Qwest
421 Southwest Oak Street
Suite 810
Portland, Oregon 97204
Telephone: 503-242-5420
Facsimile: 503-242-8589
e-mail: carla.butler@qwest.com

Carla M. Butler
Lead Paralegal

February 1, 2007

Frances Nichols Anglin
Oregon Public Utility Commission
550 Capitol St., NE
Suite 215
Salem, OR 97301

Re: ARB 747

Dear Ms. Nichols Anglin:

Enclosed for filing please find an original and (5) copies of Qwest Corporation's Response to Beaver Creek Cooperative Telephone Company's Application for Reconsideration or Rehearing and to Motions to Request Withdrawal of Order as Moot and for Extension of Time to Comply With Order, along with a certificate of service.

If you have any questions, please do not hesitate to give me a call.

Sincerely,

Carla M. Butler

CMB:
Enclosure
L:\Oregon\Executive\Duarte\ARB 747 (BvrCrk)\ARB 747 PUC Transmittal Ltr 2-1-07.doc

PUBLIC UTILITY COMMISSION OF OREGON

ARB 747

In the Matter of BEAVER CREEK COOPERATIVE TELEPHONE COMPANY Petition for Arbitration of the Terms, Conditions and Prices for Interconnection and Related Arrangements with QWEST CORPORATION	**QWEST CORPORATION'S RESPONSE TO BEAVER CREEK COOPERATIVE TELEPHONE COMPANY'S APPLICATION FOR RECONSIDERATION OR REHEARING, AND MOTIONS TO REQUEST WITHDRAWAL OF ORDER AS MOOT AND FOR EXTENSION OF TIME TO COMPLY WITH ORDER**

Pursuant to OAR 860-014-0095, Qwest Corporation ("Qwest") hereby responds to the application for reconsideration or rehearing of petitioner Beaver Creek Cooperative Telephone Company ("BCT"), and to BCT's motions to request withdrawal of order as moot and for extension of time to comply with Order No. 06-637 ("the Order"). For the reasons set forth below, BCT's application is without merit, especially because BCT fails to show that the Commission's Order and the Arbitrator's Decision that the Order adopted contain any errors of law or of fact, or that there is "good cause" for the Commission to reverse the Arbitrator's Decision and Order. There is also no basis for the Commission to grant BCT's motions to request to withdraw the Order as moot and for extension of time for BCT to comply with the Order, especially since the Commission recently issued Order No 07-033 in docket ARB 780.

INTRODUCTION AND SUMMARY

After making its points repeatedly in its two rounds of testimony, its two rounds of post-hearing briefs, its November 2, 2006 comments to the Arbitrator's Decision, and now, in its application for reconsideration, BCT does not make or raise one new argument. Rather, it simply repeats and rehashes its previous arguments that have been twice rejected in the Arbitrator's Decision and in the Order. As such, BCT is merely seeking a third bite of the proverbial apple, making the same arguments that it previously made to the Arbitrator and to the

Commission. There are no new arguments, and that alone should be a sufficient basis for the Commission to deny BCT's application for reconsideration.

Even if this were not the third time that BCT has argued the same points, there is no merit to BCT's application in any event. That is, there is no error of law or of fact, or "good cause," to reverse the Commission's Order on the routing of traffic. The Order, and the Arbitrator's Decision that the Order adopted, were appropriate, were based on the record, and they comply with both federal and state law. The same holds true with respect to the Commission's Order on reciprocal compensation and "bill and keep." Further still, the Commission must deny BCT's motion to request to withdraw the Order as "moot." This is especially so because the basis for BCT's request is its request to adopt or opt in to an interconnection agreement ("ICA") between Qwest and another CLEC (Ymax) in docket ARB 780. However, that issue itself is now "moot" because just a couple of days ago, on January 30, 2007, the Commission issued Order No. 07-033 in docket ARB 780, in which it denied BCT's request to adopt the Qwest/Ymax ICA.

Accordingly, Qwest respectfully submits that the Commission should deny BCT's application for reconsideration and motions in their entirety.

