WORKING ASSETS"
101 Market St., Suite 700
San Francisco, CA 94105
www.wurkingassrts.com
TEL 415/369-2000
FAX 415/371-1046

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November 19,2002

Ex Parte

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Honorable Michael K. Powell
Chairman, Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

RE: ***Application by Qwest Communications International. Inc. For Authorization Under Section 271 of the Communications Act to Provide In-Region Interlata Service in the States of Colorado, Idaho, Iowa. Montana. Nebraska. North Dakota, Utah. Washington, and Wyoming***
WC Docket No. 02-314

Ex parte

Dear Chairman Powell:

Working Assets Funding Service, Inc. dba Working Assets Long Distance ("Working Assets") opposes Qwest Communications International, Inc.'s ("Qwest") joint application to provide in-region, interLATA services in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming. Qwest's business practices and management decisions raise serious doubts that grant **of** its application under Section 271 of the Communications Act of 1934, as amended, would be in the public interest. At a minimum, the Commission should defer action on Qwest's application until the numerous business practices and corporate culpability issues involving Qwest have been resolved.

Qwest's schemes involving secret, discriminatory interconnection arrangements and existing violations of Section 271 are troubling. Nothing illuminates Qwest's blatant disregard for regulatory processes and distain for open competition more than its activities in Minnesota[1]. Qwest knowingly and intentionally violated state and federal law when it failed to file certain interconnection agreements and when it provided preferential treatment to the CLECs with whom their interconnection agreements had been kept secret[2]. Clearly, the lack of respect for the regulatory process displayed by Qwest in the circumstances surrounding the Minnesota proceeding raises serious concerns regarding the sincerity of Qwest's desire for open competition in telecommunications. Qwest's belated acknowledgement and its subsequent filing of certain interconnection agreements in certain states does not ensure that a respect for the law now exists in the company's culture.

[1] Order Adopting ALJ's Report And Establishing Comment Period Regarding Remedies, Minnesota Public Utilities Commission, Docket No. P-421/C-02-197.
[2] **Id.**

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Unfortunately, the Minnesota proceeding is not the only forum in which Qwest's veracity and business practices have come into question. In fact, Qwest's difficulties run deeper and only continue to mount. In July, the **U.S.** Attorney's Office in Denver initiated a criminal investigation against Qwest. 'The Senate Commerce, Science and Transportation Committee conducted hearings on the behavior of executives at Qwest, WorldCom, Inc. 'and Global Crossing, Ltd. These developments are only the latest in a litany of investigations of and complaints against Qwest. Qwest has already been the subject of two Securities and Exchange Commission ("SEC") investigations into its accounting practices – an investigation into the use of *pro forma* earnings statements and expense data in its **2000** financial reports, and an investigation into its accounting treatment of network capacity swaps with other telecommunications companies. In connection with the latter investigation, Qwest admitted that it overstated $531 million in revenues by "incorrectly" accounting for certain sales of network capacity[3]. Since the SEC investigations are not yet formally concluded, it remains to be seen whether or not the $531 million is the complete extent of Qwest's gross misstatement of revenues. Given this history of financial impropriety, the accuracy of Qwest's financial and operational reporting systems used to justify its Section **271** application must be seriously questioned.

Qwest's treatment of its customers and potential customers is no less troublesome. Qwest recently entered into a settlement with the Colorado Attorney General to close a complaint proceeding alleging improper sales tactics such as cramming unauthorized services on bills and failing to fully disclose prices and terms. Since 1999, Qwest has settled deceptive sales complaints in **12** other states. Last month, the California Public Utilities Commission fined Qwest over **$20.3** million for slamming, cramming and other improper marketing activities, including falsifying third party verification tapes and letters of authorization[4]. The Utah Division of Consumer Protection filed a lawsuit against Qwest in state court alleging a variety of improper and illegal consumer marketing practices[5].

Given the level of corporate misconduct being reported recently in this country, together with the fragile state of the telecommunications industry as a whole, Working Assets believes that the Commission should proceed carefully rather than hastily before it rewards a company at the center of so many allegations and findings of misconduct. Consumers will benefit very little **from** one more long distance carrier being added to the fray; they will benefit even less from a decision which also ignores the plethora of damaging information about the applicant. How can it be in the public interest to allow a company with such documented wrongdoings, the full extent of which is as yet undetermined, to enter the long distance market? Our opinion in this matter may have been different if Qwest had withdrawn its initial Section 271 application, awaited final resolution of the multiple investigations against it, and then filed this Section 271

[3] Qwest Press Release, Qwest Communications Updates Status of Certain Accounting Matters, October 28, 2002. ***See also,*** Communications Daily, October 30,2002.
[4] "California PUC fines Qwest $20 million over long-distance service", Associated Press, October 25, 2002.
[5] Communications Daily, October 30,2002.

application. Unfortunately, Qwest has pressed ahead at breakneck speed despite serious and widespread concerns about its business practices. Consideration of Qwest's application should, at the very least, be postponed until all pending federal and state investigations and proceedings are resolved and Qwest's new management can demonstrate its financial and operational integrity.

Respectfully submitted,

Stephen Gunn
Vice President, Operations
Working Assets Funding Service, Inc.
101 Market Street, Suite 700
San Francisco, CA 94105
(415) 369-2000

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin