

**BEFORE THE WASHINGTON STATE 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 .....	)	DOCKET NO. UT-003040
	)	
In the Matter of	)	46 <sup>TH</sup> SUPPLEMENTAL ORDER; RESCINDING IN PART AND MODIFYING
	)	
U S WEST COMMUNICATIONS, INC.'s	)	45 <sup>TH</sup> SUPPLEMENTAL ORDER; APPROVING QWEST'S REVISIONS TO
	)	
Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996 .....	)	SGAT EXHIBIT A
	)	

**I. SYNOPSIS**

1 *In this Order, the Commission rescinds paragraph 26 and a portion of paragraph 10 of the 45<sup>th</sup> Supplemental Order that require Qwest to make all requests to modify SGAT Exhibit A through a Tariff Advice Letter and to place all rates listed in Exhibit A into a tariff. The Commission modifies the 45<sup>th</sup> Supplemental Order by requiring that all requests to change the SGAT be addressed in the Commission's open public meeting on a 60-day calendar, and to require Qwest to provide notice in its tariff filings if the filing may result in a subsequent request to modify the SGAT. Further, the Commission approves Qwest's request to allow revisions to SGAT Exhibit A to become effective concurrent with the approved compliance tariffs filed in Part B and Part D of Docket No. UT-003013, with the exception that the tariff changes identified in Docket No. UT-031165 will become effective on August 17, 2003.*

## II. MEMORANDUM

- 2     **Procedural History.** On December 13, 2002, the Washington Utilities and Transportation Commission (“Commission”) entered the 45<sup>th</sup> Supplemental Order in this proceeding. The Order approved certain revisions to Exhibits A, B1, and K of Qwest Corporation’s (“Qwest”) Statement of Generally Available Terms and Conditions (“SGAT”) on file with the Commission. In addition, in paragraphs 10 and 26 of the Order, the Commission required that “[f]or this and any future requests to modify Exhibit A to the SGAT, Qwest must make the request in the form of a Tariff Advice Letter and must place all rates listed in Exhibit A into its tariffs filed with the Commission.” On January 10, 2003, Qwest filed a letter with the Commission requesting clarification of the time necessary for compliance with the Order.
- 3     On July 14, 2003, Qwest filed with the Commission a Notice of Updated Exhibit A to the SGAT, requesting that the Commission allow the Fifth Amended Version of the SGAT to become effective concurrent with compliance tariffs approved by the Commission in Parts B and D of Docket No. UT-003013. Rates in the Part B compliance tariff were approved on May 15, 2003, while rates in the Part D compliance tariff were approved on June 16, 2003.
- 4     On July 21, 2003, The Commission served a Notice of Modification of Commission Order and Notice of Opportunity to File Comments on all parties pursuant to RCW 80.04.210 and WAC 480-09-815. In that notice, the Commission requested comments on a proposal to rescind the requirements in paragraphs 10 and 26 of the 45<sup>th</sup> Supplemental Order. The Commission also proposed to modify the order to require requests to change the SGAT to be placed on a 60-day calendar for review in the Commission’s open meeting, and to require a 60-day filing requirement for tariff filings with a corresponding change to SGAT Exhibit A.

5 On August 4, 2003, Qwest filed comments with the Commission in response to the  
notice, supporting the proposal to rescind the requirements of paragraphs 10 and 26,  
and modify the order to require SGAT filings to be placed on a 60-day calendar for  
review at the open meeting. Qwest objects to the proposal to require a 60-day filing  
requirement for corresponding tariff and SGAT Exhibit A filings. No other party  
filed comments.

6 On August 5, 2003, Qwest filed a letter with the Commission advising the  
Commission of a discrepancy between rates in the Parts B and D compliance tariffs  
approved by the Commission and rates in the Fifth Amended Version of SGAT  
Exhibit A, filed with the Commission on July 14, 2003. Qwest informed the  
Commission that Qwest has requested in Advice No. 3414T, Docket No. UT-031165,  
that the Commission allow corrections to certain tariff rates to become effective  
August 17, 2003. If approved, the tariff filing will correct the discrepancy between  
the tariff and SGAT Exhibit A rates.

7 At its August 13, 2003, open meeting, the Commission approved the request to  
modify tariff rates in Docket No. UT-031165.

