

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of  
MULTIBAND COMMUNICATIONS, LLC  
  
For Approval of Line Sharing Agreement with  
Qwest Corporation Pursuant to Section 252 of  
the Telecommunications Act of 1996

Docket No. UT-053005

**QWEST CORPORATION'S ANSWER TO  
STAFF'S MOTION FOR CLARIFICATION**

- 1 Qwest Corporation ("Qwest") hereby files its answer to the Motion for Clarification filed by Commission Staff ("Staff"). In this answer, Qwest seeks to respond to issues raised in the Motion and to ask the Commission to decline to broaden either the filing requirement or the statutory interpretations set forth in its April 19, 2005 final order
- 2 Responding to paragraphs 2 – 6 of Staff's Motion, in which Staff asks for clarification of the requirement that ILECs and CLECs provide agreements to the Commission for review, Qwest states that it intends to submit agreements to the Commission to the extent that they are wholesale agreements entered into with CLECs and concern forward-looking terms for either de-listed network elements, or Section 271 network elements. Qwest does not believe it is required to file wholesale agreements that address advanced services but do not involve the provisioning of de-listed or Section 271 elements. To add further context to the scope of to be

provided for the Commission’s review, Qwest over the past year has provided to the Commission agreements addressing forward-looking terms for mass market switching and shared transport, as well as the line sharing agreements, all elements that previously were considered to be section 251(c)(3) unbundled network elements, but since have been de-listed. It is Qwest’s understanding that the Commission’s order contemplates that Qwest should continue to provide these types of agreements for the Commission’s review.

3 Responding to paragraphs 7 – 10, Qwest would simply note that it agrees with Staff that the “ongoing obligation” refers to the contractual obligation between the parties which governs the statutory obligations under Section 251, and that “on-going” refers to the “forward-looking” nature of the obligation, as opposed to the resolution of an historical dispute. Qwest does not contend that the other terms in an interconnection agreement, including change of law provisions, governing an element are somehow dissolved if that element becomes de-listed. Qwest would not oppose a clarifying order along the lines that Staff proposes in paragraph 10, but does not believe that the order is so unclear as to require such clarification.

4 Responding to paragraphs 11 – 15 of the Motion, Qwest states that the Commission’s order does not require clarification as requested by Staff. It appears clear that the Commission understands that the event that triggers its jurisdiction to review an agreement is the existence of an agreement with a CLEC that contains ongoing obligations relating to Qwest’s obligations under Section 251(b) or (c). A request for such negotiations pursuant to Section 251 that does not produce an agreement pertaining to Section 251 obligations is not subject to Commission approval. Conversely, a request for negotiations that does not initially address Section 251 obligations, but that subsequently produces an agreement that contains terms and conditions governing Section 251 obligations, is one that must be filed for approval.

5 Thus, the phrase in Section 252(a)(1) that states that “upon receiving a request for

interconnection, services, or network elements pursuant to section 251” a carrier may enter into negotiations, etc., simply helps the Commission to properly interpret the balance of that subsection and makes it clear that only those agreements that address 251 obligations are subject to approval. It does not mean, nor does the Commission state that it means, that a bare request for negotiations under section 251 is always sufficient to produce a section 252 agreement. Thus, the best conclusion is that the substance of the agreement controls whether it is subject to section 252, not the process of negotiations. And, as correctly stated in the Commission’s Order, only an agreement that contains ongoing obligations pertaining to the statutory duties under section 251(b) and (c) triggers the section 252 filing requirement.

DATED this 6th day of May, 2005.

QWEST

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