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2 **WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

3
4 IN THE MATTER OF

5
6 INVESTIGATION INTO U S WEST COMMUNICATIONS,
7 INC.'S COMPLIANCE WITH SECTION 271 OF THE
8 TELECOMMUNICATIONS ACT OF 1996

DOCKET NO. UT-003022

9 U S WEST COMMUNICATIONS, INC.'S STATEMENT OF
10 GENERALLY AVAILABLE TERMS PURSUANT TO SECTION
11 252(F) OF THE TELECOMMUNICATIONS ACT OF 1996

DOCKET NO. UT-003040

**OPENING BRIEF OF
TELIGENT SERVICES, INC.**

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13 TELIGENT SERVICES, INC., ("Teligent") hereby submits its Opening Brief in the
14 above-referenced matter. This brief deals exclusively with the issues surrounding the
15 collocation of microwave facilities, which was recently addressed by the Washington Utilities
16 and Transportation Commission ("Commission") in Part A of Docket No. UT-003013.¹
17 Teligent respectfully requests that the Commission consider the issue of the proper treatment
18 of microwave collocation by Qwest Corporation, f/k/a U S WEST Communications, Inc.,
19 ("Qwest") in its Statement of Generally Available Terms and Conditions ("SGAT") recently
20 filed in the above-referenced proceeding. Specifically, Teligent asks the Commission to defer
21 consideration of the issue of microwave collocation for a future workshop to permit Qwest
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24 ¹ See Thirteenth Supplemental Order: Part A Order Determining Prices for Line Sharing, Operations
25 Support Systems, and Collocation, WUTC Docket No. UT-003013, released January 31, 2001 ("Thirteenth
Supplemental Order").

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2 time to file a SGAT that complies with the Commission’s Thirteenth Supplemental Order
3 which was issued after the close of Workshop 2.

4 The Telecommunications Act of 1996,² established a pro-competitive, deregulatory
5 national policy framework for telecommunications in order to open all telecommunications
6 markets to competition.³ One of the Act’s core market-opening provisions is section 251(c)(6),
7 which requires incumbent local exchange carriers:
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9 [T]o provide, on rates, terms, and conditions that are just,
10 reasonable, and nondiscriminatory, for physical collocation of
11 equipment necessary for interconnection or access to unbundled
network elements at the premises of the local exchange carrier...

12 The Federal Communications Commission (“FCC”) has adopted regulations implementing this
13 provision to ensure that collocation is available in a timely manner and on terms and conditions
14 that are just, reasonable, and nondiscriminatory.⁴ As noted by the FCC on several occasions,
15 the timely provisioning of physical collocation space is critically important to
16 telecommunications carriers’ ability to compete effectively in the market for advanced services
17 and other telecommunications services.⁵ Thus, the Act and the FCC have recognized that
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20 ² Pub.L. 104-104, Title VII, Feb. 8, 1996, 110 Stat. 153, *codified at* 47 U.S.C. §§ 151 *et seq.* (“the Act”).

21 ³ Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong. 2d Sess. 1 (1996)(“Joint
22 Explanatory Statement”).

23 ⁴ See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC
24 Docket No. 96-98, First Report and Order at ¶573 (rel. Aug. 8, 1996)(“Local Competition Order”); In re
25 Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and
Further Notice of Proposed Rulemaking, 14 FCC Rcd. 4761, at ¶23 (1999)(“Advanced Services Order”).

⁵ In re 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. 96-68, CC Docket Nos. 98-147 & 96-98, FCC 00-297, at ¶22,
n.53 (rel. Aug. 10, 2000)(“FCC Collocation Recon. Order”).

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2 timely and nondiscriminatory collocation is an essential predicate to development of
3 competition.
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5 In its Collocation Rulemaking, this Commission specifically recognized that standard
6 intervals and conditions for the provision of collocation are necessary to promote competition
7 in the telecommunications industry.⁶ Accordingly, the Commission adopted WAC 480-120-
8 560, which established standard intervals and conditions for incumbent local exchange carriers
9 to make collocation available to competitive local exchange carriers. The Commission’s rules
10 define collocation as “the ability of a CLEC to place equipment, *including microwave*
11 *equipment*, within or upon an ILEC’s premises.”⁷ By specifically including microwave
12 equipment in the definition of collocation, the Commission recognized that microwave
13 collocation is simply another type of collocation that could be provisioned using standard
14 intervals and conditions applicable to other forms of collocation.⁸
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17 Additionally, the Commission recently directed Qwest and Verizon Northwest Inc.,
18 f/k/a GTE Northwest Incorporated, (“Verizon”) to file standardized microwave collocation
19 tariffs.⁹ In its Thirteenth Supplemental Order, the Commission rejected the claims by Qwest
20 and Verizon that microwave collocation requests were so unique or rare as to necessitate the
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22 ⁶ In the Matter of Collocation Rulemaking, WUTC Docket No. UT-990582, (“Washington Collocation
23 Rulemaking”).

⁷ WAC 480-120-560(1) (emphasis added).

⁸ *Id.*

24 ⁹ *Thirteenth Supplemental Order*, at ¶ 377 (a “standardized tariff...will be useful in promoting
25 competitive entry into Washington’s local telecommunications market”).

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2 bona fide request (“BFR”) process and/or individual case basis (“ICB”) pricing.¹⁰ Together,
3 WAC 480-120-560(1) and the Thirteenth Supplemental Order evidence the Commission’s
4 belief that microwave collocation arrangements can and should be offered using standard
5 intervals, prices and procedures.
6

7 Despite these decisions, Qwest’s most recent SGAT, Section 4 and 8 Workshop
8 Version for February 6, 2001, contains only one reference to microwave facilities, but not as a
9 form of collocation. Section 8.2.4.1 of Qwest’s SGAT states that “[o]ther entrance facility
10 technologies, such as microwave and wireless or other technologies, may be requested through
11 the BFR process.” Thus, Qwest’s SGAT fails to include any reference to microwave
12 collocation and also attempts to subject the use of any microwave technology to the BFR
13 process, a process that was explicitly rejected by the Commission in its Thirteenth
14 Supplemental Order.
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17 Teligent recognizes that, given the fact that the Thirteenth Supplemental Order was not
18 adopted until Workshop 2 was completed, the record for Workshop 2 is not adequate to allow
19 the parties to address the merits of the proper treatment of microwave collocation. For this
20 reason, Teligent requests that the Commission reject or suspend the language proposed in
21 Section 8.2.4.1 concerning microwave technology and hold open the issue of the proper
22 treatment of microwave collocation in Qwest’s SGAT. By holding open the issue for future
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¹⁰ *Id.* ¶ 376.

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2 workshops, Qwest may be given a reasonable period of time to file a modified SGAT in
3 compliance with the Thirteenth Supplemental Order and the parties will have an opportunity to
4 address the merits of the proposed modifications.
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6 Without any guidance from the Commission on this issue, Teligent fears that Qwest
7 will attempt to subject microwave collocation to the BFR process and/or ICB pricing. Indeed,
8 the most recent SGAT filing suggests that Qwest would prefer to subject collocation
9 arrangements involving microwave technology to the BFR process. For this reason, Teligent
10 requests that the Commission reject or suspend the language in Section 8.2.4.1 of Qwest's
11 SGAT subjecting microwave technology to the BFR process, and delay consideration of the
12 issue of microwave collocation until Qwest submits modified SGAT language consistent with
13 WAC 480-120-560 and the Commission's Thirteenth Supplemental Order.
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15 RESPECTFULLY SUBMITTED this 14th day of February 2001.

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