

**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 U S WEST Communications, ) Docket No. UT-003040  
Inc.'s Statement of Generally Available )  
Terms Pursuant to Section 252(f) of the )  
Telecommunications Act of 1996 )  
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**AT&T'S AND COVAD'S PETITION FOR RECONSIDERATION  
OF COMMISSION'S FINAL ORDER APPROVING  
QWEST'S 271 APPLICATION**

AT&T Communications of the Pacific Northwest, Inc., AT&T Local Services on behalf of TCG Seattle and TCG Oregon (collectively "AT&T"), and Covad Communications Company ("Covad"), pursuant to WAC 480-09-810, submit this Petition for Reconsideration of the Commission's Final Order Approving Qwest's 271 Application.

Since the Commission issued its final order last week approving Qwest's 271 application, a federal criminal investigation has been initiated against Qwest. The United States Attorney's office has confirmed that the investigation is ongoing. In addition, the House Energy and Commerce Committee has apparently requested documents from the SEC dealing with Qwest's business behavior. Additionally, the Arizona Commission has suspended its 271 proceeding while it investigates Qwest's coercion of silence through secret deals and while the criminal investigation proceeds. In light of this new information, AT&T and Covad request that the Commission withdraw its favorable

recommendation on Qwest's 271 application, and hold any such future recommendation in abeyance pending the outcome of these serious investigations. In support thereof, AT&T and Covad state as follows.

The Commission, in its Order of last week, has determined that Qwest has not only satisfied the Section 271 checklist items necessary for interLATA entry, but that it is in the public interest of the state of Washington for Qwest to be given authority to compete in the long distance market. In making this determination, the Commission ignored substantial evidence indicating that Qwest had entered into secret interconnection deals that prefer one CLEC carrier over another, in violation of both federal and state law. Although numerous parties argued that the existence of such agreements, which foreclosed participation in this proceeding, should pause this Commission's favorable recommendation until a full investigation could be concluded into the matter, the Commission proceeded to bless Qwest's application.<sup>1</sup>

The most recent information regarding additional criminal investigations of Qwest's behavior further highlights the fact that the Commission is dealing with a regulated entity that cannot be trusted to tell the truth or provide accurate information to government officials. In light of this, AT&T and Covad believe it would be prudent for the Commission to withdraw its favorable recommendation regarding Qwest's

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<sup>1</sup> It is disingenuous for the Commission to ignore these arguments based on the assertion that "no party has filed a complaint with the Commission as in Minnesota and other states" and that no party has "made a showing or demonstration that interconnection agreements should have been filed or are discriminatory..." See July 1, 2002 Order at p. 87. In fact, unlike in many other states, the Commission and Public Counsel are investigating the alleged secret agreements outside of a formal docket, and no party other than the Public Counsel and the Commission are being provided copies of the previously unfiled agreements. Therefore, it is impossible for a CLEC to attempt to make a case based on preferential treatment in secret agreements that should have been filed in Washington. See comments filed by AT&T with the FCC regarding the relevance of the secret deals to the 271 inquiry. *In the Matter of Qwest Communications International Inc., Consolidated Application for Authority to Provide In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska and North Dakota*, Comments of AT&T Corp, filed July 3, 2002, WC Docket No. 02-148, pps. 18-28. Attached for the Commission's reference are the relevant pages.

application at this time, and take the time to assure itself and the people of the state of Washington that, at the very least, the Commission's recommendation is based on accurate, complete and reliable information. Clearly this may require the Commission to seek additional verification that information provided to it by Qwest in support of its application has either been verified by an independent source, will be verified by an independent source, or is reliable and trustworthy in the absence of such independent verification. The consumers and businesses of the state of Washington deserve at least that additional review by this Commission.

Given the level of corporate misconduct being reported recently in this country, together with the fragile state of the telecommunications industry as a whole, AT&T and Covad believe that this Commission should proceed carefully rather than hastily before it rewards the company which is at the very center of these allegations of misconduct. Washington benefits very little from one more long distance carrier being added to the hundreds that already offer service in the state; it benefits even less from a decision which ignores the virtual absence of local choice and the plethora of damaging information to prematurely assist a potentially criminally culpable company.

The Commission in the state of Arizona has recognized Qwest's lack of truthfulness, inadequate disclosure and corporate misconduct as being highly relevant to the 271 inquiry, and has recommended that the 271 investigation in that state be halted until all ramifications of Qwest's behavior can be fully explored. See 3 letters from Commissioners Spitzer and Irvin, and recent press clipping, attached hereto. They have done so based on the allegations of secret interconnection deals, even before considering the criminal charges now being faced by Qwest. Likewise, the Minnesota Commission is

investigating the secret deals before deciding 271. The Commission in Washington, which is charged with protecting consumer interests, owes no less than the same protection to the citizens of this state as that being provided to the citizens of Arizona.

WHEREFORE, AT&T and Covad respectfully request that the Commission reconsider its order approving Qwest's application for 271 relief and withhold any such approval until all criminal investigations of Qwest's behavior are concluded, and until the Commission has assured itself that its recommendation is based on an entirely accurate and factual record.

Respectfully submitted this 11<sup>th</sup> day of July, 2002.

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