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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Request for Competitive Classification of Basic
Business Exchange Telecommunications Services

No. Docket UT-
QWEST CORPORATION'S PETITION

I. INTRODUCTION

Qwest Corporation (Qwest) hereby petitions the Washington Utilities and Transportation Commission (Commission) to classify Qwest's basic business exchange telecommunications services as competitive telecommunications services pursuant to RCW 80.36.330 and WAC 480-121-062. The geographic area for which Qwest requests competitive classification is the state of Washington.¹

The basic business exchange services for which Qwest requests competitive classification fall into two categories. The first category is those services that provide access to the network such as flat and measured lines, private branch exchange (PBX) trunks and Centrex services, including feature packages.

The second category is discretionary business features which are software enhancements available as access line or trunk options; they are features assigned by the telecommunications provider when the line is provisioned at the central office switch utilized by the provider.

¹ The Commission previously found that such business services were subject to effective competition when provisioned over DS1 or greater circuits within the greater Bellevue, Seattle, Spokane and Vancouver areas. In the Matter of the Petition of Qwest Corporation for Competitive Classification of Business Service in Specified Wirecenters, Seventh Supplemental Order Denying Petition and Accepting Staff's Proposal, Docket UT-000883, December 18, 2000; In the Matter of the Petition of U S WEST Communications, Inc. for Competitive Classification of its High Capacity Circuits in Selected Geographical Locations, Eighth Supplemental Order Granting Amended Petition for Competitive Classification, December 21, 1999, Docket No. UT-990022.

1 Providers competing in the business market offer their own spectrum of business services. Their
2 business services are designed to meet the needs of business customers, and replace a full range of
3 services previously subscribed to from Qwest. Their services are offered in direct competition with and
4 as a complete alternative to those of Qwest and other providers in the market. A comprehensive list of
5 the basic business exchange services and features for which Qwest is seeking competitive classification in
6 this petition is found at Attachment A.

7 **II. STATUTORY AUTHORITY**

8 The Commission's statutory authority to grant Qwest's Petition for Competitive Classification is
9 set forth in RCW 80.36.330(1):

10 The commission may classify a telecommunications service provided by a
11 telecommunications company as a competitive telecommunications
12 service if the service is subject to effective competition. Effective
13 competition means that customers of the service have reasonably
available alternatives and that the service is not provided to a significant
captive customer base.

14 Factors that the Commission shall consider are detailed in Section IV below.

15 Pursuant to RCW 80.36.330, Qwest requests that this petition be granted effective May 31,
16 2003. Should the Commission suspend the effective date and schedule hearings, then pursuant to this
17 statute, a final order must be entered within six months from the date of filing, which is November 1,
18 2003.

19 **III. POLICY CONSIDERATIONS**

20 In accordance with RCW 80.36.300, it is the policy of the state to “. . . (5) Promote diversity in
21 the supply of telecommunications services and products in telecommunications markets throughout the
22 state; and (6) Permit flexible regulation of competitive telecommunications companies and services.”

23 Consistent with the policy of the state, and as supported by the facts in the petition, Qwest urges
24 the Commission to approve this petition for competitive classification of basic business exchange
25 telecommunications services. Qwest's petition demonstrates that the registration of a significant number
26 of competitive local exchange carriers (CLECs) with the Commission and their provision of business

1 services as described in this petition, have promoted the diversity of supply of telecommunications
2 services and products throughout the state. This diversity of supply is evidenced by the CLECs' services
3 offered pursuant to price lists in accordance with Commission rules. (See Confidential Attachment D.)

4 **IV. RCW 80.36.330 and WAC 480-121-062 FACTORS**

5 RCW 80.36.330 requires the Commission to consider, at a minimum, the following factors in
6 determining whether a service is competitive:

- 7 A. The number and size of alternative providers of services;
- 8 B. The extent to which services are available from alternate providers in the relevant market;
- 9 C. The ability of alternative providers to make functionally equivalent or substitute services
10 readily available at competitive rates, terms, and conditions; and
- 11 D. Other indicators of market power, which may include market share, growth in market
12 share, ease of entry, and the affiliation of providers of services.

