

This is an electronic copy. Attachments may not appear.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

CP 1041

UM 460, CP 341, UM 397, CP 327, CP 611

In the Matter of)	
)	
QWEST COMMUNICATIONS CORPORATION)	ORDER
)	
Application for a Certificate of Authority to)	
Provide Telecommunications Service and)	
Classification as a Competitive Provider.)	

DISPOSITION: CP 1041, APPLICATION GRANTED; AND
UM 460, ORDER NO. 92-344, CERTIFICATE OF AUTHORITY CANCELED;
CP 341, ORDER NO. 97-353, CERTIFICATE OF AUTHORITY CANCELED;
UM 397, ORDER NO. 91-886, CERTIFICATE OF AUTHORITY CANCELED;
CP 327, ORDER NO. 98-365, CERTIFICATE OF AUTHORITY CANCELED;
CP 611, ORDER NO. 99-360, CERTIFICATE OF AUTHORITY CANCELED.

Note: By issuing this certificate, the Commission makes no endorsement or certification regarding the certificate holder's rates or service.

The Application

On March 5, 2002, Qwest Communications Corporation (Applicant or QCC) filed with the Commission an application for certification to provide telecommunications service in Oregon as a competitive provider. Applicant seeks to provide intraexchange (local exchange) telecommunications service in areas coextensive with all exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B to this order. Applicant also seeks to provide interexchange telecommunications service statewide in Oregon.

Applicant proposes to provide intraexchange (local exchange) switched service (i.e., local dial tone), and non-switched, private line service (dedicated transmission service) within all exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B to this order. Applicant will operate as a reseller and as a facilities based provider of local exchange service. Applicant may

construct its own lines or transport facilities for intraexchange service. Applicant may purchase unbundled network elements, as well as finished services for resale, from other certified carriers for intraexchange service.

Applicant also proposes to provide interexchange switched service (toll) and private line service (dedicated transmission service) statewide in Oregon. Applicant will operate as a reseller and as a facilities based provider of interexchange service. Applicant may construct its own lines or transport facilities for interexchange service. Applicant may purchase unbundled network elements, as well as finished services for resale, from other certified carriers for interexchange service.

Operator services are part of switched telecommunications service. Applicant will directly provide operator services as defined in OAR 860-032-0001. Applicant will not be an 'operator service provider' as defined in ORS 759.690(1)(d). Commission rule OAR 860-032-0007 and Oregon statute ORS 759.690 establish conditions regarding provision of operator services.

Docket UM 823

In docket UM 823 the Commission is currently investigating the entry of Qwest Corporation (Qwest) into in-region, interLATA telecommunications service under Section 271 of the Telecommunications Act of 1996 (the Act). Qwest is a former Bell Operating Company, and pursuant to the Act, neither Qwest, QCC, nor any of their affiliates may provide interLATA service in Qwest's fourteen state region until authorized to do so by the Federal Communications Commission. This application proceeding, docket CP 1041, has no bearing on the Commission investigation in docket UM 823. The fact that we grant QCC's application here shall not be construed to have any bearing on, or implications regarding, Commission findings and recommendations in docket UM 823.

Affiliates and Related Certificates of Authority

Applicant, QCC, currently has authority to provide intraexchange service in the local exchanges of its affiliate Qwest Corporation (Qwest) and Verizon Northwest Inc. (Verizon) and to provide interexchange service statewide in Oregon. *See* Order No. 99-360, docket CP 611, dated June 10, 1999. In the application before us, QCC requests authority to continue to provide interexchange service statewide and to provide intraexchange service in exchanges of all incumbent local exchange carriers including Qwest and Verizon. With the granting of authority requested by QCC, Order No. 99-360 becomes superfluous, therefore, the Commission will cancel that certificate of authority in this order.