### **Discussion and Decision.**

8 **1. Rescinding and Modifying the 45<sup>th</sup> Supplemental Order.** In paragraph 10 of the  
Commission's 45<sup>th</sup> Supplemental Order, the Commission provided that "In order to  
allow sufficient review of and comment upon changes in rates in Exhibit A to the  
SGAT, we require that for this and any future requests to modify Exhibit A to the  
SGAT, Qwest make the request in the form of a Tariff Advice Letter and place all  
rates listed in Exhibit A into its tariffs filed with the Commission." Paragraph 26 of  
the Order requires Qwest to comply with these requirements.

9 The requirement to file changes to Exhibit A through a Tariff Advice Letter was  
intended to allow changes in Exhibit A Rates to be addressed through the

Commission's open meeting process. That process allows for Commission Staff review, comment from the company and members of the public, and finally, review and decision by the Commissioners. The requirement to place SGAT Exhibit A rates in tariff was intended to allow the Commission to record changes in SGAT rates in the same manner as it records changes in tariff rates.

- 10 After reviewing these requirements, the Commission determined that the requirements may prove to be unnecessarily burdensome to the company, may confuse the difference between state tariffs and SGAT filings, and would require commission review of SGAT changes in a shorter period than allowed under 47 U.S.C. § 252(f). The Commission served a notice to all parties advising the parties of its intent to rescind in part and modify the 45<sup>th</sup> Supplemental Order. In comments filed with the Commission, Qwest supports the proposal to rescind the requirements in paragraphs 10 and 26.
- 11 For the reasons set forth above, we now rescind the requirements stated in paragraphs 10 and 26 of the 45<sup>th</sup> Supplemental Order requiring Qwest to file requests to modify Exhibit A to the SGAT in the form of Tariff Advice Letters and place all Exhibit A rates in tariff. In addition, we consider whether there is a different way to accomplish the goal stated in paragraph 10 of the Order of "sufficient review and comment upon changes in rates in Exhibit A."
- 12 In order to capture the administrative benefits of treating SGAT Exhibit A filings as tariff filings, we now modify the 45<sup>th</sup> Supplemental Order to require Qwest to file any future amendments to the SGAT in a separate docket to be addressed at the Commission's open meeting on a 60-day calendar. This change will allow the timing of SGAT changes to dovetail with the requirements of 47 U.S.C. § 252(f)(3)(B), under which statements of generally available terms and conditions become effective after 60 days after filing with a state commission, unless the state commission rejects or modifies the document. This does not preclude Qwest from requesting that the Commission take action prior to 60 days from the date of filing.

- 13 In addition, we modify the Order to require Qwest to provide notice in its tariff filings if the filing will result in a subsequent request to change the SGAT. Such a notice will alert Commission Staff that a request to modify the SGAT may follow the tariff filing, and allow Staff to determine whether any coordination between tariff and SGAT changes is necessary. Requiring notice of corresponding changes to the tariff and SGAT Exhibit A rather than a 60-day filing requirement will reduce the administrative burden of the company and allow prompt implementation of tariff changes and agreements reached with competitive local exchange companies (CLECs).
- 14 **2. Fifth Amended SGAT Exhibit A.** Qwest has amended SGAT Exhibit A to make several administrative changes, and to include the rates filed in the Part B and Part D compliance filings in Docket No. UT-003013. The Commission approved the Part B compliance filing rates on May 15, 2003, in the 50<sup>th</sup> Supplemental Order in Docket No. UT-003013. The Part D compliance filing rates were approved on June 16, 2003, in the 51<sup>st</sup> Supplemental Order in that same proceeding. Qwest requests that the Commission allow the Fifth Amended SGAT Exhibit A to become effective concurrent with the effective dates of the Part B and Part D compliance filings.
- 15 On August 13, 2003, in Docket No. UT-031165, the Commission took no action on Qwest's request to correct errors in the Part D and part B compliance filings, allowing the tariff change to become effective August 17, 2003.
- 16 The proposed changes to SGAT Exhibit A reflect rates approved by the Commission in Parts B and D of the Commission's generic cost docket, UT-003013. With the recent corrections to Qwest's tariff in Docket No. UT-031165, we accept Qwest's request to allow the Fifth Amended SGAT Exhibit A to become effective concurrent with the effective dates of the Part B and Part D compliance filings, and the effective date of the tariff changes in Docket No. UT-031165.

