

Qwest

1600 7th Avenue, Room 3206
Seattle, Washington 98191
(206) 398-2504
Facsimile (206) 343-4040

Maura E. Peterson

Paralegal
Regulatory Law

VIA E-MAIL AND U.S. MAIL

September 23, 2004

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Dr. S.W.
P.O. Box 47250
Olympia, WA 98504-7254

Re: Qwest Master Services Agreement between Qwest Corporation and New
Access Communications, LLC

Dear Ms. Washburn:

Qwest Corporation (“Qwest”) and New Access Communications, LLC (“Customer”) recently executed a commercial agreement relating to the provisioning of switching and shared transport. The agreement is entitled “Master Services Agreement” and attaches as Exhibit 1 the “Qwest Platform Plus™ Service,” which together hereinafter are termed the “QPP™ Agreement.”

I am submitting with this letter a courtesy copy of the QPP™ Agreement for informational purposes only. The reason that I am submitting the QPP™ agreement for informational purposes only is because Qwest believes that Section 252(e) of the Federal Telecommunications Act, 47 U.S.C. § 252(e), does not require filing of the QPP™ Agreement for approval with state commissions. As you are likely aware, the D.C. Circuit Court of Appeals decision in what has been termed *USTA II* became effective on June 16, 2004.¹ In *USTA II*, the D.C. Circuit vacated various rules promulgated by the FCC, including but not limited to, the requirement that incumbent local exchange carriers (“ILECs”) unbundle certain network elements pursuant to Section 251(c)(3), including but not limited to switching and shared transport. As stated by the FCC, the Section 252(e) filing obligation applies to “an agreement

¹ *United States Telecom Ass’n. v FCC*, Case No. 00-1012, (Decided March 2, 2004).

that creates an *ongoing* obligation pertaining to resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, interconnection, unbundled network elements, or collocation.”² Combining the impact of the D.C. Circuit’s opinion with the FCC’s Declaratory Ruling regarding Section 252(e), there are no Section 251(c)(3) obligations upon the incumbent to provide switching and shared transport as an unbundled network element, and thus there are no Section 252(e) filing obligations associated with the QPP™ Agreement.

The QPP™ Agreement is posted to the Qwest Wholesale website in its entirety and is available to all carriers that assume all of the terms and obligations assumed by Customer. Further, Qwest has filed the Agreement with the FCC under 47 U.S.C. § 211(a).

Please contact me with any questions you may have.

Sincerely,

Maura E. Peterson
Paralegal

Enclosure

cc: Luba Hromyk w/o enc.

Gregory Wilmes, New Access Communications, LLC w/o enc.

² *In the Matter of Qwest Communications International Inc. Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*, para. 8 (emphasis that of the FCC).