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Federal Communications Commission
Office of the Secretary

Via Courier

EX PARTE

ORIGINAL

January 18, 2007

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

Re: **REDACTED – FOR PUBLIC INSPECTION**
*In the Matter of 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 No. 05-333*

Dear Ms. Dortch:

Qwest Communications International Inc. ("Qwest") hereby provides, under seal, one (original) copy of the confidential information submitted in response to the following request contained in a letter ("Information Request") dated January 5, 2007 from Thomas J. Navin of the FCC to Craig J. Brown of Qwest: 5.b. In this submission, Qwest is providing data based on a TNS Telecoms report that was used to create national and regional revenue share values for enterprise and small business customers of Qwest and other providers.

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List A B C D E

Notwithstanding the *Protective Orders* adopted in this proceeding,¹ Qwest believes there is also a separate statutory basis for not making its confidential response to the Information Request available for public inspection. *See* 47 C.F.R. §§ 0.457(d), 0.459. As such, appended hereto is Qwest's associated confidentiality justification. The non-redacted portions of Qwest's response to the Information Request contain, *inter alia*, Qwest's confidential information and confidential information associated with the operations of other telecommunications providers (with their identities masked) that Qwest has in its possession.² Qwest's response also contains proprietary third-party data regarding Qwest and other telecommunications providers. Such information would not ordinarily be made available to the public, and disclosure may cause substantial competitive harm to Qwest and to other telecommunications providers. Accordingly, the non-redacted information is appropriate for non-disclosure both under Sections 0.457(d) and 0.459, as well as under the *Protective Orders*.

Qwest is also separately simultaneously filing today with the Office of the Secretary one (original) copy of the non-redacted attachments and two copies of the redacted version of this submission.

The confidential, non-redacted version of Qwest's response will be made available for inspection, pursuant to the terms of the *Protective Orders*, at 607 14th St. NW, Suite 950, Washington DC. Arrangements for inspection may be made by contacting Joan O'Donnell at 202-429-3104.

Acknowledgment and date of receipt of this submission are requested. A duplicate copy is included for this purpose. If you have any questions regarding this submission, please contact Melissa Newman at 202-429-3120.

Sincerely,



Melissa Newman
Vice President-Federal Regulatory
Qwest

Attachments

¹ *Petition of Qwest Communications International Inc. for Forbearance from Enforcement of the Commission's Dominant Carrier Rules As They Apply After Section 272 Sunsets*, WC Docket No. 05-333, First and Second Protective Orders (rel. Jan. 5, 2007) (DA 07-22 & 07-23) (collectively, "*Protective Orders*").

² Specifically, in addition to requesting confidential treatment of the information of other telecommunications providers, Qwest has masked the identity of these providers by labeling carrier-specific information as information of Carrier XX, Carrier XY, and so on.

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Copy to:

Gary Remondino (two paper copies, pursuant to Jan. 5, 2007 *Second Protective Order*,
WC Docket No. 05-333, DA 07-23)

William Dever (one electronic copy, pursuant to Jan. 5, 2007 *Second Protective Order*,
WC Docket No. 05-333, DA 07-23; copy of spreadsheets in Microsoft Excel format)

William Kehoe (one electronic copy, pursuant to Jan. 5, 2007 *Second Protective Order*,
WC Docket No. 05-333, DA 07-23)

APPENDIX

Confidentiality Justification

Qwest requests confidential treatment of the information being provided in its *ex parte* because this information is competitively sensitive and its disclosure would have a negative competitive impact on Qwest and other telecommunications providers were it made publicly available. Such information would not ordinarily be made available to the public, and should be afforded confidential treatment under the *Protective Orders* and both 47 C.F.R. § 0.457 and § 0.459.

47 C.F.R. § 0.457

The attachments contain information which is confidential and proprietary to Qwest and to other telecommunications providers as “commercial or financial information” under Section 0.457(d). Disclosure of such information to the public would risk revealing company-sensitive proprietary information in connection with Qwest’s ongoing business plans and operations and the operations of other telecommunications providers. Therefore, in the normal course of Commission practice this information should be considered “Records not routinely available for public inspection.”

47 C.F.R. § 0.459

Specific information in the attachments to the *ex parte* is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

Information for which confidential treatment is sought

Qwest requests that the attachments be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. This information is competitively-sensitive data which Qwest and other telecommunications providers maintain as confidential and is not normally made available to the public. Release of the information would have a substantial negative competitive impact on both Qwest and other telecommunications providers. The confidential information is contained in the non-redacted version of Qwest’s *ex parte* submission, which is marked with the following legends: **HIGHLY CONFIDENTIAL INFORMATION – SUBJECT TO SECOND PROTECTIVE ORDER IN WC DOCKET NO. 05-333 before the Federal Communications Commission – COPYING PROHIBITED and/or CONFIDENTIAL INFORMATION – SUBJECT TO FIRST PROTECTIVE ORDER IN WC DOCKET NO. 05-333 before the Federal Communications Commission.**

Commission proceeding in which the information was submitted

REDACTED – FOR PUBLIC INSPECTION

The information is being submitted in WC Docket No. 05-333, *In the Matter of 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.*

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information designated as confidential includes detailed confidential information for both Qwest and other telecommunications providers in the form of estimates of revenue shares for various types of services and geographic areas and subscriber volumes/amounts of services provisioned to different classes of customers. As noted above, the data are competitively sensitive information which is not normally released to the public as such release would have a substantial negative competitive impact on Qwest and other telecommunications providers.

Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

This type of commercial information would generally not be subject to routine public inspection under the Commission's rules (47 C.F.R. § 0.457(d)), demonstrating that the Commission already anticipates that the release of this kind of information likely would produce competitive harm. Qwest confirms that release of its confidential and proprietary information would cause it competitive harm by allowing its competitors to become aware of sensitive proprietary information regarding the operation of Qwest's business. Qwest assumes that the same would be true regarding the confidential and proprietary information of other telecommunications providers.

Measures taken by Qwest to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Qwest has treated and treats the information disclosed in its non-redacted *ex parte* as confidential and has protected it from public disclosure to parties outside of the company.

Justification of the period during which Qwest asserts that the material should not be available for public disclosure

Qwest cannot determine at this time any date on which this information should not be considered confidential or would become stale for purposes of the current inquiry, except that the information would be handled in conformity with general Qwest records retention policies, absent any continuing legal hold on the data.

Marlene H. Dortch

January 18, 2007

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Other information that Qwest believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question satisfies this test.

Attachment 5(b)

Request 5(b): If the estimates in Tables 1 and 2 are based on a TNS Telecoms report, provide a copy of that report and the underlying data.

Response: The TNS Telecoms report used to create the national and Qwest regional revenue share values shown in Tables 1 and 2 is provided in the confidential attachment. This report shows, by carrier name identified in the TNS research sample, the interLATA service revenue shares of each carrier at the national, regional and state level, and also provides revenue share on a carrier-specific basis. It is important to note that the regional TNS data is drawn strictly from business customer data for customers located within Qwest's service footprint within each state, and no data for customers or carriers in Independent service territory is included.

Qwest also references its response to Information Request 5(a)(i) which provided sample size data underlying the TNS Telecoms data report.

Attachment 5.b

Tables –

REDACTED IN FULL