13 WAC 480-121-062(5)(g) additionally requires the petition to include, among other data included
14 in this petition:

- 15 E. A statement of whether the petitioner has a significant captive customer base and the
16 bases for any contention that it does not.

17 Qwest will address each of the factors in the following discussion.

18 **A. The number and size of the alternative providers of services**

19 CLECs are the alternative providers of basic business exchange services. According to
20 Commission records, 161 CLECs were registered with the Commission as of March 3, 2003.² These
21 companies range from large, international companies such as AT&T and MCI WorldCom to small
22 companies such as Tel West Communications and NOS Communications. The number of
23 interconnection agreements between Qwest and CLECs is another indicator of the number of alternative
24 providers. For 2002, the number of Qwest Commission-approved interconnection agreements for
25 wireline and resale services was 152.

26 ² Commission website, www.wutc.wa.gov. Competitive Local Exchange Regulated by WUTC, March 3, 2003.

1 Qwest's competitive evidence supporting this petition is substantially based on the quantities of
2 wholesale services purchased by alternative providers to compete with Qwest's retail basic business
3 services. A list of competitors that purchased unbundled loops, unbundled network element platforms
4 (UNE-P), and resold business services may be found at Confidential Attachment C.

5 **B. The extent to which services are available from alternative providers in the**
6 **relevant market**

7 With 161 registered CLECs in Washington, 152 of which have interconnection agreements with
8 Qwest, business customers have reasonably available alternative basic exchange services throughout the
9 state. The competitive nature of business services is evidenced by the numerous effective price lists which
10 are on file with the Commission. In addition to the paper price lists, the Commission's website provides
11 direct links to over twenty CLEC websites for on-line price list information and product offerings. A
12 comparative sample of Qwest's tariffed basic business exchange services and CLEC price listed business
13 services is provided at Confidential Attachment D. These services, available under price list from
14 alternative service providers, clearly demonstrate that Washington business customers have functionally
15 equivalent, reasonably available alternatives.

16 Historically, ILECs such as Qwest have defined their market for services at the exchange or
17 statewide level. CLEC markets are generally broadly defined statewide as evidenced by price lists which
18 offer services throughout Washington regardless of geographic location. Qwest believes that the market
19 for business services should be appropriately defined as statewide. Qwest's analyses will show that
20 effective competition exists statewide, within exchanges, and within key geographic areas (i.e.,
21 Bellingham, Central/Eastern, Northeastern, Olympic Peninsula, Puget Sound, Southeastern, Spokane,
22 Southwestern, and Tacoma). (See Confidential Attachments E and F.) Furthermore, Confidential
23 Attachments F1 and F2 show not only the broad range of competition throughout the state, but also the
24 diversity of suppliers and customers throughout the state.

1 **C. The ability of alternative providers to make functionally equivalent or substitute**
2 **services readily available at competitive rates, terms and conditions**

3 Alternative providers have a variety of methods available to offer services to business customers.
4 They can build their own facilities, purchase unbundled network elements from Qwest and resell Qwest's
5 retail business services. Qwest's analyses will focus on the ability of CLECs to provision services via
6 unbundled network elements and resold services purchased from Qwest.

7 Qwest's basic business exchange services are available to resellers at a wholesale discount of
8 14.74% from the recurring rate and a discount of 50% from the nonrecurring retail rate. These discounts
9 were established by the Commission in the generic cost proceedings.³ By reselling Qwest's retail
10 services, CLECs have the ability to reach every single business customer that Qwest now serves. When
11 resellers state that their services are available "where facilities are available,"⁴ this means that their
12 services are available *wherever Qwest facilities are available*.

13 Alternative providers can provision business services by combining Qwest's unbundled network
14 elements (UNEs) (i.e., unbundled loops) with their own elements or those of a third party. CLECs may
15 also provision retail business services solely from Qwest's wholesale services, utilizing UNE-P, which
16 provides a complete retail service using Qwest's unbundled network elements. As with resale, using
17 UNE-P, the alternative provider can reach every location to which Qwest has facilities. When CLECs
18 utilizing UNE-P state that their services are available "where facilities are available", this means that their
19 services are available *wherever Qwest facilities are available*. Qwest's rates for UNEs have been
20 established by the Commission in various cost dockets.⁵ These rates are based on Qwest's costs and are
21 independent of Qwest's retail rates.

22 ³ In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and
23 Resale, Dockets No. UT-960369, et al., Eighth Supplemental Order, April 16, 1998, at pages 98-99.

24 ⁴ Each of the thirty-two CLEC price lists detailed in Confidential Attachment D contains language similar to 'service
25 is available where facilities permit'.

26 ⁵ In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and
Resale, Dockets No. UT-960369, et al., In the Matter of the Continued Costing and Pricing of Unbundled Network
Elements, Transport, and Termination, Docket No. UT-003013, In the Matter of the Review of: Unbundled Loop and
Switching Rates; the Deaveraged Zone Rate Structure; and Unbundled Network Elements, Transport, and Termination.
Docket No. UT-023003.

1 Qwest's ordering procedures and installation and repair service intervals for UNEs and resale are
2 documented in Qwest's SGAT and were reviewed by the Commission during Qwest's 271 proceeding.
3 Although provisioning parity is not a requirement for competitive classification of a service, Qwest was
4 recently required to demonstrate provisioning parity in conjunction with its 271 application. In that
5 proceeding the Commission found that:

6 Qwest has satisfied the requirements of Checklist Item No. 2 to provide
7 "nondiscriminatory access to UNEs in accordance with the requirements
of sections 251(c)(3) and 252(d)(1)."⁶

8 Qwest's performance assurance plan, or QPAP, as filed on June 25,
9 2002, should provide adequate assurance that the local market in
Washington State will remain open to competition if the FCC were to
10 grant an application by Qwest for section 271 authority.⁷

11 Qwest has implemented OSS and change management processes for interconnection orders.
12 UNEs, including unbundled loops and UNE-P, are readily available and as evidenced by the data
13 provided in this petition, competitors are purchasing them throughout the state.

14 Finally, in regard to UNE-P and recent FCC action taken during its Triennial Review, Qwest
15 would note that the ongoing availability of UNE-P as a service option will be the subject of a Commission
16 review process to determine whether economic or operational impairment of competition would occur if
17 the product is eliminated.⁸ Qwest does not believe that this action in any way affects the validity of its
18 petition. If the Commission decides that impairment would occur if the product is eliminated, the product

19 ⁶ Comments of the Washington Utilities and Transportation Commission In the Matter of Application by Qwest
20 Communications International, Inc., for Authorization to Provide In-Region, InterLATA Services in Montana, Utah,
Washington, and Wyoming, WC Docket No. 02-189 at page 12, July 26, 2002.

21 ⁷ In the Matter of the Investigation Into U S WEST Communications, Inc.'s Compliance With Section 271 and
22 SGAT Pursuant to Section 252(f) of the Telecommunications Act of 1996, Docket No. UT-003022/UT-003040, 39th
Supplemental Order; Commission Order Approving SGAT and QPAP, and Addressing Data Verification, Performance
Data, OSS Testing, Change Management, and Public Interest at page 104.

23 ⁸ From FCC Press Release, 2/20/03 - FCC Adopts New Rules For Network Unbundling Obligations Of Incumbent
24 Local Phone Carriers - 3. The Commission finds that switching - a key UNE-P element - for business customers served
25 by high-capacity loops such as DS-1 will no longer be unbundled based on a presumptive finding of no
26 impairment. Under this framework, states will have 90 days to rebut the national finding. For mass-market customers,
the Commission sets out specific criteria that states shall apply to determine, on a granular
basis, whether economic and operational impairment exists in a particular market. State Commissions must
complete such proceedings within 9 months. Upon a state finding of impairment, the Commission sets forth a 3-
year period for carriers to transition off of UNE-P.