ARGUMENT

I. THERE IS NO ERROR OF LAW OR OF FACT, OR GOOD CAUSE, TO REVERSE THE COMMISSION'S ORDER ON THE ROUTING OF TRAFFIC

There is no error of law or fact, or good cause, to reverse the Commission's Order on the routing of traffic. The Order, and the Arbitrator's Decision that the Order adopted, were appropriate, were based on the record, and they comply with both federal and state law.

First, in its motion, BCT argues that by adopting the Arbitrator's Decision ruling that BCT is to route all of its Oregon City-originated (CLEC) traffic over Local Interconnection Services ("LIS") trunks and must segregate that CLEC traffic from its traffic originating from

the Beavercreek exchange (ILEC traffic), the Commission is imposing duties and costs on BCT that it is not imposing on Qwest. (Application, p. 5.) BCT further claims that Qwest's and BCT's duties are "non-symmetrical" because Qwest can use LIS trunks to route its traffic and that of other carriers' traffic (transit traffic) over one set of trunks, but BCT cannot. In support of its position, BCT argues that the Commission and Arbitrator adopted Qwest's rationale that BCT must segregate its CLEC traffic and route it over distinct trunk groups (distinct from its ILEC traffic) so that Qwest can bill for such BCT CLEC traffic. However, BCT contends that this analysis does not take into consideration the testimony of its witness Tom Linstrom that allowing Qwest to route multiple categories of traffic over the LIS trunk groups places greater costs on BCT and makes it difficult for BCT to bill Qwest for the traffic that Qwest originates and terminates to BCT's CLEC operations in the Oregon City exchange. (*Id*., p. 6.)

The record, however, was replete with evidence that BCT must separately route its CLEC traffic to Qwest over LIS trunks in order for Qwest to measure and bill BCT for Qwest's transporting, transiting and terminating of such traffic for purposes of reciprocal compensation. See e.g., Order, pp. 6-7; Arbitrator's Decision, pp. 7-9; see also Ex. Qwest/2, Cederberg/13-14; Qwest/5, Cederberg/12-13. Thus, the Arbitrator and Commission correctly found that BCT is under a duty to segregate its ILEC and CLEC traffic in order for Qwest to measure CLEC traffic.

Likewise, the Arbitrator and Commission correctly found that Qwest has amply demonstrated that its own routing of traffic is in compliance with the Commission's rules and preexisting arrangements, agreements and mutual obligations with other carriers, and that Qwest follows common and accepted practices with respect to the transport of local, toll, CLEC and Commercial Mobile Radio Service ("CMRS" or wireless) traffic.[1] Thus, the Arbitrator correctly

[1] As Qwest showed, it is extremely difficult to separately trunk Feature Group D ("FGD") traffic, and it is technically infeasible for the Qwest access tandem switch to instantly and absolutely separate traffic viewed by BCT

found that the "symmetrical" separation that BCT proposed was without adequate justification, would be wasteful and burdensome to Qwest and to carriers beyond Qwest and BCT, and would be technically difficult. Arbitrator's Decision, p. 7. Indeed, BCT admitted as much. *Id.*

Moreover, although BCT argues it is unfair, or not "symmetrical," for the Commission to require BCT to separate its ILEC and CLEC traffic for delivery to Qwest (while allowing Qwest to mix its traffic with that of other CLECs), the key flaw in BCT's argument is that Qwest has not advocated that it should be allowed to mix or commingle *its own CLEC and ILEC traffic* for delivery to BCT (which is apparently what BCT claims symmetry would require). Indeed, both parties are permitted to commingle their own traffic with traffic for which they serve as a transit carrier. Clearly, BCT makes an apples-to-oranges comparison because it is not talking about the same types of traffic. Thus, there is no merit to BCT's argument that the Commission's Order does not impose reciprocal obligations.