Applicant, QCC, is affiliated with several entities that are certified to provide telecommunications service in Oregon. In the past, QCC advised the Commission of various internal mergers, which resulted in some of those entities ceasing to exist or

ceasing operations. In the cover letter which accompanied the application in this docket, QCC requested that the Commission cancel four certifications for three affiliates in order to reflect the internal mergers. The three affiliates are LCI International Telecom Corp., Phoenix Network, Inc., and U S WEST Long Distance, Inc. There were errors in the cover letter which accompanied QCC's application. However, the errors were resolved by Staff Request No. 1 and QCC's response to it. The Commission will cancel the authority granted by the certificates of authority, as follows:

<u>Entity</u>	<u>Order No.</u>	<u>Docket</u>
LCI International Telecom Corp.	92-344	UM 460
LCI International Telecom Corp.	97-353	CP 341
Phoenix Network, Inc.	91-886	UM 397
U S WEST Long Distance, Inc.	98-365	CP 327
Qwest Communications Corporation	99-360	CP 611

Some of QCC's affiliates will remain in business and their certificates of authority will not be canceled by this order. Those affiliates and their current certifications are as follows:

- Qwest Corporation, a telecommunications utility, is the incumbent local exchange carrier in 64 exchanges in Oregon. *See* Order No. 86-1237, docket UM 70. Also, Qwest is the Designated Carrier for intraLATA toll service in all exchanges in Oregon except those of Verizon and United Telephone Company of the Northwest, dba Sprint (Sprint). *See* Order No. 93-1133, docket UM 384, Attachment page 8, and *see* Order No. 86-1237, docket UM 70.
- Qwest is also certified as a competitive local exchange carrier and as a competitive telecommunications provider for interexchange service in all exchanges in Oregon, except those of Malheur Home Telephone Company and the 64 exchanges where Qwest is the incumbent local exchange carrier. *See* Order No. 00-590, docket CP 808.
- Malheur Home Telephone Company dba Malheur Bell is a telecommunications utility and is the incumbent local exchange carrier in four exchanges in eastern Oregon. *See* Order No. 86-1184, docket UM 121.
- USLD Communications, Inc., aka U. S. Long Distance, Inc. (USLD), is a competitive provider. (USLD is a different entity from U S WEST Long Distance, Inc., listed above.) USLD is certified to provide interexchange service statewide in Oregon. *See* Order No. 91-267, docket UM 371. USLD is also certified to provide competitive, intraexchange telecommunications service in all exchanges of Qwest, Verizon, and Sprint. *See* Order No. 97-134, docket CP 208.

Procedure and Protests

The Commission served notice of the application on the Commission's telecommunications mailing list on March 12, 2002. Protests were due at the Commission office by 5 p.m. on April 1, 2002. On April 1, 2002, the Commission received a timely protest from Tribal One Broadband Technologies, LLC, dba ORCA Communications (ORCA).¹ ORCA is made a party to this application proceeding. The protestant did not request a hearing. On April 2, 2002, an Administrative Law Judge (ALJ) with the Commission issued a ruling that adopted procedures for processing this docket. The ALJ set a procedural schedule. On April 15, 2002, Applicant responded to the protest.

Applicant, QCC, points out, and the Commission notes, that the protestant appears to believe that the applicant is Qwest Corporation (Qwest), an incumbent telecommunications utility. Applicant is Qwest Communications Corporation (QCC), which is a competitive provider, not a utility. However, QCC and Qwest are affiliated.

ORCA listed six reasons for its protest. In addition, it stated possible affects on its operations if the Commission grants QCC's application. Both ORCA and HREC have been issued certificates of authority to provide intraexchange and interexchange non-switched, private line service (dedicated transmission service) throughout Oregon. *See* Order No. 02-077, docket CP 998, issued February 4, 2002 for ORCA. *See* Order No. 01-880, docket CP 971, issued October 25, 2001 for HREC.

Protest Reason (1): ORCA states that Qwest is defined as a telecommunications utility under ORS 759.005(1)(a) and does not meet any of the requirements of ORS 759.005(1)(b) which would define QCC otherwise. The applicant is QCC, not Qwest. Qwest is a utility. QCC applied for authority as a competitive provider and will act only as a competitive provider. Therefore, QCC meets the definition of ORS 759.005(1)(b)(C), and pursuant to ORS 759.020(5), the Commission will classify QCC as a competitive provider.

Protest Reason (2): ORCA states that under Section 272 of the Act Qwest may provide competitive services only by using a separate affiliate. In docket UM 823, Qwest states that QCC is the 'Section 272' affiliate which Qwest will use to provide interLATA telecommunications service.

