

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation into  
U S WEST Communications, Inc.'s  
Compliance with § 271 of the  
Telecommunications Act of 1996

Docket No. UT-003022

In the Matter of U S WEST  
Communications, Inc.'s Statement of  
Generally Available Terms Pursuant to  
Section 252(f) of the Telecommunications  
Act of 1996

Docket No. UT-003040

---

**AT&T'S RESPONSE TO QWEST'S  
MOTION TO STRIKE PORTIONS OF  
AT&T'S BRIEF DATED FEBRUARY 16, 2001**

---

Pursuant to WAC 480-09-420 and WAC 480-09-425, and the Notice of Opportunity to File Responses to Motion to Strike dated February 23, 2001, AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle and TCG Oregon (collectively "AT&T") hereby submit this Response in Opposition to Qwest's Motion to Strike Portions of AT&T and WorldCom's Legal Brief Regarding Disputed Workshop # 2 Issues on Checklist Item 1 – Remote Collocation. As grounds therefore, AT&T states as follows:

**INTRODUCTION**

The issue that Qwest would like to ignore in the collocation workshop is in fact—by Qwest's own declaration—an alleged collocation issue that AT&T initially challenged in the Washington workshop on November 8, 2000. Briefly, the issue is whether it is appropriate for Qwest to declare that CLEC access to the Network Interface Device ("NID") or other devices operating similarly and generally located at Multiple Dwelling Units ("MDUs") or Multiple Tenant Environments ("MTEs") is collocation subject to the SGAT collocation requirements, including installation intervals (whether those intervals are shortened in the sub-loop workshop or not).

AT&T's position is that such access is merely access to the unbundled network element called the NID or access to the sub-loop; it is not collocation.

In its Motion to Strike, Qwest falsely accuses AT&T and WorldCom Inc. of "plainly misrepresenting" the record and "circumventing proper consideration of the issue" regarding alleged collocation at MDU or MTEs.<sup>1</sup> In fact, the misrepresentation and circumvention belongs to Qwest. Therefore, AT&T respectfully requests that Qwest not be allowed to profit from its bait-and-switch game (as more fully described below) by avoiding a determination of this very narrow issue in the proper workshop.

### **ARGUMENT**

As noted above, AT&T first addressed this issue in the Washington collocation workshop on November 8, 2000. At that time, Qwest was demanding that all access to the NID and the sub-loop (a/k/a inside wiring) be accomplished through remote collocation at an MDU or MTE.<sup>2</sup> AT&T presented a diagram, Exhibit 388, in which its witness, Mr. Wilson, discussed the panels or boxes (a/k/a NIDs) that further distribute the Qwest loops to the skyscraper tenants, strip mall units or other multiple tenant environments.<sup>3</sup> Generally, this further distribution of the loop coming into the building interface or NID constitutes what is referred to as the "sub-loop."<sup>4</sup> Because CLECs currently have, and should continue to have, direct access using their own termination blocks to sub-loop interfaces or NIDs at MDU/MTEs without being subjected to collocation requirements, AT&T made clear that it disputed the SGAT's attempt at defining such access as remote collocation.<sup>5</sup> In fact, AT&T made clear that the issue for the collocation workshop was to "get

---

<sup>1</sup> Qwest Motion at 1 and 2.

<sup>2</sup> 11/8/00 Workshop Transcript at 1469 (describing the problem), Ins. 6-8; *see also*, Id. at 1470, Ins. 9 – 15 (referencing the remote collocation section of the SGAT).

<sup>3</sup> Id. at 1546, In. 1 – 1547, In. 20.

<sup>4</sup> In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238, CC Docket No. 96-98 (Rel. Nov. 5, 1999) at ¶ 206 ("definition of sub-loop").

