

In the Matter of the Application)
of QWEST CORPORATION)
for Approval of Compliance)
with 47 U.S.C. § 271(d)(2)(B))

DOCKET NO. 00-049-08
FINAL ORDER REGARDING
QWEST §271 COMPLIANCE

ISSUED: July 8, 2002

By the Commission:

INTRODUCTION

This docket, initiated in February 2000 has involved a review of Qwest's compliance with 47 U.S.C. § 271. Through these proceedings, the Commission has used a multistate process and Utah specific filings and technical conferences for interested parties to submit evidence, to examine and rebut the evidence of other parties, to submit written briefs and present argument on issues, and to submit comments on staff reports concerning §271 issues. We have participated in a test of Qwest's Operations Support Systems ("OSS") conducted through the Regional Oversight Committee ("ROC"). We have reviewed staff reports, received and reviewed comments, supplemental filings, motions, petitions for reconsideration and numerous compliance filings, and issued reports or orders on almost all aspects of this matter. By this order we resolve remaining issues concerning Qwest's compliance with §271 requirements.

QWEST'S INTERCONNECTION AGREEMENTS AND THE 14-POINT CHECKLIST

Section 271 Track A

The Commission issued its report on Track A requirements on March 12, 2002, concluding that Qwest complies with the four Track A requirements in 47 U.S.C. § 271(c)(1)(A).

Section 271 Track B

The Commission has issued reports or orders dated May 25, 2001, September 18, 2001, and March 26, 2002, dealing with Qwest's SGAT and its compliance with the 14-point competitive checklist in 47 U.S.C. § 271(c)(2)(B). In most cases, with respect to our view of its checklist obligations, the Commission either approved Qwest's SGAT, approved changes Qwest had agreed to make to the SGAT, or directed changes to the SGAT. On a few issues, the Commission requested further information and on one issue Qwest and AT&T proposed alternatives regarding implementation of the Commission's decision. The Commission's findings of checklist compliance were conditional upon Qwest's making required changes to the final SGAT, implementation of processes and procedures consistent with SGAT obligations, and successful completion of the ROC OSS test.

SGAT Compliance

Qwest made the changes required in the Commission's reports and orders in SGAT compliance filings

on July 10, 2001, October 3, 2001, December 7, 2001, February 12, 2002, and April 10, 2002. No party has claimed that the SGAT revisions made by Qwest do not comply with the Commission's reports and orders, except with respect to the two issues discussed below. Accordingly, with the exception of the following two issues, this issue is resolved.

Remaining unresolved issues concerning Qwest's SGAT

Following the filing of additional information, only two checklist issues remained outstanding--access to landowner agreements and loop qualification information, including mechanized loop testing ("MLT").

1. Access to Landowner Agreements

Following submission of additional information on this issue, the Commission directed the parties to reach agreement on remaining items in accordance with general directions in its September 18, 2001 order. The parties were able to reach agreement on some, but not all items. Therefore, on April 26, 2002, the Commission issued a further order resolving disputed issues and requesting that the parties submit language on the process that would be used in providing access consistent with the Commission's orders. On June 6, 2002, Qwest filed a stipulated resolution of outstanding items on access to landowner agreements. Accordingly, this issue is resolved.

2. Loop Qualification Information, Including MLT

The Commission's March 26, 2002 order required Qwest to make access to MLTs available to CLECs on a pre-order basis--i.e., before the CLEC has secured the customer. Qwest's April 10, 2002 compliance filing proposed an alternative manual process for providing the necessary information to CLECs upon request if the information was not available on the electronic loop qualification tools. Qwest provided a thorough explanation of the basis for this proposal in its comments on the Commission's report filed April 15, 2002.