Protest Reason (3): ORCA states that QCC is subject to regulation under OAR Chapter 860, Division 021, by definition in 860-021-0008. Qwest is a utility and is subject to OAR Chapter 860, Division 021. Applicant, QCC, is not a utility and is not subject to Division 021.

¹ On April 4, 2002, the Commission received a virtually identical protest from Hood River Electric Cooperative (HREC). The protest from HREC was not timely filed. Since HREC's protest is virtually identical to that from ORCA, discussion of ORCA's protest effectively is a discussion of both protests.

Protest Reason (4): ORCA states that QCC is subject to regulation under OAR Chapter 860, Division 022, by definition in 860-022-0001. Qwest is a utility and is subject to OAR Chapter 860, Division 022. Applicant, QCC, is not a utility and is not subject to Division 022.

Protest Reason (5): ORCA states that QCC is subject to regulation under OAR Chapter 860, Division 028, by definition in 860-028-0020. Qwest is a utility and is subject to OAR Chapter 860, Division 028. Applicant, QCC, is not a utility and is not subject to Division 028 as an owner of poles, ducts, conduits, or rights-of-way. However, Applicant is subject to Division 028 as a licensee or occupant attaching its facilities to poles or conduits owned by utilities. This condition applies to all competitive providers, but it does not provide grounds for denying an application.

Protest Reason (6): ORCA states that QCC currently maintains a certificate of authority based on conditions set forth in OAR 860-032-0007, in particular, paragraphs (2) and (3). As described above QCC, who is the Applicant, and Qwest both have certificates of authority. Both are subject to OAR 860-032-0007. Subsections (2) and (3) of that rule apply to Qwest, the telecommunications utility, however, those two subsections do not apply to competitive providers such as QCC. Administrative rule OAR 860-032-0007 lists conditions which apply to holders of certificates of authority, but the rule does not provide grounds for denying an application.

ORCA also states that the certification of “Qwest” would allow Qwest to use its considerable resources to create predatory pricing, thereby degrading the business plans of competitive providers to a point where they are infeasible. Applicant responds that this is speculation. The protestant did not offer any evidence that QCC, or Qwest for that matter, have engaged in predatory pricing or other illegal conduct. If ORCA finds that QCC does engage in illegal conduct or does violate conditions of its certificate of authority, then ORCA may bring a complaint to the Commission or take other appropriate legal action.

ORCA did not provide grounds for the Commission to deny QCC’s application or for the Commission to place extraordinary restrictions on QCC’s certification. Therefore, we will grant the application subject to conditions referenced to or listed in this order.

On April 25, 2002, the Commission Staff (Staff) distributed a proposed order for review by the parties.

The Commission has reviewed the proposed order, the exceptions, and the record in this matter. Based on a preponderance of the evidence, the Commission makes the following:

FINDINGS AND CONCLUSIONS

Applicable Law

Applications to provide telecommunications service and for classification as a competitive telecommunications service provider are filed pursuant to ORS 759.020. ORS 759.020 provides that:

(1) No person [or] corporation * * * shall provide intrastate telecommunications service on a for-hire basis without a certificate of authority issued by the Public Utility Commission under this section.

* * * * *

(5) The commission may classify a successful applicant for a certificate as a telecommunications utility or as a competitive telecommunications services provider. If the commission finds that a successful applicant for a certificate has demonstrated that services it offers are subject to competition or that its customers or those proposed to become customers have reasonably available alternatives, the commission shall classify the applicant as a competitive telecommunications services provider. * * * For purposes of this section, in determining whether telecommunications services are subject to competition or whether there are reasonably available alternatives, the commission shall consider:

- (a) The extent to which services are available from alternative providers in the relevant market.
- (b) The extent to which services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions.
- (c) Existing economic or regulatory barriers to entry.
- (d) Any other factors deemed relevant by the commission.

Applications to provide local exchange (intraexchange) telecommunications service are reviewed pursuant to ORS 759.050, the “competitive zone law.” Under ORS 759.050(2)(a), the Commission may:

Certify one or more persons, including another telecommunications utility, to provide local exchange telecommunications service within the local exchange telecommunications service area of a certified telecommunications utility, if the commission determines that such authorization would be in the public interest. For the purpose of determining whether such authorization would be in the public interest, the commission shall consider:

- (A) The effect on rates for local exchange telecommunications service customers both within and outside the competitive zone.
- (B) The effect on competition in the local exchange telecommunications service area.
- (C) The effect on access by customers to high quality innovative telecommunications service in the local exchange telecommunications service area.
- (D) Any other facts the commission considers relevant.