1 would continue to be offered. If the Commission decides impairment would not occur if the product is
2 discontinued, such a finding is proof that the product is not required to sustain competition. It is also
3 important to note that a significant percentage (49.6%) of CLEC market share cited in this petition is
4 based on the CLECs' use of unbundled loops. This proves that competition can succeed without
5 unbundled switching.⁹

6 **D. Other indicators of market power, which may include market share, growth in**
7 **market share, ease of entry, and the affiliation of providers of services**

8 *Market Share*

9 As of December 31, 2002, 35 CLECs were purchasing a total of 104,019 basic business access
10 lines from Qwest. This includes 7,275 resold basic business lines, 51,576 unbundled loops, and 45,168
11 UNE-P lines. As illustrated in the following table, CLECs are purchasing these services to provision retail
12 business services to end users throughout all areas of Washington.¹⁰

13 ⁹ See Table A.

14 ¹⁰ Qwest's intent in displaying data on a geographic basis is only to portray the prevalence of competition
15 throughout all areas of the state. Central/Eastern includes seven exchanges including Ephrata, Moses Lake, and
16 Yakima. Northeastern includes fourteen exchanges including Colville, Omak and Coulee Dam. The Peninsula includes
17 thirteen exchanges including Aberdeen, Bainbridge Island and Bremerton. Puget Sound includes nine exchanges
18 including Seattle, Bellevue, Kent and Renton. Southeastern includes six exchanges including Walla Walla and Pasco.
19 Southwestern includes ten exchanges including Olympia, Vancouver and Longview. See Confidential Attachment E for
20 a more detailed breakdown.

1 Table A:

2 GEOGRAPHIC AREA	RESOLD BUSINESS LINES	BUSINESS UNBUNDLED LOOPS	BUSINESS UNE-P ¹¹	TOTAL CLEC RESALE, UNE LOOP, UNE-P BUSINESS LINES
3 Bellingham	662	656	2261	3579
4 Central/Eastern	865	940	2960	4765
5 Northeastern	110	0	449	559
6 Peninsula	737	679	4846	6262
7 Puget Sound	2312	31530	16127	49969
8 Southeastern	341	0	1471	1812
9 Spokane	821	4401	2262	7484
10 Southwestern	918	7505	6700	15123
11 Tacoma	509	5865	8092	14466
12 Total	7275	51576	45168	104019

13 A comparison of the CLEC purchased business lines as shown in Table A to Qwest's retail basic exchange lines provides an indicator of *minimum CLEC market share*. Total market share would also include business exchange lines which CLECs provision over their own facilities. Because Qwest does not have access to CLEC data, Qwest's analysis estimates only the *minimum CLEC market share*. The following table identifies the minimum CLEC market share on a geographic and statewide basis:

14 Table B:

15 GEOGRAPHIC AREA	TOTAL CLEC RESALE, UNE LOOP, UNE-P BUSINESS LINES (Table A)	16 QWEST BUSINESS ACCESS LINES*	TOTAL ACCESS LINES IN DEFINED MARKET**	% CLEC MINIMUM MARKET SHARE	% QWEST MAXIMUM MARKET SHARE
	A	B	A+B=C	A/C	B/C
17 Bellingham	3579	12631	16210	22%	78%
18 Central/Eastern	4765	20311	25076	19%	81%
19 Northeastern	559	7268	7827	7%	93%
20 Peninsula	6262	46509	52771	12%	88%
21 Puget Sound	49969	233926	283895	18%	82%
22 Southeastern	1812	14344	16156	11%	89%
23 Spokane	7484	40684	48168	16%	84%
24 Southwestern	15123	69145	84268	18%	82%
25 Tacoma	14466	75817	90283	16%	84%
26 Total	104019	520635	624654	17%	83%

* Includes basic business exchange services listed in Attachment A; excludes digital services, hotel screening trunks, payphone access lines and 911 services.

** Defined Market includes CLEC resold, unbundled loop and UNE-P business lines, plus Qwest business access lines as defined above. (Does not include CLEC business access lines provisioned over CLEC provided facilities.)

¹¹ Business UNE-P lines were derived from total UNE-P lines based on the percentage of CLEC business directory listings to total CLEC directory listings.

1 On a statewide aggregate basis, the minimum market share for CLEC basic business services is
2 17%. When viewed geographically, CLEC minimum market share ranges from 7% to 22%. An analysis
3 of the underlying data at the exchange level is provided at Confidential Attachments F1 and F2.