**III. FINDINGS OF FACT**

- 17 Having discussed above in detail the oral and documentary evidence received in  
this proceeding concerning all material matters, and having stated findings and  
conclusions upon issues at impasse between the parties and the reasons and bases  
for those findings and conclusions, the Commission now makes and enters the  
following summary of those facts. Those portions of the preceding detailed findings  
pertaining to the ultimate findings stated below are incorporated into the ultimate  
findings by reference.
- 18 (1) Qwest Corporation, formerly known as U S WEST Communications, Inc., is a  
Bell operating company (BOC) within the definition of 47 U.S.C. section  
153(4), providing local exchange telecommunications service to the public for  
compensation within the state of Washington.
- 19 (2) The Commission is an agency of the State of Washington vested by statute  
with the authority to regulate the rates and conditions of service of  
telecommunications companies within the state, and to review Qwest's  
Statement of Generally Available Terms, or SGAT, under section 252(f)(2) of  
the Act.
- 20 (3) Paragraphs 10 and 26 of the 45<sup>th</sup> Supplemental Order require Qwest to make  
all requests to modify SGAT Exhibit A through a Tariff Advice Letter and to  
place all rates listed in Exhibit A into tariff.
- 21 (4) By notice dated July 21, 2003, the Commission requested comments from the  
parties concerning a proposal to rescind the requirements in paragraphs 10  
and 26 of the 45<sup>th</sup> Supplemental Order and to further modify the Order.
- 22 (5) On July 15, 2003, Qwest filed with the Commission a request to modify the  
SGAT and allow the Fifth Amended SGAT Exhibit A to become effective

concurrent with compliance tariffs approved by the Commission in Parts B and D of Docket No. UT-003013.

- 23 (6) On August 4, 2003, Qwest filed comments with the Commission in response to the proposed partial rescission and modification of the 45<sup>th</sup> Supplemental Order.
- 24 (7) On August 5, 2003, Qwest filed a letter with the Commission clarifying discrepancies between the rates in the Fifth Amended SGAT Exhibit A and rates in the compliance tariffs approved by the Commission in Parts B and D of Docket No. UT-003013.
- 25 (8) At its August 13, 2003, open meeting, the Commission took no action on Qwest's request to correct a discrepancy between rates in the Fifth Amended SGAT Exhibit A and rates in the Parts B and D compliance tariffs, allowing the tariff changes to become effective on August 17, 2003.

#### **IV. CONCLUSIONS OF LAW**

- 26 Having discussed above in detail all matters material to this decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 27 (1) The requirements in paragraphs 10 and 26 of the 45<sup>th</sup> Supplemental Order may prove to be unnecessarily burdensome to the company, may confuse the difference between state tariffs and SGAT filings, and would require Commission review of SGAT changes in a shorter period than allowed under 47 U.S.C. § 252(f).

- 28 (2) Requiring Qwest to file any future amendments to the SGAT in a separate docket to be addressed on a 60-day calendar will allow the Commission to gain the administrative benefits of treating SGAT Exhibit A filings as tariff filings.
- 29 (3) Requiring notice of corresponding changes to the tariff and SGAT Exhibit A rather than a 60-day filing requirement will reduce the administrative burden of the company and allow prompt implementation of tariff changes and agreements reached with CLECs.
- 30 (4) Allowing rates in the Fifth Amended SGAT Exhibit A to become effective concurrent with compliance tariffs approved by the Commission in Parts B and D of Docket No. UT-003103 will allow CLECs operating in Washington state to obtain services and unbundled network elements at the same rates set forth in Qwest's tariff.

## **V. ORDER**

31 THE COMMISSION ORDERS That

- 32 (1) Paragraph 26 of the 45<sup>th</sup> Supplemental Order and that portion of paragraph 10 of the Order beginning with "In order to allow sufficient review of and comment upon changes in Exhibit A to the SGAT," until the end of paragraph 10, are rescinded.
- 33 (2) The 45<sup>th</sup> Supplemental Order is modified to require Qwest to file any future amendments to the SGAT in a separate docket to be addressed at the Commission's open meeting on a 60-day calendar.

- 34 (3) The 45<sup>th</sup> Supplemental Order is modified to require Qwest to provide notice in its tariff filings if the filing will result in a subsequent request to change the SGAT.
- 35 (4) Qwest's request to allow the Fifth Amended Exhibit A to the SGAT to become effective concurrent with the approved compliance tariffs in Parts B and D of Docket No. UT-003013 is granted, with the exception that the tariff changes identified in Docket No. UT-031165 will become effective on August 17, 2003.

DATED at Olympia, Washington and effective this 20th day of August, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

PATRICK J. OSHIE, Commissioner

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).**