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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 973

In the Matter of the Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunications Services Provided by U S WEST Communications, Inc., in the State of Oregon.)
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ORDER

DISPOSITION: FIFTEENTH AMENDMENT (FOURTEENTH REVISION) TO STATEMENT PERMITTED TO GO INTO EFFECT PROSPECTIVELY. AMENDMENTS NOT TO APPLY TO EXISTING AGREEMENTS

On April 24, 2000, U S WEST Communications, Inc., now known as Qwest Corporation (Qwest), filed a statement of generally available terms (SGAT) under Section 252(f) of the Telecommunications Act of 1996 (Act). After a notice and comment period, we allowed the filing to go into effect and ordered that its substance be reviewed in proceedings in docket UM 823.¹

Qwest subsequently filed numerous amendments to its SGAT. To date, we have reviewed fourteen amendments and, on each occasion, allowed the SGAT, as amended, to go into effect.²

On February 18, 2004, Qwest filed its Fifteenth Amendment (Fourteenth Revision) to its SGAT and a Notice thereto (Notice).³ The substantive revisions to the SGAT relate to the Statement of Compliance, Updated Exhibit B to the SGAT, which is the Performance Indicator Definitions (PIDS). According to the Notice:

¹ Order No. 00-327.
² See Orders No. 01-122, 01-721, 01-878, 01-1050, 02-145, 02-315, 02-731, 03-074, 03-150, 03-189, 03-410, 03-572, 03-665 and 03-753.
³ On March 29, 2004, Qwest filed an *Errata* attaching copies of Exhibit B!, which had inadvertently been omitted.

Qwest, working through the Long Term PID Administration (LTPA), identified administrative changes, corrected PO-16, Timely Release Notifications, and updated certain subparts to GA-1, Gateway Availability—IMA-GUI.

First, the administrative changes were made only to increase the clarity, accuracy, and completeness of the PIDS, but not to change the meaning of any PID. Specifically, these administrative changes correct certain typographical errors, update outdated information and make certain terms and phrases consistent throughout the PIDS.

Second, PO-16 has been modified to correct an administrative oversight. The version of PO-16 of the PID that was previously filed omitted some of the intended red-lined changes and therefore was not correct. However, Qwest has been reporting its monthly performance according to the correct version of PO-16. The present filing is merely to provide the correct version of PO-16 for Exhibit B.

Finally, GA-1 has been changed to reflect the retirement of two interface components, Fetch-N-Stuff (GA-1B) and Data Arbiter (GA-1C). These two interface components have been replaced with one interface component, SIA (GA-1D), which facilitates access for the IMA-GUI interface and the IMA-EDI interface, and which reports the percentage of scheduling time the SIA system is available. Therefore, GA-1D replaces both GA-1B and GA-1C.

The Notice concludes as follows:

Qwest further requests that the Commission deem this revised Exhibit B to modify the SGAT and existing interconnection agreements that currently contain the PIDS as an exhibit.

DISCUSSION

The discussion of the nature of the SGAT and the SGAT process contained in our prior orders is adopted herein and will not be repeated. This fifteenth amendment to the SGAT is not unexpected. As we first noted in Order No. 00-327, “[t]he SGAT will likely undergo considerable revision * * * and, once in effect, changes to the SGAT document may become cumbersome. It is conceivable that 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 through fourteenth amendments, we neither endorse nor approve of the substance of this new amendment, while, at the same time, we allow the amendment to take effect. These circumstances are not changed by our actions in the Final Recommendation Report of the Commission in docket UM 823.

After our approval of the tenth amended SGAT, the Federal Communications Commission (FCC) approved Qwest’s Section 271 application for Oregon. However, on August 21, 2003, the FCC released the text of its order in docket No. CC 01-338 (the Triennial Review or TRO). On March 2, 2004, the U.S. Court of Appeals for the District of Columbia Circuit reversed and remanded a significant portion of the FCC’s TRO order. Action pursuant to the Decision of the Court has been stayed temporarily to allow for rehearing *en banc* and petitions for certiorari to the Supreme Court. The outcome of those proceedings will have a direct impact on numerous sections of the SGAT. We will schedule further proceedings in this docket to consider the SGAT’s entire substance for compliance with our rules and policies and the furtherance of competition and the public interest in Oregon once the legal uncertainties surrounding the TRO and the applicable FCC rules have been resolved. Since competitive local exchange carriers (CLECs) are able to negotiate interconnection agreements regardless of the availability of an SGAT, they will not be prejudiced by our action.

Qwest has, however, now requested that we modify existing interconnection agreements, rather than having the parties address and negotiate such changes between them directly. This we decline to do for several reasons. First, such a modification would require us to pass judgment on the representations of Qwest as to the lack of substance and impact of the proposed changes. Second, it bypasses the processes for modification of agreements provided for in the SGAT and the Act. Third, it sets a dangerous precedent of circumventing the arbitration process as a means for examining the terms and conditions of agreements and making changes thereto. Qwest offers no reasons for us to do so.

ORDER

IT IS ORDERED that pursuant to OAR 860-016-0040(2), the fifteenth amendment to the Statement of Generally Available Terms filed by Qwest Corporation on February 18, 2004, in accordance with Section 252(f) of the Telecommunications Act of 1996, is permitted to go into effect as of April 18, 2004. Existing interconnection agreements are not affected by this Order.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
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.