4 Growth in Market Share:

5 RCW 80.36.330 identifies growth in market share as an indicator of effective competition. The
6 comparison below of year-end 2001 and 2002 data demonstrates a significant overall positive growth
7 trend in CLEC market share. (Further detail may be found at Confidential Attachment B.)

8

Service	12/31/01	12/31/02	% Change
Business UNE-P	31,245	45,168	45%
Business Resale	12,287	7,275	(41%)
Subtotal	43,532	52,443	20%
Unbundled Loops	35,337	51,576	46%
Total	78,876	104,019	32%

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13 A transition from resale to UNE-P services is reflected in the 41% decrease in resold services
14 and the 45% increase in UNE-P business services. Notably, the largest growth was in unbundled loops
15 which increased by 46%. This trend is indicative of increased facilities based competition. Other data
16 are also indicative of increased facilities based competition:

17

Service	12/31/01	12/31/02	% Change
Interconnection Trunks	166,213	210,858	27%
Exchanged Traffic*	1,366 million	2,150 million	57%

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* Local and EAS minutes of use exchanged over interconnection trunks.

21 Interconnection trunks are used by facilities based CLECs to connect their local switch to
22 Qwest's switch for the purpose of exchanging local calling traffic between the CLEC's end users and
23 Qwest subscribers.

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26 Ease of Entry:

1 By using Qwest's facilities, CLECs can enter the market with ease. As discussed above,
2 ordering procedures, installation and repair intervals, and prices have been approved by the Commission.
3 Converting business customers from Qwest to a competitor utilizing Qwest's facilities is inexpensive and
4 fast. The following examples illustrate the charges and timeframes for a CLEC to convert a Qwest retail
5 POTs business customer to competitive CLEC service.¹²

6 Qwest retail business customer converts to CLEC resold service:

7 POTs Customer Transfer Charge (nonrecurring)
8 First Line: \$5.73*
9 Additional Line: \$5.61*
10 Conversion Completed: Same business day

11 *Rates filed in Advice No. 3397T¹³

12 Qwest retail business customer converts to CLEC UNE-P service

13 UNE-P POTs Conversion Charge (nonrecurring)
14 First Line: \$0.27*
15 Additional Line: \$0.14*
16 Conversion Completed: Same business day

17 *Rates filed in Advice No. 3397T¹⁴

18 Qwest retail business customer converts to CLEC facilities; CLEC purchases unbundled loop

19 Basic installation without testing (nonrecurring)
20 First Loop \$37.53
21 Additional Loops \$34.78
22 Installation: Quick Loop, (1-24 lines) - 3 business days

23 Clearly, when competitors can switch Qwest's basic business customers located anywhere in the
24 state to comparable business service for as little as \$0.27, and with same day service, competitive
25 alternatives are reasonably available throughout Qwest's territory.

26 CLECs are provisioning retail business basic exchange service over Qwest's facilities in all but
five Qwest exchanges. Those exchanges are: Easton, Elk, Green Bluff, Liberty Lake, and Northport.

¹² These examples assume that the customer maintains service "as is" and the CLEC submits a mechanized LSR before Noon Mountain Time.

¹³ Advice No. 3397T filed April 18, 2003. Compliance filing in Docket No. UT-003013, Part B of the Generic Cost Docket.

¹⁴ Id.

1 These rural exchanges contain 686 Qwest basic business access lines and represent 0.11% of total
2 Qwest and CLEC access lines represented in this petition. Although CLECs are not currently serving
3 customers in these exchanges over Qwest's facilities, it is not due to lack of alternative providers or
4 facilities, high costs or any other perceivable barriers to entry. As has been demonstrated, CLECs can
5 serve any customer that Qwest serves over Qwest's facilities. CLEC price lists offer basic business
6 service throughout the state. For as little as \$0.27, a CLEC can switch the customer from Qwest to a
7 competitive provider. RCW 80.36.330 provides that effective competition means that the company's
8 customers have "reasonably available alternatives". Reasonably available alternatives do exist in Easton,
9 Elk, Green Bluff, Liberty Lake and Northport and because such alternatives can be implemented virtually
10 instantaneously, they are price constraining to Qwest. As previously noted, from December, 2001 to
11 December 2002, minimum CLEC market share grew by 32% across the state. CLECs can provide
12 service today wherever Qwest provides service.