BCT also makes much of Mr. Linstrom's testimony that allowing Qwest to route multiple categories of traffic over the LIS trunk groups places greater costs on BCT and makes it difficult for BCT to bill Qwest for the traffic that Qwest originates and terminates to BCT's CLEC operations in Oregon City exchange. (Application, p. 6.) However, apart from the fact that the Arbitrator and Commission have substantial discretion to give such testimony little or no weight, or to find Qwest's testimony more persuasive and credible than BCT's testimony, there is simply no requirement in federal law or the Telecommunications Act for "symmetrical" duties. This is especially so in a situation in which the CLEC is both a CLEC and an adjoining ILEC in its relationship with the ILEC, and BCT certainly has not cited to any such authority.

---

as local from that which BCT views as toll. (See e.g., Qwest/2, Cederberg/20.) In fact, Qwest even offered to permit BCT to commingle traffic by providing a separate trunk group for Jointly-Provided Switched Access (JPSA) if BCT wanted to combine all of its traffic by combining its ILEC traffic into its CLEC operations. However,

Moreover, BCT itself is the main cause of its purported problems because it, unlike other similarly-situated carriers, fails to use LIS trunks for its CLEC traffic. As the Arbitrator correctly found, combining BCT CLEC and BCT ILEC traffic over BCT's ILEC trunks, and treating all such traffic as BCT ILEC traffic, would give BCT's CLEC operations preferential treatment through a reduction in charges that are applicable to other CLECs. Arbitrator's Decision,

pp. 8-9. The Arbitrator also correctly noted that Qwest had offered to treat all traffic as BCT CLEC traffic, and utilize BCT ILEC or BCT CLEC LIS facilities for the transport of traffic, and that this is the only nondiscriminatory alternative that the parties had offered. *Id*., p. 9. Further still, BCT itself admitted that it would not be reasonable to demand that Qwest implement at the present time the ideal world solution of Qwest putting local/EAS traffic over one trunk group and toll/access over a separate trunk group. Order, p. 6 (citing to BCT Reply Brief, p. 13).

Finally, BCT claims that, at a minimum, Qwest should be required to route Qwest-originated traffic over one set of trunk groups to BCT's Oregon City CLEC operations and traffic originated from third-party providers that use Qwest to transit to BCT's Oregon City operations, over a different set of trunk groups. BCT claims that this would "equalize" the burden on Qwest and BCT. (Application, p. 7.) However, as Qwest explained, separating Qwest-originated traffic from other CLECs' traffic for which Qwest serves as a transit provider would not make it easier for BCT to identify and bill for such traffic. This is so because all transit traffic would then be combined on one set of trunk groups, and thus BCT would not be able to identify which CLEC or CMRS originated a particular call. (See e.g., Qwest/2, Cederberg/13-14.) Qwest also showed that it would be very disruptive of its current operations

---

Qwest also showed that CLEC and ILEC traffic have different compensation terms, and thus that BCT should be required to send its CLEC traffic over LIS trunks. (Qwest/5, Cederberg/11.)

to achieve the routing that BCT requested (which BCT itself acknowledged) because it would require Qwest to change the trunking it has in place today (especially since such trunking carries traffic from many carriers commingled with Qwest-originated traffic) in order to separate out traffic terminating to BCT. (See Qwest/2, Cederberg/8.) Thus, Qwest showed that when combined with BCT's request that Qwest separate local and toll traffic originated by these other carriers, it would not be technically feasible to accommodate BCT's request. (Qwest/2, Cederberg/10-12.)

Accordingly, since there is no error of law or of fact, or good cause, to reverse the Commission's Order on the routing of traffic, the Commission should deny BCT's application for reconsideration and rehearing on this issue.

II. THERE IS NO ERROR OF LAW OR FACT, OR GOOD CAUSE, TO REVERSE THE ORDER ON RECIPROCAL COMPENSATION AND BILL AND KEEP

In addition, there is no error of law or of fact, or good cause, to reverse the Commission's Order on reciprocal compensation and "bill and keep." The Order, and the Arbitrator's Decision that the Order adopted, were appropriate, were based on the record, and they comply with both federal and state law.