Under ORS 759.050(2)(b), the Commission shall:

Upon certification of a telecommunications provider under paragraph (a) of this subsection, establish a competitive zone defined by the services to be provided by the telecommunications provider and the geographic area to be served by the telecommunications provider.

Under ORS 759.050(2)(c), the Commission may:

Impose reasonable conditions upon the authority of [the applicant] to provide competitive zone service within the competitive zone * * * at the time of certification of a telecommunications provider, or thereafter.

Subsection (5)(a) of ORS 759.050 provides that:

Unless the commission determines that it is not in the public interest at the time a competitive zone is created, upon designation of a competitive zone, price changes, service variations, and modifications of competitive zone services offered by a telecommunications utility in the zone shall not be subject to ORS 759.180 to ORS 759.190 [notice, hearing and tariff suspension procedures], and at the telecommunications utility's discretion, such changes may be made effective upon filing with the commission.

OAR 860-032-0015(1) authorizes the Commission to suspend or cancel the certificate if the Commission finds that (a) the holder made misrepresentations when it filed the application, or (b) the certificate holder fails to comply with the terms and conditions of the certificate.

Designation as a Competitive Provider

Applicant has met the requirements for classification as a competitive telecommunications service provider. Applicant's customers or those proposed to become customers have reasonably available alternatives. The incumbent telecommunications utilities and cooperative corporations, listed in Appendices A and B, provide the same or

similar local exchange services in the local service area requested by Applicant. AT&T, WorldCom, Sprint Communications, Qwest, Verizon, and others provide interexchange telecommunications service in the service area requested by Applicant. Subscribers to Applicant's services can buy comparable services at comparable rates from other vendors. Economic and regulatory barriers to entry are relatively low.

Conditions of the Certificate

There are several conditions listed in the application. Oregon Administrative Rules relating to certificates of authority are generally included in OAR Chapter 860, Division 032. Conditions applicable to certificate holders include, but are not limited to the following: OAR 860-032-0007, 860-032-0008, 860-032-0011, 860-032-0012, 860-032-0013, 860-032-0015, 860-032-0045, 860-032-0060, 860-032-0090, and 860-032-0095. The conditions listed in the application and those contained in Oregon Administrative Rules are adopted and made conditions of this certificate of authority. A condition of this certificate of authority is that Applicant shall comply with applicable laws, Commission rules, and Commission orders related to provision of telecommunications service in Oregon.

The Commission first applied the competitive zone law, ORS 759.050, in dockets CP 1, CP 14, and CP 15. After full evidentiary hearings and consideration of the public interest criteria set forth in ORS 759.050(2)(a), the Commission designated three competitive providers of switched local exchange services as alternate exchange carriers or competitive local exchange carriers (CLECs) in the Portland metropolitan area. *See* Order No. 96-021. The Commission subsequently applied those findings and conclusions to dockets CP 132, CP 139, and CP 149, and certified two CLECs to provide switched local exchange services in areas located throughout the state.

The Commission takes official notice of the record in dockets CP 1, CP 14, and CP 15.² In Order No. 96-021, the Commission established conditions applicable to CLEC certificates. Since Applicant proposes to offer local exchange service, it seeks certification as a CLEC. Pursuant to ORS 759.050(2)(c) and Order No. 96-021, Applicant as a CLEC shall comply with the following conditions:

1. Applicant shall terminate all intrastate traffic originating on the networks of other telecommunications utilities, competitive providers, and cooperative corporations that have been issued a certificate of authority by the Commission.
2. Whenever Applicant terminates intrastate long distance traffic directly or indirectly from interexchange carriers or from its own toll network to its end user customers, Applicant shall contribute to the Oregon Customer Access Fund (OCAF), or its equivalent, in accordance with provisions of

² Under OAR 860-014-0050(2), a party may object to facts noticed within 15 days of notification that official notice has been taken. The objecting party may explain or rebut the noticed facts.