<sup>5</sup> 11/8/00 Workshop Transcript at 1553, In. 1-1556, In. 15.

clarity [from Qwest] in the remote collocation context on what the points are where collocation leaves off and access to elements picks up.”<sup>6</sup> Qwest was going to clarify its position.<sup>7</sup>

Unfortunately at the conclusion of the workshops in Washington, this issue, along with other collocation issues, were not concluded, but rather, it was—as many collocation follow-up issues were—left to be concluded in other state workshops and to be brought back to Washington for briefing.<sup>8</sup>

In the subsequent Colorado collocation workshop, Qwest—in off line discussions with AT&T—confirmed that it was not treating this issue as collocation, but rather as access to sub-loops and as a result AT&T did not need to make its—“it’s not collocation”—presentation, but rather the issue would be taken up in the sub-loops workshop. AT&T agreed not to present its issue in light of those representations, and the Colorado Staff attorney, Mana Jennings-Fader, confirmed on the record that:

MS. JENNINGS-FADER: I have a question with respect to—let’s assume we don’t continue the discussion now, we have the discussion in the sub-loop workshop because Qwest’s position is that this is a sub-loop issue; it turns out as a result of those discussions or events elsewhere that are transported into this proceeding interconnection, or all of this is in fact an interconnection question, from Qwest’s perspective that would allow the parties—yes or no, that would allow the parties to discuss this in its entirety in the interconnection process? In fact, to the extent this workshop were [a] reopened workshop for the purpose of discussing this issue.

MR. CATTANACH: The answer is yes. Clearly there has to be some resolution. We think now the best place to do it is in the sub-loop situation. I would not for a minute suggest we get there and say its really now collocation, you can’t talk about it at all. We’re not suggesting that. If for whatever reason we get there and it says no, we’ve now agreed that the angels on the head of this pin look like collocation [more] than sub-loops, we’ll have to go back and theoretically reopen this workshop. We’re not in any way suggesting what we’d do here would somehow lead to a preemption of discussion of the issue. We would propose it would be discussed in sub-loops because we think that’s where it belongs and the statements we said about MDUs being sub-loops should be dispositive. If other circumstances

---

<sup>6</sup> Id. at 1560, lns. 16 – 19.

<sup>7</sup> Id. at 1562, lns. 14 – 1564, ln. 25.

<sup>8</sup> 1/3/01 Workshop Transcript at 2280, lns. 3 – 20 (order of ALJ on collocation).

turn out otherwise, we'd not be opposed to reopening this to make sure it got a full discussion.<sup>9</sup>

In fact, Qwest agreed, on the record, that this issue should be brief in Washington and other states if during the sub-loop workshop it was determined to be collocation. Mr. Cattnach, Qwest's attorney stated:

MS. FRIESEN: From AT&T's perspective if Qwest is amenable to us discussing this in the sub-loop workshops and to the extent it does get punted back to interconnection and collo. in any of the states, then we'd have an opportunity to at least get it resolved and addressed in each of those states including Colorado. For example, if we punted for purposes of Washington and other states, I want something that's consistent across-the-board, and then we'll withdraw and won't continue on, is what I'm offering.

MR. CATTANACH: That's a fair request. We'd certainly agree to that. To the extent that sometimes we found maybe have [sic] to bifurcate briefing issues on this, if we have to brief this issue after the fact, we can do that. I would suggest we move forward and hold that over in the sub-loops and figure it out.

MS. FRIESEN: Let's affirmatively agree today that to the extent that gets punted back to collocation in any state, that this is a bifurcated issue that has to be briefed at that juncture.

MR. CATTANACH: Sure.<sup>10</sup>

During the sub-loop workshop—the very next week—in Arizona, Qwest declared that access to the inside wiring or sub-loops in fact constituted collocation; moreover, Qwest created a new form of collocation called “Cross-connect Collocation.” Qwest's Motion to Strike even confirms this. Unlike Qwest, AT&T has been consistent in its advocacy that AT&T does not consider access to sub-loops or inside wiring to be collocation, and if it is, that question should be resolved within the context of the collocation workshops.