A. There was no error regarding the Commission's bill and keep analysis

First, BCT contends that the Arbitrator's Decision and Commission Order are deficient and in error because they purportedly accepted, but failed to analyze, an alleged Qwest assertion that bill and keep *must be* used because the traffic *may not* be in balance. (Application, pp. 8-9.) BCT further argues that Qwest offers an insufficient legal basis for a purported standard that bill and keep can "only" be used where traffic is in balance, and that the better reading of FCC rule 47 CFR § 51.713 is that the Commission has the flexibility to apply bill and keep as a standard

for interconnection under section 251(b)(5), and is not a "limiting factor" for negotiations and arbitrations. (*Id*.)

However, as the Commission noted, and as BCT does not deny, the Arbitrator did not rule that bill and keep was an inappropriate means of compensation. Rather, the Arbitrator ruled only that the plain language of the federal rule *permits* (but does *not require)* state commissions to order bill and keep as the presumptively-used form of reciprocal compensation. Order, p. 5; Arbitrator's Decision, p. 10. Further, the Arbitrator's Decision noted that 47 CFR § 51.711(c) makes clear that the Commission can *presume whether or not traffic is in balance*. Arbitrator's Decision, p. 9 (quoting from 47 CFR § 51.711(c)).

Further still, BCT does not deny that it is not observing the terms of its prior ICA with Qwest with respect to the transport of BCT CLEC traffic over its LIS trunks. As the Arbitrator's Decision noted, BCT should not be rewarded for its failure to comply with its trunking requirements by assuming that traffic is in balance with Qwest, even as the BCT CLEC traffic, by being routed as BCT ILEC traffic, gets treatment that is better than that available to other CLECs' traffic for purposes of compensation. Arbitrator's Decision, p. 10. However, since BCT refuses to route its CLEC traffic over LIS trunks, like all other CLECs, which would thereby make it possible to determine whether or not the traffic is in balance, BCT has only itself to blame. *Id*.[2] This is even so despite that Qwest has indicated that it was willing to adopt a bill and keep compensation scheme if such rough balance could be found, but BCT's actions, in yet another attempt to circumvent requirements the Commission has previously established, have

[2] Qwest showed that it sends about 35,000 minutes of use of non-transit local calls to BCT customers and that it is willing to adopt a bill and keep arrangement *if* it can be verified that BCT's CLEC operations are originating approximately the same volume of non-transit local/EAS traffic. However, BCT's actions have precluded Qwest from determining the amount of CLEC traffic. As the Arbitrator correctly noted, "BCT treats [its CLEC] traffic as if it were ILEC traffic, but [BCT's CLEC] operations are not ILEC operations and should not get ILEC treatment." Arbitrator's Decision, p. 10.

undermined such willingness by Qwest. *Id*. In short, and regardless of BCT's "past behavior," the Commission certainly had the right to recognize that the manner in which BCT chooses to route its traffic has precluded Qwest from ever showing that the traffic was or was not in balance. Thus, the Commission apparently chose not to presume balance precisely because Qwest was not given an opportunity to rebut any presumption due to BCT's actions.

Finally, there is no merit to BCT's argument that the Qwest position that the Commission adopted would place Qwest in the role of "decision-maker" (i.e., deciding who gets bill and keep and who does not, and allowing it to "veto" bill and keep). This is nothing more than a desperate appeal to emotion, while simultaneously ignoring how BCT operates and routes its own traffic.

Nor did the Commission rule that "bill and keep is to be used *only* when traffic is in balance." (Application, p. 9 (emphasis added).) Rather, the Commission merely ruled that based on the evidence in this docket, including the unique nature of BCT's operations and its attempts to characterize its CLEC traffic as ILEC traffic, and the choices it has made, bill and keep is not appropriate. Not surprisingly, BCT does not cite to a single case to support any of its arguments about such alleged discriminatory imposition of bill and keep by the Commission.

Accordingly, there was no error regarding the Commission's bill and keep analysis. As such, the Commission should deny BCT's application for reconsideration and rehearing on the reciprocal compensation and bill and keep issue.

