

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1168

In the Matter of PUBLIC UTILITY  
COMMISSION OF OREGON STAFF  
Investigation into Qwest Corporation's (and  
possibly other parties') failure to file  
interconnection agreements for Commission  
approval under Section 252(a)(1) of the  
Telecommunications Act

**QWEST CORPORATION'S MOTION  
FOR ADOPTION OF THE  
COMMISSION'S STANDARD  
PROTECTIVE ORDER**

Pursuant to OAR 860-012-0035(1)(k), Qwest Corporation ("Qwest") hereby respectfully requests entry of the Commission's standard protective order for this docket in order to limit disclosure of confidential information. Thus, Qwest requests that the Public Utility Commission of Oregon ("the Commission") issue its standard protective order.

ORCP 36 C(7) provides for the issuance of a protective order that "a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way." Good cause exists for the issuance of a protective order for this investigation docket. This docket is Commission Staff's investigation into Qwest Corporation's (and possibly other parties') failure to file certain interconnection agreements for Commission approval under section 252(a)(1) of the Telecommunications Act, and regarding possible penalties pursuant to ORS 759.990 against Qwest and other CLECs for their failures to file.

As Staff mentioned in its August 30, 2004 Staff Report to the Commission recommending a formal investigation docket, Qwest has provided a total of 89 agreements entered into between Qwest and numerous CLECs (most of whom are not parties to this docket, and may not become parties to the docket) during Staff's informal investigation. Qwest and Staff have recently agreed to a settlement in principle, and as part of that settlement in principal, have agreed, for settlement purposes, that a number of the agreements should have been filed with the Commission for formal approval, and that a larger number, again for settlement purposes, were not required to be filed.

Qwest and Staff have also agreed that if they ultimately cannot agree to a written stipulation about these matters, and/or the Commission does not approve their settlement stipulation, the parties reserve their rights to litigate the penalties Staff seeks (including litigation about which agreements should have been filed and which did not need to be filed). As a result, there are many agreements that would otherwise be *confidential* agreements between Qwest and non-party CLECs, and thus the agreements may constitute confidential information of Qwest and of such third-party CLECs.<sup>1</sup>

Recently, however, several attorneys for CLECs in Oregon have requested from Qwest copies of these agreements for their review and investigation. Qwest has responded that these agreements may include confidential agreements between Qwest and non-parties, and thus Qwest would not be able to provide those copies *absent a protective order*. In addition, on September 7, 2004, the day the Commission opened this docket, Qwest's counsel wrote to all of the CLECs whose agreements which Qwest had not formally filed with the Commission for approval but which it had provided to Staff in response to Staff's informal investigation. That is, Qwest advised these CLECs that a couple of CLEC attorneys had requested copies of the subject agreements. Qwest requested that any CLEC who had any objections advise both Qwest and Staff of any such objections, and that, absent any such objections, Qwest would provide copies of the agreements to these CLEC attorneys *subject to protective order*. No CLEC objected.

Accordingly, now that the (1) Commission has opened this docket, (2) no CLEC has objected, and (3) CLEC counsel again recently requested at the September 30, 2004 meeting which Staff convened that Qwest file a motion for the issuance of the Commission's standard protective order, Qwest hereby makes this request through this motion.

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<sup>1</sup> For example, although agreements that ultimately are decided should have been filed are, by definition, not confidential, there are many more agreements, such as contracts for non-section 251 services, or contracts with other Qwest entities (other than Qwest Corporation, the regulated ILEC), that had no filing requirement.

Further, there is also the possibility that other confidential information (other than the agreements themselves) may need to be disclosed. This is another reason that Qwest needs, and thus respectfully requests, the immediate issuance of the Commission's standard protective order.

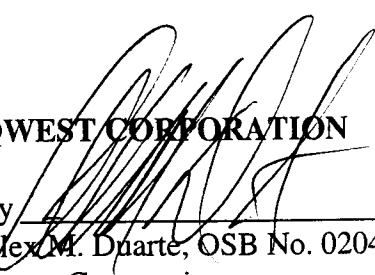
Finally, unprotected disclosure of this information could benefit Qwest's or certain CLECs' competitors. Such information could be used by Qwest's or by CLECs' competitors to their commercial advantage, and to Qwest's and/or certain CLECs' commercial disadvantage, resulting in monetary loss to Qwest and/or other CLECs, and, ultimately, their responsive customers. The information at issue is proprietary, cannot be easily duplicated or acquired by others, and is valuable. Finally, Qwest has taken stringent measures to safeguard the confidentiality of the information.

Accordingly, the Commission should enter its standard protective order to limit the use and disclosure of such confidential information, and should do so as soon as possible.

WHEREFORE, Qwest respectfully requests the issuance of the Commission's standard protective order.

DATED: October 5, 2004

**QWEST CORPORATION**

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**CERTIFICATE OF SERVICE**

**UM-1168**

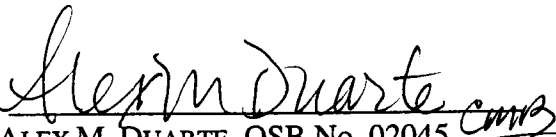
I hereby certify that on the 5<sup>th</sup> day of October, 2004, I served the foregoing **QWEST CORPORATION'S MOTION FOR ADOPTION OF PROTECTIVE ORDER** in the above entitled docket on the following persons via U.S. Mail, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at their regular office address shown below, and deposited in the U.S. post office at Portland, Oregon.

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DATED this 5<sup>th</sup> day of October, 2004.

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