

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms)	CC Docket No. 98-171
)	
Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.)	CC Docket No. 97-21
)	

**REPLY COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.**

Qwest Communications International Inc. (“Qwest”) hereby submits these Reply Comments regarding Qwest’s Application for Review of the Wireline Competition Bureau’s (“Bureau”) *Order*¹ modifying the rules for updating the annual Telecommunications Reporting Worksheet (“499-A Worksheet” or “Form 499-A”).²

The record in this proceeding reflects broad and unanimous opposition to the Bureau’s new rule prohibiting the downward revision of 499-A Worksheets more than twelve months after the due date of the original filing. In addition to Qwest’s filing, SBC Communications Inc.

¹ *In the Matter of Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability and Universal Service Support Mechanisms; Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.*, Order, CC Docket Nos. 96-45, 98-171, 97-21, DA 04-3669 (rel. Dec. 9, 2004) (“*Order*”).

² In addition to its Application for Review, filed Jan. 10, 2005, Qwest also submitted a Petition for Stay Pending Action on Application for Review, also filed Jan. 10, 2005.

(“SBC”) and Business Discount Plan, Inc. (“Business Discount”) filed applications for review, and Sprint Corporation (“Sprint”) filed a petition for reconsideration of the *Order*.³ AT&T Corp. (“AT&T”) and Verizon Communications Inc. filed comments supporting the applications for review and petition for reconsideration.⁴ No party filed in opposition.

All of these filings make the three fundamental points articulated in Qwest’s Application for Review. First, the *Order* is procedurally defective, because the Bureau exceeded its authority and failed to undertake the necessary notice and comment.⁵ Second, the rule adopted in the *Order* is inconsistent with the requirements of sections 254(d) and 2(b) of the Act.⁶ Finally, the rule is arbitrary and capricious, in that it imposes a “one-way ratchet” on universal service contributors, by requiring contributors *indefinitely* to file revisions that would *increase* their universal service contributions, while barring revisions that would *decrease* their contributions, if a revision is filed more than one year after the original filing of the Worksheet. In adopting this rule, the Bureau overstated the benefits, and understated the harm, of the new rule, and ignored other less burdensome, and more effective, alternatives for accomplishing its objectives.⁷ As AT&T points out, the new rule is inconsistent with the fundamental goal of accuracy, because the one-way ratchet will ensure that some carriers inadvertently over report their revenues.⁸ The rule will also create incentives for carriers to take overly aggressive positions in determining how

³ SBC’s and Business Discount’s applications for review and Sprint’s petition for reconsideration were filed Jan. 10, 2005.

⁴ Comments of AT&T filed Jan. 25, 2005, Comments of Verizon filed Jan. 21, 2005.

⁵ Qwest Application for Review at 3-8.

⁶ *Id.* at 8-10.

⁷ *Id.* at 10-18.

⁸ AT&T at 3.

to classify revenues in their Form 499-A filings, because they will have nothing to lose by doing so.⁹

Sprint recommends that the Commission adopt a three-year cutoff for all revisions to Worksheets, whether upward or downward, similar to the Internal Revenue Service's ("IRS") rule governing the filing of tax returns.¹⁰ If the Commission were to adopt such a rule, it presumably would include exceptions to the three-year deadline similar to those in the IRS rule to cover instances of fraud and intentional understatements of revenues. The Commission should also create an exception to the three-year limit for 499-A Worksheet revisions that result from an order or declaratory ruling by the Commission related to the proper categorization of particular services.¹¹ Subject to these caveats, Qwest supports the Commission's consideration of a three-year deadline applicable to both upward and downward revisions.¹² Through the notice and comment process, the Commission can also consider other alternatives to accomplish the objectives outlined in the *Order*.

⁹ Sprint Petition for Reconsideration at 4.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 3-4.

¹² *See* Qwest Application for Review at 6 (noting IRS' three-year limitation period).

QWEST COMMUNICATIONS INTERNATIONAL INC.
February 9, 2005

Given the broad consensus in opposition to the *Order*, the Commission should expeditiously grant Qwest's Petition for Stay while it undertakes the notice and comment that is required by the Administrative Procedure Act.

Respectfully submitted,

QWEST COMMUNICATIONS
INTERNATIONAL INC.

By: Craig J. Brown
Blair A. Rosenthal
Craig J. Brown
Qwest Communications
International Inc.
Suite 950
607 14th Street, N.W.
Washington, DC 20005
(303) 383-6649

February 9, 2005

Its Attorneys

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **ENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be: 1) filed with the FCC via its Electronic Comment Filing System; 2) served via e-mail on the FCC's duplicating contractor Best Copy and Printing, Inc. at fcc@bcpweb.com; and 3) served via First Class United States mail, postage pre-paid, on the parties listed on the attached service list.

/s/ Richard Grozier

Richard Grozier

February 9, 2005

Christopher M. Heimann
Gary L. Phillips
Paul K. Mancini
SBC Communications Inc.
Suite 400
1401 Eye Street, N.W.
Washington, DC 20005

Michael L. Glaser.....Business Discount
Michael D. Murphy
Shughart Thomson & Kilroy, P.C.
Suite 2300
1050 Seventeenth Street
Denver, CO 80265

Judy Sello
Leonard J. Cali
Lawrence J. Lafaro
AT&T Corp.
Room 3A229
One AT&T Way
Bedminster, NJ 07921

Edward Shakin
Ann H. Rakestraw
Michael E. Glover
Verizon telephone companies
Suite 500
1515 North Courthouse Road
Arlington, VA 22201

Richard Juhnke
Sprint Corporation
Suite 400
401 9th Street, N.W.
Washington, DC 20004