B. <u>BCT's arguments about BCT's past behavior are without merit</u>

BCT also takes umbrage with the Commission's Order by arguing that the Arbitrator improperly based his decision on BCT's "past behavior" in its refusal to use LIS trunks under the prior ICA with Qwest when he ruled that allowing BCT to have an ICA with bill and keep would "reward" BCT for its past behavior. (Application, p. 10.) BCT argues that the issue here is not

about its past behavior, but about a new ICA in the future. *Id*. However, BCT protests too much.

What the Arbitrator and the Commission essentially ruled was that BCT makes its own choices, and to use a cliché, it can't have its cake and eat it too. That is, it is BCT itself which refuses to route its traffic in the way its previous ICA requires, and in the way that all other CLECs do. Clearly, BCT's actions have denied Qwest the ability to accurately record, measure and bill the competitive traffic that BCT sends to Qwest, and it is precisely those actions by BCT that would end up *rewarding* it if the Commission were to allow bill and keep in the new ICA. By essentially hiding the ball from Qwest, BCT cannot now complain that Qwest is required to bring a new ball to the game. Again, it is BCT which gave the Commission little choice but to not allow bill and keep in the new ICA with Qwest.

C. The Commission did not err regarding other CLECs using bill and keep

For the fourth time, BCT again points out that a number of other carriers have entered into a bill and keep ICA with Qwest. Thus, BCT again argues that the Commission erred because such CLECs having bill and keep ICAs with Qwest somehow means it is discriminatory for the Commission to not allow BCT to also enter into a bill and keep ICA with Qwest. (Application, pp. 10-12.) However, having made this argument in testimony, post-hearing briefing, its November 2, 2006 comments to the Arbitrator's Decision and now, in its application for reconsideration, BCT brings nothing new to the table. Moreover, the record was replete with evidence regarding the unique actions by BCT that therefore make a different type of reciprocal compensation arrangement between Qwest and BCT appropriate.

In addition, it seems BCT somehow believes that the Commission is "required" to give an "explanation" why the other CLECs' bill and keep ICAs do not have any relevance to the issues here. However, there is no merit to this argument, and the Commission was not

"required" to "explain" why it apparently chose not to give any weight to BCT's frivolous argument.

First, the Commission is not required to address every argument that BCT (or any other party, for that matter) may make. BCT certainly does not cite to any such requirement. Suffice it to say, however, that the record here was replete with evidence regarding BCT's current and historical operations and conduct that make this situation different from others. Accordingly, under the facts and circumstances here, which have been thoroughly analyzed and discussed four times now, it was certainly not inappropriate for the Commission to deny BCT's request for a bill and keep ICA, while previously allowing bill and keep with other CLECs.

Further, nothing about the fact that these other CLECs entered into bill and keep ICAs with Qwest changes that result. Nor does BCT's citation to 47 CFR § 51.809 (Application, pp. 11-12 and fn. 19) have any impact, or require the Commission to follow the same reciprocal compensation scheme (bill and keep) that it followed for these very differently-situated CLECs. In short, there is no "veto" power of Qwest, nor any discrimination in favor of any CLEC, including Qwest's affiliate.

In short, the Commission did not err in not addressing or explaining why other CLECs may enter into a bill and keep ICA with Qwest, but that such form of reciprocal compensation is not appropriate in the ICA between BCT and Qwest. However, if the Commission does decide to address the issue here, it should reject BCT's argument for the reasons set forth above.

D. <u>Qwest's federal advocacy about bill and keep is irrelevant</u>

Finally, in its application, BCT again continues to make an issue regarding Qwest's advocacy on intercarrier compensation before the FCC, and thus continues to argue that Qwest's position here regarding reciprocal compensation with BCT is contradicted by Qwest's arguments to the FCC. (Application, pp. 12-13.) BCT further argues that the Commission failed to address

this issue (*id*., p. 13), which BCT apparently argues is an error of law or of fact, or is good cause, of a matter essential to the Commission's decision, and thus should be reversed. BCT's argument is again without merit.