- the Oregon Customer Access Plan (OCAP) or any successor plan approved by the Commission. Applicant shall contribute using rates approved by the Commission on intrastate terminating carrier common line access minutes, or on any other basis determined by the Commission. Applicant may not participate in (i.e., receive money from) pooling arrangements established under the OCAP or any successor plan unless authorized by the Commission.
3. Applicant shall comply with the Oregon Exchange Carrier Association's (OECA) informational and operational needs as specified by the OCAP or any successor plan approved by the Commission.
 4. Applicant shall offer E-911 service. Applicant has primary responsibility to work with the E-911 agencies to make certain that all users of their services have access to the emergency system. Applicant will deliver or arrange to have delivered to the correct 911 Controlling Office its customers' voice and dialable Automatic Number Identification (ANI) telephone numbers so the lead 911 telecommunications service provider can deliver the 911 calls to the correct Public Safety Answering Point (PSAP). Applicant shall work with each 911 district and lead 911 telecommunications service provider to develop database comparison procedures to match Applicant's customer addresses to the 911 district's Master Street Address Guide in order to obtain the correct Emergency Service Number (ESN) for each address. Applicant shall provide the lead 911 telecommunications service provider with daily updates of new customers, moves, and changes with the correct ESN for each.
 5. Applicant shall not take any action that impairs the ability of other certified telecommunications utilities, competitive providers, or cooperative corporations to meet service standards specified by the Commission.
 6. At the request of the Commission, Applicant shall conduct and submit to the Commission traffic studies regarding traffic exchanged with telecommunications service providers and other entities designated by the Commission.
 7. For purposes of distinguishing between local and toll calling, applicant shall adhere to local exchange boundaries and Extended Area Service (EAS) routes established by the Commission. Applicant shall not establish an EAS route from a given local exchange beyond the EAS area for that exchange.
 8. When Applicant is assigned one or more NXX codes, Applicant shall limit each of its NXX codes to a single local exchange or rate center, whichever

is larger, and shall establish a toll rate center in each exchange or rate center proximate to that established by the telecommunications utility or cooperative corporation serving the exchange or rate center.

9. Applicant shall comply with universal service requirements as determined by the Commission.
10. Any obligation regarding interconnection between Applicant and the telecommunications utilities and cooperative corporations listed in Appendices A and B to this order shall be governed by provisions of the Telecommunications Act of 1996 (the Act), including but not limited to sections 251 and 252 of the Act (47 USC §§ 251 and 252), as well as the applicable rules and regulations of the Federal Communications Commission and this Commission implementing the Act. Order No. 96-021 will govern the interconnection obligations between such parties for the provision of switched local services, unless otherwise addressed by an interconnection agreement or the Commission modifies the principles established in Order No. 96-021.
11. If Applicant provides services to a subscriber who, in turn, resells the services, including operator services, then Applicant and the subscriber must comply with ORS 759.690 and OAR 860-032-0007.
12. Applicant shall pay an annual fee to the Commission pursuant to ORS 756.310, 756.320, and 756.350 and OAR 860-032-0008, 860-032-0080, 860-032-0090, and 860-032-0095. By November 1, of each year, the Commission will set the fee level that is to be based on gross retail intrastate revenues for the following calendar year. The minimum annual fee is \$100. Applicant is required to pay the fee for the preceding calendar year by April 1.
13. Pursuant to Oregon Laws 1987, chapter 290, sections 2-8, and to OAR chapter 860, division 033, Applicant shall be responsible to ensure that the Residential Service Protection Fund surcharge is remitted to the Commission. This surcharge is assessed against each paying retail subscriber at a rate that is set annually by the Commission.

In recognition of Applicant's affiliation with Qwest Corporation, and the potential for Qwest to favor Applicant over other competitive providers, and the fact that Applicant may only offer interLATA telecommunications service subject to Sections 271 and 272 of the Act (47 USC §§ 271, 272), Applicant (QCC) shall comply with the following conditions.

