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EX PARTE

Electronic Filing via ECFS

September 28, 2006

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services – WC Docket 06-125*

Petition of Qwest Communications International Inc. for Forbearance from Enforcement of the Commission's Dominant Carrier Rules As They Apply After Section 272 Sunset Pursuant to 47 U.S.C. § 160 – WC Docket 05-333

Dear Ms. Dortch:

On September 27, 2006, Melissa Newman, Lynn Starr and Ed Henry (in person) and Tim Boucher, Daphne Butler, Molly Martin and Glenda Weibel (by phone), all of Qwest, met with Don Stockdale, Deena Shetler, Bill Dever, Randy Clarke, Al Lewis, William Kehoe, Jay Atkinson, Heather Hendrickson and Debbie Weber to discuss the above-captioned proceedings.

The attached document was used in our discussion of WC Docket 06-125.

With respect to WC Docket 05-333, Qwest's section 272 forbearance petition, Qwest reiterated its position that the Commission should exercise its authority under Section 10 of the Act and forbear from enforcing its dominant carrier rules with respect to Qwest in the provision of in-region interstate interLATA interexchange services post-sunset, whether these services are provided by Qwest's incumbent LEC, on an integrated basis, or separately through some other Qwest affiliate that is not complying with the full array of the Commission's Section 272 rules in existence prior to sunset. In the meeting Qwest, consistent with its petition, requested that the Commission forbear from enforcing its Part 61 tariffing and price cap requirements and any other Commission dominant carrier rules as they might be applied to Qwest provision of in-region interexchange services post-sunset.

Marlene H. Dortch
September 28, 2006

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This *ex parte* is being filed electronically pursuant to 47 C.F.R. §§ 1.49(f) and 1.1206(b). Please contact me at 202.429.3120 if you have any questions.

Sincerely,

/s/ Melissa E. Newman

Attachment

Copy via email to:

Don Stockdale

Deena Shetler

Bill Dever

Randy Clarke

Al Lewis

William Kehoe

Jay Atkinson

Heather Hendrickson

Debbie Weber

Qwest®



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**Qwest Petition for Forbearance Under 47 U.S.C. § 160(c)
from Title II and *Computer Inquiry* Rules with Respect to Its
Broadband Services**

WC Docket 06-125

Relief Requested

- Forbearance from the application of Title II and the *Computer Inquiry* requirements
 - related to any broadband services Qwest offers or may offer to the extent those services are not part of an Internet access service.
 - regardless of the nature of the customer to whom the service is offered.

Services for Which Relief is Requested

- Packet-switched services capable of 200Kbps in each direction.
- Non-TDM based optical networking, optical hubbing and optical transmission services.
- Qwest is not seeking forbearance for traditional TDM-based DS1/DS3 special access services.

Relief Requested

□ Forbearance from Title II

- For example, relief from tariff filing, cost support, and pricing requirements.
- Flexibility to offer services on a common carriage or private carriage basis.

□ Forbearance from *Computer Inquiry* obligations

- For example, relief from Comparably Efficient Interconnection (CEI) and Open Network Architecture (ONA) requirements that require Qwest to separate out and offer the transmission component of “enhanced services” pursuant to tariff at cost-based rates.

Forbearance is Warranted

- As Verizon has shown, competition in the market for broadband services is thriving
 - Carriers utilizing IP-based technology continue to enter the market and put pressure on “traditional” providers.
 - Alternative providers ensure competitive terms and conditions for these services.

- Qwest competes in the same markets and faces the same conditions as Verizon
 - Qwest believes that the forbearance criteria entitles it to the same treatment for broadband services.

Qwest is Entitled to the Same Relief Obtained by Verizon

- Qwest and Verizon compete head-to-head nationwide.
- As a result of the relief obtained by Verizon, Qwest and Verizon now compete for enterprise broadband sales on a regulatory playing field that is sharply tilted in Verizon's favor.
- Denial of similar relief to Qwest would be discriminatory, especially given Qwest's smaller market share.

Qwest Competes with Verizon in the National Market for Broadband Services

Product Sectors	Verizon	MCI	TOTAL	Qwest	Sources
Business Market Share by Revenue					
U.S. Private Line and Data Services	14.8	23.9	38.7	4.2	Atlantic-ACM, The New Long Distance Landscape 2004-2009, 8-04 (2004E data)
Total Wholesale SONET Services - North America	12.9	9.5	22.4	12.1	Frost & Sullivan, North American Wholesale SONET Services Market, 2006 (2005 data)
U.S. Wholesale IP Revenue	5.5	26.8	32.3	3.9	IDC, U.S. Wholesale IP Forecast and Analysis, 2003-2007, #30467, 12-03 (2002 data)
U.S. Business IP Revenue	2.9	17.4	20.3	2.8	IDC, U.S. Business IP Connectivity Forecast and Analysis, 2003-2007, #30449, 11-03 (2002 data)
U.S. IP VPN Services	1.0	13.7	14.7	3.1	In-Stat, The U.S. IP VPN Services Market: A Key Battleground for Service Providers, 5-25-06 (2005 data)
U.S. Network Based IP VPN Services	0.5	15.6	16.1	4.4	In-Stat, The U.S. IP VPN Services Market: A Key Battleground for Service Providers, 5-25-06 (2005 data)
U.S CPE-Based IP VPN Services	1.8	10.9	12.7	1.2	In-Stat, The U.S. IP VPN Services Market: A Key Battleground for Service Providers, 5-25-06 (2005 data)
U.S. ATM	4.3	22.2	26.5	5.7	Vertical Systems Group (2003 data)
U.S. Frame Relay	3.4	18.8	22.2	4.6	Vertical Systems Group (2003 data)

Discriminatory Regulatory Treatment is Unfair and Unjust

- As the U.S. Department of Justice has recognized:

“Applying different degrees of regulation to firms in the same market unnecessarily introduces distortions into the market; competition will be harmed if some firms face unwarranted regulatory burdens not imposed on their rivals.”

Reply Comments of the U.S. Department of Justice, *Competition in the Interstate Interexchange Marketplace*, CC Docket No. 90-132 at 26 n.42, filed Sept 28, 1990.

The Commission Should Forbear from Applying Title II and *Computer Inquiry* Regulations to Qwest's Broadband Services

- The relief request is identical to that obtained by Verizon.
- Verizon's forbearance petition was based upon national data, as is appropriate since both Verizon and Qwest sell broadband products in a national market.
- Qwest hopes the Commission acts expeditiously on this petition, especially given the fact that Verizon is significantly larger than Qwest.