As Qwest previously noted, Qwest's advocacy before the FCC on telecommunications industry intercarrier compensation issues generally has absolutely no relevance to the Commission's decision in this arbitration, which must be based on the current state of the law, and not on one aspect of Qwest's advocacy. The current law that is applicable here is set forth in the FCC's rules. As Qwest previously showed, 47 C.F.R. § 51.713(b) permits the Commission to impose bill and keep arrangements if it "determines that the amount of telecommunications traffic from one network to the other is roughly balanced with the amount of telecommunications traffic flowing in the opposite direction, and is expected to remain so."

Further, Qwest's advocacy before the FCC is simply irrelevant here, and thus cannot be applied in this arbitration. Although Qwest has advocated the adoption of a bill and keep mechanism before the FCC, BCT takes Qwest's statements entirely out of context. Qwest's advocacy applies to *all forms of intercarrier compensation*, not just the exchange of local traffic between a CLEC and an ILEC.[3] Indeed, requiring bill and keep in the ICA with BCT without any offsetting compensation would, in fact, be inconsistent with Qwest's FCC advocacy.

Further still, the FCC has not completed its intercarrier compensation proceeding, and Qwest recognizes that it is in the minority of commenters with its advocacy of bill and keep on these issues. Of course, even if Qwest's position were ultimately adopted, there are enough differing characteristics from the situation here to make any comparison to not be meaningful and to be an apples-to-oranges comparison. In short, it would be inappropriate to order bill and

[3] For example, and significantly, Qwest advocates for an increase in the Subscriber Line Charge ("SLC") to offset the revenue that would be lost from adoption of a bill and keep regime.

keep in the ICA between Qwest and BCT based on Qwest's FCC advocacy where none of the compensating elements of Qwest's advocacy have been implemented and where Qwest continues to operate in a largely reciprocal compensation world. *See* e.g., 47 U.S.C. § 271(c)(2)(B)(xiii).

Finally, BCT again argues that neither the Commission nor the Arbitrator addressed this FCC bill and keep advocacy issue. However, as with the issue regarding other CLECs being allowed to enter into bill and keep ICAs with Qwest, BCT again fails to cite to any authority or rule that requires the Commission to address (or "explain" its response to) every single argument that a party may posit. BCT's argument on this point is clearly not "essential to the decision." Accordingly, the Commission should once again decline to address this irrelevant and meritless argument. Nevertheless, if it does decide to address the issue here, it should reject BCT's argument for the reasons set forth above.

III. THE MOTION TO WITHDRAW THE ORDER AS MOOT MUST BE DENIED

BCT also requests that the Commission "withdraw" Order No. 06-637 on grounds that it is "moot" because BCT has attempted to adopt or "opt in" to another ICA, a bill and keep ICA between Qwest and another CLEC, Ymax. (BCT Application, pp. 14-15.) However, although Qwest will not reiterate all of its arguments from its objections to BCT's notice of opt-in in docket ARB 780 or its response to BCT's motion for an extension of time to comply with the Order No. 06-637 in this docket which Qwest filed on December 18 and 19, 2007, respectively, and which Qwest incorporates fully herein, Qwest respectfully submits that the Commission must deny BCT's "request." This is so because on January 30, 2007, the Commission issued

Order No. 07-033 in docket ARB 780, in which it denied BCT's request to adopt the Ymax ICA.[4] Thus, it is *BCT's motion* to withdraw the Order that is "moot."

Accordingly, as with the Commission's recent denial of the opt-in request in docket ARB 780, Qwest respectfully submits that the Commission must deny BCT's motion for withdrawal of the Order, as it is now moot, and thus that the Commission should not reward BCT's procedural gamesmanship.

IV. THE MOTION FOR EXTENSION OF TIME TO COMPLY MUST BE DENIED

Finally, BCT moves for an extension of time pursuant to OAR 860-014-0095(5) to comply with Commission Order No. 06-637. (BCT Application, pp. 15-16.) Specifically, BCT requests that the time for compliance with the Order be extended "until 30 days after such further order of the Commission is entered." (*Id*., p. 16.) BCT's rationale for its motion is that "the parties are currently operating under an existing interconnection agreement" (with which this Commission has already found that BCT is not complying), and thus that "there is allegedly no significant need for immediate action to adopt the particular interconnection agreement in this docket." (*Id*., p. 15.)

