available
10 to the Commission when it adopted the *Collocation Reconsideration Order*. While we express
11 no opinion on the merits of these petitions for reconsideration or on what action the Commission
12 might take in response to them, *this greatly expanded record countenances a moment of pause*
13 *before we insist on absolute compliance with that Order.*"¹³ Thus, it is AT&T, not Qwest, that
14 misconstrues the FCC's *Order*. The intervals Qwest seeks to include in its SGAT come directly
15 from the FCC's November *Order*.

15 **B. Qwest's Forecasting Requirements are Supported by the FCC's**
16 **Interim Intervals and this Commission's Rules.**

16 Despite AT&T's protestations to the contrary, the interim intervals approved by the FCC
17 specifically "allow Qwest to increase the provisioning interval [90 days] for a proposed physical
18 collocation arrangement no more than 60 calendar days in the event a competitive LEC fails to
19 timely and accurately forecast the arrangement, unless the state commission specifically approves
20 a longer interval."¹⁴ Thus, the FCC unequivocally stated that this maximum 150 day standard
21 should apply "unless the state commission specifically approves a longer interval." Nonetheless,
22 Qwest recognizes that it must "use its best efforts to minimize any such increases;"¹⁵ and, as a

23 ¹³ *Amended Order*, at ¶ 10 (emphasis added).

24 ¹⁴ *Id.* at ¶ 19. Qwest notes that the FCC envisions that states may provide for a longer interval to supercede its own,
not a shorter interval.

25 ¹⁵ *Id.*

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2 result, Qwest recommended to the FCC, and continues to recommend here, that a 120 day
3 interval apply when an unforecasted collocation does not require major modifications.¹⁶

4 The Commission's rule also requires that CLECs forecast their collocation space needs in
5 order to obtain expedited provisioning. In adopting WAC 480-120-560(3), the Commission
6 specifically revised the text of the rule to reflect Qwest's concerns regarding adequate
7 forecasting. The rule now provides that CLECs must include ordered collocation space in a
8 periodic forecast submitted to the ILEC at least three months in advance to receive the space
9 within 45 calendar days of the CLEC's acceptance of the written quote and payment of one-half
10 of the nonrecurring charges specified in the quote. The Commission further specified that "[t]he
11 proposed Commission rule is predicated on CLEC forecasting; therefore, the FCC rule providing
12 for a longer interval would govern in the absence of a forecast."¹⁷

13 Far from taking liberties with the FCC's Orders, Qwest's Compliance Filing comports in
14 all respects with the FCC's most recent, *November Order*. The intervals Qwest proposes were
15 all specifically adopted by the FCC and, to the extent the Commission's rule defers to the FCC's
16 standards, the interim intervals should be adopted here.¹⁸

16 ¹⁶ See *Exhibit 2* to Qwest's Compliance Filing (Attachment B to Qwest's Petition for Waiver with the FCC).

17 ¹⁷ *In the Matter of Adopting WAC 480-120-560 Relating to Telephone Companies – Collocation, Order Adopting
Rules Permanently*, Docket No. UT-990582, General Order No. R-475, filed with Code Reviser Nov. 30, 2000.

18 ¹⁸ Qwest also notes that it has intentionally not filed modified SGAT language for Section 8.4. The Section 8.4 on
19 file and "in effect", which contains, *inter alia*, collocation intervals, has been completely rewritten. Thus, Qwest had
20 three choices: (1) modifying the old outdated language that has been withdrawn in the Section 271 Workshops; (2)
21 modifying the proposed Section 8.4 not currently in effect pursuant to Section 252(f)(3); or (3) simply making clear
22 that Section 8.4 is governed by such intervals. Given that Qwest's SGAT is in a state of flux due to Section 271
23 Workshops, Qwest thought the third option would generate the least controversy. Therefore, Qwest has so moved
24 before this Commission.

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CONCLUSION

Qwest hereby seeks to bring its SGAT in compliance with WAC 480-120-560 and the FCC's recent collocation Orders. Qwest will provision collocation according to the requirements of the Commission's rule once it takes effect. Where the rule, however, defers to the national default standard in the absence of adequate CLEC forecasting, Qwest will comply with the interim intervals approved by the FCC. For this reason, Qwest requests that this Commission allow it to modify its SGAT consistent with the aforementioned collocation intervals. With respect to whether Qwest should be allowed extended intervals under certain circumstances as outlined in its Compliance Filing, this is an issue to be resolved in the course of the Section 271 Workshops.

Thus, Qwest respectfully requests that the Commission issue an Order allowing Section 8.4 of the SGAT to be amended on January 21, 2001, by operation of law consistent with the intervals set forth in the FCC's *Amended Order* as modified by WAC 480-120-560.

DATED this 22nd day of December, 2000.

Respectfully submitted,

By: _____

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