14. Applicant shall not enter into arrangements with its affiliate, Qwest, that discriminate between, or provide preferential treatment for, Applicant over

other competitive interexchange carriers in regards to rates, terms, or conditions for:

- a. The provision of access to Qwest local exchange network;
 - b. The provision of customer billing, collection, verification and credit card information, and related services; or
 - c. The provision of other products and services such as shared or joint use of facilities and equipment, customer dialing codes, maintenance, testing and repair services, market promotions and advertised services, network information, and customer and market information. QCC's and Qwest's joint marketing and sale of service permitted by Section 272(g) of the Act (47 USC § 272(g)) shall not be construed to violate the provisions of this Condition 14.
15. Applicant shall comply with all applicable laws, including Sections 251, 271, and 272 of the Act (47 USC §§ 252, 272, 272), and Applicant shall comply with all applicable regulations, rules, and orders of the Federal Communications Commission (FCC).
 16. Applicant shall not offer or provide intrastate, interLATA telecommunications service in Oregon until the FCC has granted final approval of Qwest's petition to authorize Applicant's provision of in-region, interLATA service under Section 271 of the Act (47 USC § 271).

Public Interest

In Order No. 93-1850, docket UM 381, the Commission considered the public interest aspects of local exchange competition for dedicated transmission service. In dockets CP 1, CP 14, and CP 15, Order No. 96-021, the Commission made several public interest findings regarding local exchange competition in general.

With regard to the general factual conclusions relevant to this proceeding, the Commission adopts the Commission's Findings of Fact and Opinion in docket UM 381, Order No. 93-1850, at pages 4-6, and the Commission's Findings and Decisions in dockets CP 1, CP 14, and CP 15, Order No. 96-021 at pages 6-21, entered pursuant to ORS 759.050(2)(a)(A)-(C). The Commission takes official notice of the record in dockets UM 381, CP 1, CP 14, and CP 15.

Based on a review of those findings, as well as information contained in the application, the Commission concludes that it is in the public interest to grant the application of Qwest Communications Corporation to provide local exchange telecommunications service as a competitive telecommunications provider in exchanges

of the telecommunications utilities and cooperative corporations listed in Appendices A and B, as described in the application. Further, it is in the public interest to grant statewide interexchange authority as described in the application.

This finding will have no bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Act (47 USC § 251, 252) with regard to the telecommunications utilities and cooperative corporations in this docket.

Competitive Zones

All the exchanges of the telecommunications utilities and cooperative corporations listed in the appendices to this order are designated competitive zones pursuant to ORS 759.050(2)(b).

Pricing Flexibility

Cooperative telephone companies are generally not regulated by the Commission for local exchange services, and therefore already have pricing flexibility for local exchange service. Telecommunications utilities which are exempt under ORS 759.040 from the provisions of ORS 759.180 to 759.190 already have pricing flexibility for local exchange service. This order has no effect on any ORS 759.040 exemption. However, if one of those telecommunications utilities loses its ORS 759.040 exemption from provisions of ORS 759.180 to 759.190, for any reason, it will automatically become eligible for an exemption under ORS 759.050(5)(a) to (d), as described below.

In Order No. 93-1850, docket UM 381, the Commission granted pricing flexibility for dedicated transmission service at the same time the Commission granted the certificate of authority. Therefore, the telecommunications utilities listed in Appendix A are granted pricing flexibility for dedicated transmission service in their respective exchanges by this order.

With regard to the general factual conclusions relevant to this proceeding and intraexchange, switched telecommunications service, the Commission adopts the Commission's Findings and Decisions in dockets CP 1, CP 14, and CP 15, Order No. 96-021 at pages 82 and 83, entered pursuant to ORS 759.050(5)(a) to (d). The telecommunications utilities listed in Appendix A, will gain pricing flexibility for intraexchange, switched service on an exchange-by-exchange basis under ORS 759.050(5) if:

1. Applicant, or an authorized CLEC, has received a certificate of authority to provide local exchange service;
2. The telecommunications utility files a tariff that satisfies the Commission's requirements regarding the provision of interim number portability, as set forth in Order No. 96-021, and the Commission approves the tariff; and

3. Staff notifies the Commission that a mutual exchange of traffic exists between the telecommunications utility and an authorized CLEC, including but not limited to, Applicant. If Staff previously provided the required notice regarding an exchange, no additional notice is required for that exchange.
 - (a) As used in paragraph 3 above, "mutual exchange of traffic" means a mutual exchange of traffic between the telecommunications utility and the CLEC within the telecommunications utility's exchange.
 - (b) As used in paragraph 3 above, for a CLEC who is a reseller (i.e., a CLEC does not use its own lines or switches to provide the particular service at issue), a "mutual exchange of traffic" exists when the CLEC orders and receives one service, at a wholesale rate, from the telecommunications utility for resale pursuant to a certificate granted under ORS 759.050.