In addition to Qwest's declaration of the issue as collocation in the sub-loop workshop in Arizona, it further confirmed this declaration in the very next collocation workshop in Oregon. There it provided Oregon Exhibit 276 and fully discussed that exhibit and AT&T's related exhibits

---

<sup>9</sup> 1/24/01 Colorado Workshop Transcript at 18, ln. 22 – 20, ln. 2.

during the workshop.<sup>11</sup> Oregon Exhibit 276 is identical to Arizona Exhibit 2 Qwest 31, which Qwest handed out at the subsequent Arizona collocation workshop that took place on February 13, 2001. Consistent with AT&T's Washington brief, these exhibits state:

8.1.1.8.1 With respect to Collocation involving cross-connections for access to sub-loop elements in multi-tenant environments (MTE) and field connection points (FCP), the provisions concerning sub-loop access and intervals are contained in Section 9.3

In the collocation workshop in Arizona, Qwest again got an opportunity to explain its position and listen to AT&T's position. Like the Oregon transcript on the topic, AT&T attached the Arizona transcript on this topic to its Washington brief to provide the Washington Commission with a full record.

In an effort to get this issue resolved and declared "not collocation," but rather access to sub-loops, AT&T offered a modification to Qwest's 8.1.1.8.1 proposal. AT&T's proposal was as follows:

8.1.1.8.1 With respect to ~~Collocation involving~~ cross-connections for access to sub-loop elements in multi-tenant environments (MTE) ~~and field connection points (FCP)~~, the provisions concerning sub-loop access and intervals are contained in Section 9.3 This type of access and cross-connection is not collocation.

AT&T's proposal was marked as Exhibit 2 AT&T 17 in Arizona, and there again the parties fully discussed the issue and ultimately Qwest rejected AT&T's proposal. Qwest demanded that its proposal remain unaltered; it is thus, essentially insisting that CLECs cannot have direct access to the sub-loop through the NID or its equivalent without being subjected to collocation requirements, wherever those requirements are defined.<sup>12</sup> In contrast, AT&T has consistently maintained that access to the sub-loop through the NID does not constitute collocation. Neither the FCC nor the

---

<sup>10</sup> *Id.* at 20, lns. 3 – 25.

<sup>11</sup> 2/8/01 Oregon Workshop Transcript at 8, ln. 1 – 32, ln.15; this transcript was attached to AT&T's collocation brief in Washington.

<sup>12</sup> 2/13/01 Arizona Workshop Transcript at 1443, ln. 1 – 1445, ln. 21 & 1451, lns. 2 – 5.

Act contemplates collocation in an unbundled network element, the NID so as to gain access to the inside wiring or sub-loop in an MDU/MTE regardless of who owns the inside wiring.

Qwest in several collocation workshops had ample opportunity to present its position and it did.<sup>13</sup> Furthermore, Qwest agreed that if this sub-loop access dispute became collocation, the collocation issue would be the subject of briefing.<sup>14</sup> Moreover, prior to either party writing or filing their Washington briefs, AT&T's counsel sent an e-mail to Qwest's counsel identifying the disputed collocation issues that would be the subject of briefing for Washington. The e-mail is attached hereto as Exhibit A. Qwest had ample warning that it too should brief this issue if it wanted to do so. Qwest chose not to and now—in its Motion to Strike—it would like to take that opportunity away from AT&T as well. From a due process perspective, this is simply unacceptable.

### **CONCLUSION**

For the foregoing reasons, AT&T respectfully requests that the Administrative Law Judge reject Qwest's Motion to Strike, and consider the issue fully briefed subject to final decision.

Respectfully submitted this 2nd day of March, 2001.

**AT&T COMMUNICATIONS OF THE  
PACIFIC NORTHWEST, INC.,  
TCG SEATTLE AND TCG OREGON**

---

Mary B. Tribby  
Letty S.D. Friesen  
1875 Lawrence Street, Suite 1575  
Denver, Colorado 80202  
Telephone: (303) 298-6475

---

<sup>13</sup> See the relevant transcripts attached to AT&T's Washington collocation brief.

<sup>14</sup> See footnote 10, *supra*.