13 Other Measurements of Market Share:

14 E911 Records

15 Although Qwest does not have specific data concerning competitors that completely bypass
16 Qwest facilities, a review of the aggregate E911 records provides insight. Within Qwest's service
17 territory CLECs have submitted 420,305 business records for E911 purposes.¹⁵ These include records
18 for business customers served via unbundled loops, CLEC facilities and PS-ALI "station lines." Of note,
19 the CLEC E911 records do not include resold or UNE-P lines. (E911 records are categorized by the
20 facility based carrier providing service to the end user. Therefore, resold and UNE-P lines are
21 categorized as Qwest's E911 records.) The 911 record data is not easily compared to the access line
22 data used elsewhere in this petition, but Qwest was reluctant to use its own specific record-to-line
23 conversion ratio as not necessarily being representative of actual CLEC line data. Qwest would note that
24 such data does exist, but it only has access to the aggregated record data. Clearly, the existence of over

25 ¹⁵ E911 records provide end user information (e.g. name, address, telephone number) for the Automatic Location
26 Identification/Data Management System (ALI/DMS) used for the purposes of E911 emergency service.

1 420,300 CLEC E911 records, excluding records associated with resold and UNE-P lines, provides
2 further testimony to the growth of CLEC market share and the competitive nature of the business market
3 across Washington.

4 Affiliations of Providers of Services

5 RCW 80.36.330 states that one factor to consider in assessing effective competition is the extent
6 of “the affiliation of providers of services”. Providers of basic business service include affiliates or
7 subsidiaries of large international corporations such as AT&T, WorldCom, Verizon and SBC
8 Communications. Independent companies such as Tel West Communications and NOS Communications
9 also provide basic business service according to their price lists. Each provider, regardless of affiliation,
10 has its own price lists filed with the Commission.

11 Pursuant to WAC 480-121-062(4), Qwest is providing a list of entities that would be classified
12 as affiliated interests or subsidiaries of Qwest Corporation. (See Attachment G). Qwest believes that
13 this new rule requirement is to ensure that the petitioner’s most significant competitors are not affiliates,
14 but rather operate independently of the ILEC. The data relied upon in this petition represent wireline and
15 resold services offered by companies unaffiliated with Qwest. Wireless services, whether offered by
16 Qwest Wireless or competitive wireless companies, are not included in the data that supports this petition,
17 but such services also serve as competition to Qwest’s basic business services.

18 **E. Qwest does not have a significant captive customer base**

19 As the preceding evidence makes clear, Qwest does not have a significant captive customer base
20 for basic business exchange services. Qwest has demonstrated that:

- 21 • There are at least thirty-two alternative providers of business basic exchange service in
22 the market.
- 23 • Alternative providers now have the ability to serve any business customer that Qwest
24 serves, utilizing Qwest’s facilities either through resale or the use of UNEs.
- 25 • Alternative providers have a *minimum* business local exchange market share of 17%
26 statewide and from 7% to 22% within particular geographic areas of Washington. This
market share is based on Qwest facilities being utilized to serve basic business customers.

- Over 420,300 aggregate CLEC 911 business records attest that alternative providers hold additional market share represented by business customers served over CLEC provided facilities.
- The Commission has established cost based rates for Qwest's UNEs and resale services.
- The Commission has found Qwest's wholesale services OSS functions to be nondiscriminatory.
- The Commission has approved Qwest's SGAT which documents ordering procedures and installation and repair service intervals for UNEs and resold services.
- Based on Qwest's records, CLEC business market share grew by 32% from 2001 to 2002.

V. CONCLUSION

As evidenced by this petition, effective competition for basic business exchange services clearly exists throughout Washington. Therefore, Qwest's business basic exchange services, as detailed at Attachment A, should be reclassified by the Commission as competitive telecommunications services under RCW 80.36.330 and WAC 480-121-062 effective May 31, 2003. Subsequent to reclassification by the Commission, Qwest will file price lists for these services.

Respectfully submitted this 1st day of May, 2003.

Qwest Corporation

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