On April 15, 2002, AT&T filed a petition for review of the Commission's report on the related issue of direct electronic access to loop qualification data. The Commission did not grant AT&T's petition for review within 20 days, so it was deemed denied. Nonetheless, on June 11, 2002, Qwest filed further revised SGAT language on a manual loop qualification process which was accepted by all parties in Arizona. The Commission accepts the June 11, 2002 filing as sufficient to address the loop information needs of CLECs generally. Accordingly this issue is closed.

Effective date for Qwest's SGAT

Qwest has submitted a final SGAT consistent with the directions made at our July 1, 2002 final technical conference, the resolutions made in this Order, and incorporates the UNE prices set in our prior orders. This final SGAT with its prices, terms, and conditions shall become effective on July 10, 2002.

Actual Commercial Performance

Since September of 2001, Qwest has filed its actual commercial performance data for Utah and its entire 14-state region with the Commission, covering performance data from July of 2000 through May of 2002. The Commission has held three technical conferences regarding this data: September 17, 2001, October 24, 2001 and April 30, 2002. During this process, the Liberty Consulting Group has provided two reports of audits of Qwest's performance data, providing independent verification that the

performance data accurately and reliably reports Qwest's actual performance. Qwest has established through this data that its processes and procedures comply with its obligations under the SGAT. Therefore, this condition to a conclusion of checklist compliance has been satisfied.

Operational Support System (OSS) Test

On May 28, 2002, KPMG Consulting and Hewlett-Packard issued their Final Report on the Regional Oversight Committee's test of Qwest's OSS. On April 24, 2002, prior to issuance of the final report and based on the draft final report, Qwest filed a summary of the closed/unresolved issues in the test, explaining why the single closed/unresolved observation and the nine close/unresolved exceptions should not affect the Commission's ability to conclude that Qwest's OSS and Change Management Plan ("CMP") fully satisfy the requirements of 47 U.S.C. § 271(c)(2)(B)(ii). The Commission held a technical conference on May 1, 2002 at which KPMG, the test administrator, and MTG, the test manager, provided an overview regarding the test, described all closed/unresolved and closed/unable to determine issues and all parties commented on the test and those issues. The Commission relies upon this data in reaching a determination of whether Qwest has met the 14 point competitive checklist.

Conclusion on Agreements and Checklist Compliance

Based upon the foregoing, the Commission concludes that Qwest has qualifying interconnection agreements, an appropriate Statement of Generally Available Terms and Conditions, and meets the obligations of the 14 point competitive checklist.

SECTION 272

Based on the record before the Commission we find that Qwest meets the legal requirements for its affiliates that 47 U.S.C. § 272 imposes.

PUBLIC INTEREST

The Commission issued its report on the public interest on February 20, 2002. Although the report generally found that Qwest's entry into the interLATA market was in the public interest, it concluded that the Commission could not find approval of Qwest's 271 application in the public interest until: the Commission had completed its reports and orders on the 14-point checklist and Qwest had complied with those decisions; Qwest had submitted a post-entry performance assurance plan ("PAP") acceptable to the Commission; the Commission had issued final orders on unbundled network element and collocation prices and the prices were implemented; and parties had an opportunity to submit any additional evidence on two issues--whether there are any specific Qwest practices, policies, or activities that are artificially restricting the growth of competition within the Utah telecommunication marketplace and whether the current level of intrastate access charges in Utah contributes to a situation that allows cross subsidization within Qwest's corporate framework.

With the resolutions contained in this Order, and Qwest's recent compliance filings for the PAP, and prices for various UNEs, the Commission finds that the conditions set for a positive finding on the public interest test have been satisfied.

CONCLUSION

The Commission recognizes that the ultimate determination of Qwest's compliance with Section 271 requirements will be made by the Federal Communications Commission. On the basis of the record

before us, the Commission concludes that Qwest has met the requirements of Section 271(c)(1)(A) and (B), the requirements of the 14-point competitive checklist, the public interest standard, and the Section 272 requirements.

DATED at Salt Lake City, Utah, this 8th day of July, 2002.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

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