UT-980390 (IA)
7-28-04

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June 28, 2004

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Dr. S.W.
P.O. Box 47250
Olympia, WA 98504-7254

Re: Docket No. UT-980390
Request for Approval of Amendment to the Interconnection Agreement between Qwest Corporation and Advanced Telecom, Inc. d/b/a Advanced Telecom Group, f/k/a Advanced Telecom Group, Inc.

Dear Ms. Washburn:

In accordance with WAC 480-07-640, please find enclosed three (3) copies of the Operator Services Agreement between U S WEST Communications, Inc. and Advanced TelCom Group, Inc. dated May 18, 1999. Qwest Corporation ("Qwest") has also enclosed a Request for Approval form, completed per the informal request of Commission Staff on May 12, 2004.

The enclosed Amendment does not discriminate against non-party carriers. It is consistent with state and federal law, and is in the public interest.

Qwest recognizes that the filing of the above-referenced agreement is somewhat out of the ordinary based on the date of the agreement. However, until very recently, Qwest (relying on the analysis of the FCC and state agencies) did not believe operator services ("OS") agreements or directory assistance ("DA") agreements fell within the Section 252 filing requirement. Based on the FCC's recent pronouncement, however, Qwest now understands that these agreements must indeed be filed. As such, today Qwest asks that the above-referenced agreement be approved by the Commission.

As noted, Qwest has long been of the understanding that OS and DA agreements fell outside the filing requirements of Section 252 of the Act. This understanding was based on the actions and

analysis of the Minnesota Department of Commerce, the FCC and the Arizona Corporation Commission and its Staff.

When the Minnesota Department of Commerce initiated an investigation into Qwest's agreements with CLECs in the fall of 2001, Qwest provided approximately 90 agreements to the Department, including 20 standardized agreements for the provisioning of DA and OS. On February 14, 2002, the Department identified 11 CLEC agreements that should have been filed and listed them in a complaint filed with the Minnesota Commission. None of the standardized agreements relating to DA or OS were identified by the DOC in the complaint as agreements that should have been filed under Section 252.

In the fall of 2002, the FCC reviewed Qwest's application for authority in nine states to provide interLATA services pursuant to Section 271. As part of Qwest's application, the FCC reviewed Qwest's compliance with its obligations under Section 252 to file agreements relating to section 251 services. In footnote 1746 of the nine-state 271 order, the FCC addressed a DA agreement and noted parenthetically that it was "not 251-related." *In the Matter of Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming*, WC Docket No. 02 – 314 (rel. Dec. 23, 2002), at footnote 1746.

The Arizona Commission and Staff also undertook an investigation into allegedly unfiled agreements, and Qwest provided the Staff with eight standardized directory assistance and operator services agreements. The Arizona Staff identified only one of the directory assistance agreements and none of the operator services agreements as within the Section 252 filing requirement. Subsequently, Qwest was willing to compromise and remove from further litigation in Arizona the question of whether the directory assistance agreement was subject to the filing requirement. Qwest therefore filed under Section 252 the eight DA and OS agreements with the Arizona Commission on May 21, 2003.

Based on the reviews of the Minnesota Department of Commerce, the FCC and the Arizona Staff, Qwest believed that standardized agreements relating to DA and OS were not within the filing requirement. At the very least, these reviews showed that the issue was not free from ambiguity. In any event, no CLEC has been denied the opportunity to receive these standardized DA or OS. These services always have been available to any requesting CLEC through Qwest's SGAT, provisions in other interconnection agreements, through Qwest's website postings, or simply through contacts with Qwest's wholesale organization.

On March 12, 2004, the FCC issued its Notice of Apparent Liability ("NAL") addressing Qwest's filing of the 12 Arizona agreements, eight of which included agreements for DA and OS. The NAL alleged that Qwest violated the filing requirement under Section 252 and should be assessed penalties for failing to file the 12 Arizona agreements until May 21, 2003. Qwest's response to the NAL was due May 12, 2004.[1]

[1] The FCC granted Qwest a 30-day extension, or until May 12, 2004, to respond to the NAL.

Qwest does not agree with the NAL regarding the Arizona agreements and it certainly does not agree that the circumstances warrant penalties, particularly due to the ambiguities regarding standardized agreements, particularly DA and OS. In order to place these issues behind it and to move forward with other more current issues, however, Qwest determined not to contest the NAL and thus paid the recommended penalty.

Because the NAL alleged that the directory assistance and operator services agreements at issue in Arizona were within the section 252 filing requirement, and because Qwest has decided not to contest this finding, Qwest is hereby making remedial filings of all DA and OS agreements in each of its other 13 in-region states. As stated above, any delays in the filing of these agreements have not had any discriminatory effect upon CLECs, because these standardized services have always been available to any requesting carrier -- they are contained in filed and approved SGATs, in other filed interconnection agreements, through postings on Qwest's website, and through contacts with Qwest's wholesale organization.

Please contact me with any questions you may have. Thank you.

Very truly yours,

Adam L. Sherr

ALS/llw
Enclosures