

Decision No. R01-768-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 97I-198T

IN THE MATTER OF THE INVESTIGATION INTO U S WEST COMMUNICATIONS,
INC.'S COMPLIANCE WITH § 271(C) OF THE TELECOMMUNICATIONS ACT OF
1996.

**ORDER REGARDING JOINT INTERVENORS MOTION
TO MODIFY DECISION NO. R01-651-I**

Mailed Date: July 24, 2001

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STATEMENT

A. On June 29, 2001 the Joint Intervenor (AT&T/WorldCom) filed a motion to modify Decision No. R01-651-I Concerning Resolution of Volume IA Impasse. The motion requests modification of the procedural approach to the OSS testing

results, as well as several substantive issues. On July 10, 2001 Qwest filed a Response to the Motion to Modify Decision No. R01-651-I.¹ Qwest argued that the motion was improvidently filed. The areas in which the Joint Intervenors have requested a modification are dealt with in order below.

B. First, I note that checklist items with no remaining impasse issues will be recommended to the Commission for certification of § 271 compliance. Checklist items with remaining impasse issues will be recommended to the Commission for certification of § 271 compliance after appropriate modified SGAT language is filed. In Decision No. R01-651-I, checklist item 12 was inadvertently left out of the ordering paragraphs recommending certification of § 271 compliance while checklist item 3 was inadvertently included for recommendation. At this time, checklist items 7, 8, 9, and 12 are recommended for certification of § 271 compliance and checklist items 3, 10 and 13 are awaiting verification of modified SGAT language.

FINDINGS

Review of Performance Data

1. The Joint Intervenors argue that Decision No. R01-651-I should be modified to clarify that the determination

¹ Qwest is reminded to adhere to the deadlines as set by the decisions of the Hearing Commissioner.

that Qwest is in compliance with any checklist item is conditional, "subject to Commission review and evaluation of the audited results of ROC OSS regional testing on performance measures, and Qwest's actual performance." I decline to make the suggested modification.

2. The Volume 1A Impasse Resolution Order, Decision No. R01-651-I, reserves the Commission's ability to revisit these issues based on the Regional Oversight Committee (ROC) operational support systems (OSS) test, or actual commercial experience. See ¶ II.H. at p. 27. I am not sure what additional tentativeness Joint Intervenors want. Unless and until contrary information comes from these sources, I stand by my recommendation of compliance.

Issue 3-4: Access to Rights of Way

The Joint Intervenors argue that aspects of SGAT § 10.8.2.27.1-4 relate to indemnity, which has been deferred to the workshop on general terms and conditions. The impasse issue decisions are strictly limited to resolution of the impasse issues as presented by the Staff report. See Decision No. R00-612-I at 33-34. Decision No. R01-651-I has no impact on any aspects of SGAT § 10.8.2.27.1-4 that relate to indemnity.

Issue 10-5: CNAM

The Joint Intervenors advise that the Michigan Public Service Commission has resolved the CNAM impasse issue

differently than Decision No. R01-651-I. The Colorado Commission has independent authority over Qwest's § 271 application in Colorado. 47 U.S.C. § 271(d)(2)(B). I decline to make the requested modification.

Issue 13-4, 13-6: Single POI

AT&T notes that they may seek to reopen the record on Checklist Item 13. It is noted.

Issue 13-7(a): Tandem Definition

1. The Joint Intervenors advise that the FCC has recently clarified its rules relating to the definition of a tandem switch. The FCC states that the definition of a CLEC switch for purposes of tandem interconnection rates is to be based on geography alone.² Therefore, Qwest must remove the references to functionality in their SGAT definition of a CLEC "Tandem Office Switch."³ I agree and offer suggested SGAT language:

CLEC switch(es) shall be considered Tandem Office Switch(es) to the extent such switch(es) serve(s) a comparable geographic area as Qwest's Tandem Office

² *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132, ¶ 105 and fn. 173, 2001 WL 455872 (F.C.C.) (Rel. April 27, 2001)

³ Qwest is free to further define its own "Tandem Office Switches" as it currently does in § 4.11.2. I offer suggested SGAT language:

Qwest "Tandem Office Switches" are used to connect and switch trunk circuits between and among other End Office Switches. Access tandems typically provide connections for exchange access and toll traffic, and Jointly Provided Switched Access traffic while local tandems provide connections for Exchange Service (EAS/Local) traffic.

Switch. A fact-based consideration of geography should be used to classify any switch. CLECs may also utilize a Qwest Access Tandem for the exchange of local traffic as set forth in this Agreement.

This language should bring the language into compliance with the FCC's requirements. Qwest should modify its SGAT accordingly.

ORDER

It is Ordered That:

1. Commission Staff Report Volumes I and IA, and the consensus reached in workshop 1, establish Qwest Corporation's compliance with checklist item 12. The hearing Commissioner recommends that the Colorado Commission certify compliance with the same to the Federal Communications Commission.

2. Decision No. R01-651-I is modified to recommend that compliance on checklist item 13 is conditional on SGAT modifications to the CLEC Tandem Switch definition in SGAT § 4.11.2, as noted above.

3. All other requests by Joint Intervenors to modify Decision R01-651-I are denied.

This Order is effective immediately upon its Mailed Date.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



RAYMOND L. GIFFORD

Hearing Commissioner

ATTEST: A TRUE COPY

Bruce N. Smith
Director