

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FCC-MAILROOM

In the Matter of )  
)  
Petition of Qwest Corporation for )  
Forbearance From Enforcement )  
of the Commission's ARMIS and 492A )  
Reporting Requirements Pursuant )  
to 47 U.S.C. § 160(c) )  
)

WC Docket No. 07-204

EX-PARTE COMMENTS OF  
THE NEW MEXICO PUBLIC REGULATION COMMISSION

The New Mexico Public Regulation Commission ("NMPRC" or "Commission") submits these ex-parte comments to the Petition of Qwest Corporation ("Qwest") for Forbearance pursuant to 47 U.S.C. § 160(c) from enforcement of certain Automated Reporting Management Information System ("ARMIS") and 492A Reporting Requirements. In these ex-parte comments, the Commission echoes many of the concerns expressed by other state agencies and parties that have supplied direct and reply comments in this docket opposing the granting of Qwest's request for forbearance from ARMIS reporting.

**COMMENTS**

Qwest is requesting Forbearance from submitting ARMIS Reports 43-01 through 43-08 to the FCC. This ARMIS data has been useful to the NMPRC in a variety of proceedings on telecommunications regulation. Allowing Qwest to forbear from ARMIS reporting would be detrimental to the interests of New Mexico, as it will hamper the Commission in its ability to effectively regulate Qwest and other telecommunications carriers in New Mexico. Currently,

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Qwest is regulated through an alternative form of regulation ("AFOR") for retail pricing in New Mexico. Qwest is also subject to quality of service, consumer protection, infrastructure, universal service and interconnection rules at the Commission, as well as a commitment to a three-year investment of \$255 million through Qwest's Second Amended Settlement Agreement ("SASA") as a result of Qwest's underinvestment during the five-year period of Qwest's first AFOR<sup>1</sup>. Much of the ARMIS reporting requirements Qwest is requesting forbearance from can and have been useful to the Commission in determining how to apply appropriate regulation to Qwest. This in particular includes financial, investment, and quality of service information, but has also included information on special access and customer satisfaction. This information cannot be easily reproduced by intervening parties or the NMPRC itself in proceedings through discovery, depositions, or bench requests. The fact that this information is readily produced greatly reduces the administrative burden of the Commission in its fact-finding proceedings so that the Commission can engage in regulation which it deems appropriate. The FCC should bear in mind the assistance it is giving to the states in requiring Qwest to produce these ARMIS reports, let alone the usefulness of the information to the FCC itself so that it may engage in meaningful regulation on the interstate level.

While finding at least some of the information provided in the ARMIS reports extremely valuable in effectively regulating jurisdictional telecommunications companies, the NMPRC does support Qwest's efforts to reduce anachronistic regulatory burdens that provide no public benefit. However, Qwest's across-the-board approach in its Petition is far too blunt. Rather than grant the Petition, the FCC should instead conduct a review of its ARMIS reporting rules through a comprehensive rulemaking proceeding, and not through piecemeal responses to separate carrier

<sup>1</sup> <http://www.nmprc.state.nm.us/tb.htm?panel=1#examples>. The case histories and documents are available through the NMPRC website. Pertinent rules can be found at <http://www.nmprc.state.nm.us/nmac/title17/T17C011.htm>, and include 1978 NMAC 17.11.10, 17.11.16, 17.11.17, 17.11.18, 17.11.20, and 17.11.22.

forbearance requests. A piecemeal case-by-case approach should be avoided particularly *because it raises the possibility that the forbearance petitions may be granted through inaction by the FCC, therefore bypassing any meaningful participatory fact-finding process.*

## COMMENTS OF THE OTHER PARTIES

The NMPRC concurs with many of the comments of those who have filed in opposition to the granting of Qwest's ARMIS forbearance Petition, in particular the Washington and Colorado Commissions. As regulatory agencies grappling with changing federal regulation and a rapidly changing telecommunications environment, any and all available information, including and in particular ARMIS data, is crucial to the regulatory process. Like Washington and Colorado, New Mexico has gone from rate of return regulation for Qwest to price cap regulation with increased pricing flexibility through an AFOR, with quality of service standards for the provisioning of retail service to ensure continued investment in Qwest's basic infrastructure. The NMPRC has also made efforts to streamline regulation, and is active in its attempts to update regulation to the changing telecommunications market conditions<sup>2</sup>. However, the NMPRC is of the opinion that we have not reached a point where there is full and unbridled competition for intrastate retail telecommunications services in the state of New Mexico, in particular for the larger incumbent local exchange carriers who are the traditional monopolist providers of telephone service. We are in a state of transition, and in order to assist the NMPRC in its efforts to adapt regulation to the level of real competition in the telecom market(s) in New Mexico, the NMPRC would request that the FCC continue to require Qwest to provide the

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<sup>2</sup> Pg 3, *Comments of the Washington Utilities and Transportation Commission*, WC Docket No. 07-204, December 6, 2007. Pg 3, *Comments of the Colorado Public Utilities Commission*, WC Docket No. 07-204, December 6, 2007.

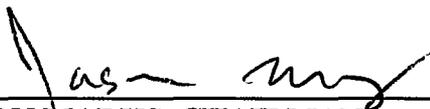
ARMIS Reports 43-01 through 43-08 to the FCC through the denial of Qwest's Petition for Forbearance.

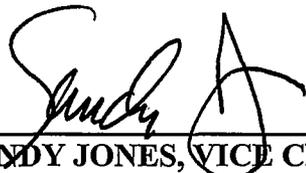
**CONCLUSION**

The NMPRC urges the FCC to deny Qwest's request from ARMIS reporting in its entirety as specified in Qwest's Petition for Forbearance, and to initiate a rulemaking proceeding to review the FCC's ARMIS reporting requirements .

Respectfully submitted,

**NEW MEXICO PUBLIC REGULATION COMMISSION**

  
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**JASON MARKS, CHAIRMAN**

  
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**SANDY JONES, VICE CHAIRMAN**

Approved  
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