

April 27, 2000

Dennis J. Moss
Administrative Law Judge
Washington Utilities and Transportation Commission
P. O. Box 47250
Olympia, Washington 98504-7250

Re: In re Joint Application for Merger of Qwest Communications International Inc. and U S West, Inc., Docket No. UT-991358

Dear Judge Moss:

Commission Staff has received the Joint Applicants' Answer to Staff's Request for Continuance and Motion for Issuance of Bench Requests, dated April 27, 2000. After reading that Answer, Commission Staff is compelled to respond to a single statement in the Answer and requests that the Commission consider Staff's response to that statement.

To support its position that no Bench Requests for the several private side agreements should issue in this case, Joint Applicants argue that:

This same issue was addressed by the Minnesota Commission on Tuesday this week. The question presented was whether these same ancillary agreements, outside the merger docket, should be placed on the record for comment in the merger proceeding. The Commission concluded that it did not need to review those agreements in order to make a determination about whether the merger is in the public interest.

Answer at 3.

Conspicuously absent from the above statement is the very significant fact that the proposed Stipulation and Agreement among Joint Applicants, the Minnesota Department of Commerce (Commission Staff) and the Minnesota Office of the Attorney General (Public Counsel) pending before the Minnesota Commission contains merger conditions that

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comprehensively address competition-related issues -- in contrast to the present case, in which competition-related issues are squarely before the Commission. (A copy of the Stipulation and Agreement is attached). For example, the Minnesota Stipulation and Agreement provides for increased investment for deployment of new advanced services, expanded DSL capability, and the implementation of a "mass grooming" program. *Id.* at 4-5. In addition, no fewer than five sections of the Minnesota Stipulation and Agreement resolve wholesale service quality issues. *Id.* at 13-34. The resolution of those issues provides for the imposition of substantial penalties and customer specific remedies. *Id.* at 24-30.

Above all, the Commission should recognize that the Minnesota CLEC merger conditions apply not only to those CLECs acquiescing in Joint Applicants' demands that the CLECs withdraw their opposition to the merger, but rather, to *all current and future* CLECs doing business in the state of Minnesota. Therefore, this Commission should pay no heed to the Minnesota Commission's decision to turn a blind eye to the various private side agreements in that proceeding.

Again, Commission Staff strongly believes the granting of its request for continuance and the issuance of Bench Requests is necessary and in the public interest. Thank you for your consideration.

Very truly yours,

SALLY G. JOHNSTON
Assistant Attorney General

c: All Parties