

A second amendment updating the SGAT to reflect changes negotiated in intervening months was filed on June 12, 2001. By our Order No. 01-721, entered August 9, 2001, we granted Qwest's petition and again allowed the SGAT, as amended to go into effect.

Qwest filed a Notice of Updated Statement of Generally Available Terms and Conditions (Second Revision) and Qwest's Statement of Generally Available Terms and Conditions (SGAT) dated August 21, 2001.¹ Qwest also submitted a black-lined version of the SGAT indicating the changes from the previously submitted version. According to Qwest, "Once again, this updated SGAT represents the most up-to-date version of the document incorporating revisions and proposed revisions to the document resulting from the extensive negotiations and numerous workshops that have been held." (Notice, p. 3).

DISCUSSION

The SGAT is, essentially, an irrevocable offer to every competitor that wishes to obtain access to Qwest's network. It is not, however, merely for the benefit of each potential competitive local exchange carrier (CLEC). The SGAT provides a Bell operating company (BOC), such as Qwest, with a valuable tool: it is a simple way for the BOC to demonstrate that it complies with the requirements of Sections 251 and 252 of the Act, thereby avoiding a laborious review of its behavior in each negotiated interconnection and collocation agreement. For the smaller or mid-sized CLEC, the SGAT is a means to obtain an agreement that will cover all critical matters without having to go through the time and expense of engaging expert counsel to go head-to-head with a much larger and richer entity in complex negotiations. State commission approval certifies that the offer is compliant with federal and state law, is fair to the CLEC, insofar as it encourages local competition, and serves the public interest. The SGAT review process is set forth in the Act.

Section 252(f) of the Act provides as follows:

(1) IN GENERAL. – A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251² and the regulations thereunder and the standards applicable under this section.

¹ In the Notice, page 2, Qwest discusses how some of these changes were made to comply with the ALJ's Workshop 2 Recommendation Report in docket UM 823 and to comport with actions taken in proceedings in other jurisdictions. As with the previous filings, we have not considered the substance of its changes.

² Section 251 sets forth, generally, the obligations of telecommunications carriers, including additional obligations of the incumbent local exchange carriers to provide their competitors with access to unbundled network elements (UNEs) collocation and wholesale discounts on retail services.

(2) STATE COMMISSION REVIEW. – A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 and the regulations thereunder. Except as provided in section 253,³ nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

(3) SCHEDULE FOR REVIEW. – The State commission to which a statement is submitted shall, not later than 60 days after the date of such submission –

- (A) complete the review of such statement under paragraph (2) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or
- (B) permit such statement to take effect.

(4) AUTHORITY TO CONTINUE REVIEW. – Paragraph (3) shall not preclude the State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2).

(5) DUTY TO NEGOTIATE NOT AFFECTED. – The submission or approval of a statement under this subsection shall not relieve a Bell operating company of its duty to negotiate the terms and conditions of an agreement under section 251.

This third amendment to the SGAT is not unexpected. As noted in our prior Orders, we anticipated the current circumstances: "...changes to the SGAT document may become cumbersome . . . each amendment to the original document might trigger a new 60-day review period and an additional item on our Public Meeting agenda." As with the original SGAT submission and the first and second amendments, we neither endorse nor approve of the substance of this new amendment. Rather, we allow the amendment to take effect and we will consider its substance in the review process already under way in docket UM 823. Since CLECs are able to negotiate interconnection agreements regardless of the availability of an SGAT, they will not be prejudiced by our action.

³ Section 253 concerns the removal of barriers to entry into the local exchange telecommunications services market.

ORDER

IT IS ORDERED that:

1. Pursuant to OAR 860-016-0040(2), the amendment to the Statement of Generally Available Terms filed by Qwest Corporation on August 21, 2001, in accordance with Section 252(f) of the Telecommunications Act of 1996, is permitted to go into effect.
2. The Commission hereby directs that this amendment to the Qwest Statement of Generally Available Terms be considered in the proceedings in docket UM 823 and that such changes to that amendment as may be necessary to comply with federal and state law shall be made.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.