Qwest Corporation has satisfied requirement No. 2, above. *See* Order No. 96-277, docket UT 130. Verizon has satisfied requirement No. 2, above. *See* Order No. 96-278, docket UT 129.

ORDER

IT IS ORDERED that:

1. The application of Qwest Communications Corporation to provide intraexchange switched service and non-switched dedicated transmission service, and to provide the interexchange switched service (toll) and dedicated transmission service, as described in the application, is in the public interest and is granted with conditions described in this order.
2. Applicant is designated as a competitive telecommunications provider for intraexchange service in the local exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B. In addition, Applicant is designated as a competitive telecommunications provider for interexchange service statewide in Oregon. Applicant, QCC, may not provide interLATA service until authorized to do so by the FCC.
3. The local exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B are designated as competitive zones.

4. Any obligation regarding interconnection between Applicant and the telecommunications utilities and cooperative corporations listed in Appendices A and B shall be governed by the provisions of the Telecommunications Act of 1996 (the Act), including but not limited to sections 251 and 252 of the Act (47 USC §§ 251 and 252), as well as the applicable rules and regulations of the Federal Communications Commission and this Commission implementing the Act. Order No. 96-021 will govern the interconnection obligations between such parties for the provision of switched local services, unless otherwise addressed by an interconnection agreement or the Commission modifies the principles established in Order No. 96-021.
5. No finding contained in this order shall have any bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Act (47 USC § 251 or 252) with regard to the telecommunications utilities and cooperative corporations listed in appendices to this order.
6. The telecommunications utilities listed in Appendix A shall receive pricing flexibility on an exchange-by-exchange basis as set forth in this order.
7. Pursuant to ORS 759.050(2)(c), Applicant shall comply with Commission imposed universal service requirements as a condition of authority to provide local exchange service.

8. The authority granted to each certificate holder listed below, by the orders shown for each entity, is hereby canceled:

<u>Entity</u>	<u>Order No.</u>	<u>Docket</u>
LCI International Telecom Corp.	92-344	UM 460
LCI International Telecom Corp.	97-353	CP 341
Phoenix Network, Inc.	91-886	UM 397
U S WEST Long Distance, Inc.	98-365	CP 327
Qwest Communications Corporation	99-360	CP 611

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan 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.

APPENDIX A

CP 1041

EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE TELECOMMUNICATIONS
UTILITIES LISTED BELOW

Telecommunications Utilities Not Exempt Pursuant to ORS 759.040

CenturyTel of Eastern Oregon, Inc.
CenturyTel of Oregon, Inc.
Qwest Corporation
United Telephone Company of the Northwest, dba Sprint
Verizon Northwest Inc.

Telecommunications Utilities Exempt Pursuant to ORS 759.040

Asotin Telephone Company
Cascade Utilities, Inc.
Citizens Telecommunications Company of Oregon
Eagle Telephone System, Inc.
Helix Telephone Company
Home Telephone Company
Malheur Home Telephone Company
Midvale Telephone Exchange
Monroe Telephone Company
Mt. Angel Telephone Company
Nehalem Telephone & Telegraph Co.
North-State Telephone Company
Oregon Telephone Corporation
Oregon-Idaho Utilities, Inc.
People's Telephone Company
Pine Telephone System, Inc.
Roome Telecommunications, Inc.
Trans-Cascade Telephone Company

APPENDIX B

CP 1041

EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE COOPERATIVE
CORPORATIONS LISTED BELOW

Beaver Creek Cooperative Telephone Company
Canby Telephone Association
Clear Creek Mutual Telephone
Colton Telephone Company
Gervais Telephone Company
Molalla Telephone Company
Monitor Cooperative Telephone Co.
Pioneer Telephone Cooperative
Scio Mutual Telephone Association
St. Paul Cooperative Telephone Association
Stayton Cooperative Telephone Co.