Qwest respectfully submits that the Commission must deny such motion. First, as a practical matter, Qwest's position is that the ICA that it has previously filed on December 20, 2006 is the applicable and approved ICA, and is now in force, and absent any reversal by a

[4] The only comment that Qwest makes here is that, as it did in its replies to Qwest's filings on this issue in this docket and in docket ARB 780, BCT somehow believes the mere fact it attempted to file its "formal election" to "opt in" to the Ymax ICA a mere *two business days* (November 16, 2006) prior to the Commission's final order (on November 20, 2006) somehow means that the Commission should effectively ignore the fact that BCT had already made its "election" (by filing its petition for arbitration in this docket), as well as the fact that the arbitration proceedings here were essentially complete, save for the final order adopting the Arbitrator's Decision two days later. The mere fact that BCT did so at the eleventh-hour prior to the final order, instead of doing so after the final order, is a meaningless distinction without a material difference, and the federal cases that Qwest cited, as well as the Commission decision in docket ARB 537 (Western Radio), apply with full force here. Of course, that is now "moot" because the Commission has recently denied BCT's opt-in request in Order No. 07-033 in docket ARB 780.

federal court, it is the operative agreement. Specifically, under section 252(e)(4), if the Commission does not approve an agreement filed after an arbitration within 30 days, it is deemed approved. Moreover, as the Commission itself noted, for whatever reason, BCT is not complying with the previous ICA, and thus there is no merit to BCT's argument that there is no significant need for immediate action to adopt the new ICA in this docket. Finally, now that the Commission has denied BCT's attempt to adopt or opt in to the Qwest/Ymax ICA in docket ARB 780 (Order No. 07-033), there is no reason to further delay its time to comply with Order No. 06-637. As such, BCT's motion for an extension is now moot.

Accordingly, Qwest respectfully submits that the Commission must deny BCT's motion for an extension of time to comply with Order No. 06-637. Qwest further submits that the Commission should specifically issue an order approving the ICA that Qwest had previously submitted on December 20, 2006, since that ICA complies with Order No. 06-637, and since that ICA is already deemed approved under section 252(e)(4) of the Act.

CONCLUSION

Accordingly, for the reasons set forth above, Qwest respectfully requests that the Commission should deny BCT's application for reconsideration or rehearing. Qwest further respectfully submits that the Commission must deny BCT's motions requesting withdrawal of Order No. 06-637 and requesting an extension of time to comply with Order No. 06-637.

DATED: February 1, 2007

Respectfully submitted,

Alex M. Duarte, OSB No. 02045 –
Qwest

421 SW Oak Street
Portland, OR 97204
(503) 242-5623
(503) 242-8589 (facsimile)
Alex.Duarte@qwest.com

Lawrence Reichman, OSB No. 86083
Perkins Coie LLP

Attorneys for Qwest Corporation

CERTIFICATE OF SERVICE

ARB 747

I hereby certify that on the 1st day of February, 2007, I served the foregoing **QWEST CORPORATION'S RESPONSE TO BEAVER CREEK COOPERATIVE TELEPHONE COMPANY'S APPLICATION FOR RECONSIDERATION OR REHEARING AND TO MOTIONS TO REQUEST WITHDRAWAL OF ORDER AS MOOT AND FOR EXTENSION OF TIME TO COMPLY WITH ORDER** in the above entitled docket on the following person via U.S. Mail, by mailing a correct copy to him in a sealed envelope, with postage prepaid, addressed to him at his regular office address shown below, and deposited in the U.S. post office at Portland, Oregon.

Richard Finnigan
Attorney at Law
2112 Black Lake Blvd. SW
Olympia, WA 98512

DATED this 1st day of February, 2007.

QWEST CORPORATION

By: _____

ALEX M. DUARTE, OSB No. 02045
421 SW Oak Street, Suite 810
Portland, OR 97204
Telephone: 503-242-5623
Facsimile: 503-242-8589
e-mail: alex.duarte@qwest.com
Attorney for Qwest Corporation