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EX PARTE

FILED VIA ECFS

September 24, 2008

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

RE: In the Matters of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, IP-Enabled Services, WC Docket No. 04-36

Qwest Communications International Inc. (“Qwest”) is filing this *ex parte* with the Federal Communications Commission (“Commission”) in the above-referenced dockets.¹

EXECUTIVE SUMMARY

Qwest applauds the recent statements by Commission Chairman Martin that the Commission intends to address comprehensive intercarrier compensation (“ICC”) reform before the end of this year.² The Commission should act immediately and decisively to cut to the heart of

¹ See *In the Matters of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *IP-Enabled Services*, WC Docket No. 04-36.

² See *In Re: Core Communications, Inc.*, D.C. Circuit No. 07-1446, Oral Argument Transcript, May 5, 2008 at 22-24 (response of Joseph R. Palmore, attorney for the Commission). *And see*

the arbitrage problems that plague the current regime. As Qwest and other carriers have detailed at length in the Commission's ICC docket, these problems result largely from the application of vastly disparate rates to identical services based on meaningless distinctions.

The ideal solution for comprehensive ICC reform in the near-term is bill-and-keep at the edge (hereafter, "bill and keep"). Bill and keep is the only solution that is a comprehensive fix of all of the broad variety of arbitrage problems (*e.g.*, all rate disparity (reciprocal compensation or "RC" v. access, intrastate v. interstate) arbitrage schemes, Internet service provider ("ISP")-bound traffic, access stimulation, treatment of Voice over Internet Protocol ("VoIP"), Virtual NXX ("VNXX") and numbers as jurisdictional determinant, etc.) that underlie the current ICC regime. Bill and keep also eliminates costly aspects of the current regime (*e.g.*, complex billing practices and the disputes and litigation they create) and the market distortions that result from the Commission's outdated CPNP and access subsidy frameworks. As with any reform plan, it is critical that, in adopting a bill and keep plan, the Commission ensure that carriers be given the opportunity to recover access revenues lost under the plan. But, the Commission can satisfy this essential requirement, as well as provide answers to the other essential details which must accompany a bill and keep approach, by adopting the transition, point of interconnection ("POI"), and access recovery concepts contained in the recent Verizon ICC proposal. In doing so, the Commission should clarify that, in implementing Verizon's proposed access recovery framework, multi-study area companies will have the flexibility to charge average company subscriber line

TELECOM A.M., July 14, 2008 "Intercarrier Comp Revamp Hoped For by November, Not Promised;" New Release, May 2, 2008 (at 1), "Interim Cap Clears Path For Comprehensive Reform" stating that the Commission's action on ETC support enables the "Commission to now

charges (“SLCs”). The Commission should also clarify that the status of transit services and signaling would remain unchanged under a new bill and keep plan. Finally, the Commission should clarify that a new bill and keep plan would replace only terminating ICC charges (*i.e.*, reciprocal compensation for local traffic and interstate and intrastate terminating access charges). As Verizon proposed in connection with its \$0.0007 proposal, originating access should remain unchanged under a bill and keep approach and the Commission should address the future status of originating access in a Further Notice of Proposed Rulemaking (“*FNPRM*”).

If the Commission does not move to a bill-and-keep approach, adoption of a low and uniform terminating rate such as the recent \$0.0007 approach proposed by Verizon would represent a significant step towards comprehensive ICC reform. However, if the Commission adopts such an approach, it must, at the very least, accompany adoption of that plan with several important clarifications. As with bill and keep, the Commission must, with adoption of the Verizon \$0.0007 proposal, include the clarifications discussed above regarding carrier flexibility to charge average company SLCs and the status of transit services and signaling. In addition, the Commission should modify the Verizon \$0.0007 proposal so that price cap incumbent local exchange carriers (“ILECs”) as well as rate-of-return ILECs have an opportunity to recover, as part of the access recovery mechanism, both lost interstate and intrastate access revenue and any net change in reciprocal compensation. Finally, the Commission should also modify the “grandfathering clause” contained in the Verizon \$0.0007 proposal to ensure that in no event will adoption of that plan result in higher ICC rates anywhere.

move forward expeditiously on comprehensive reform of both the universal service program and intercarrier compensation.”

Regardless of whatever else the Commission may be able to accomplish regarding comprehensive ICC reform in the near term, it is imperative that the Commission also take action to address the status of ISP-bound traffic by November 5, 2008. The action it takes depends of course upon whether it accomplishes comprehensive ICC reform by that date. If the Commission implements comprehensive ICC reform by November 5, 2008, it must ensure that its decision implementing that reform has no unintended retroactive consequences regarding ISP-bound traffic. In the event the Commission does not implement comprehensive ICC reform by November 5, 2008, it must issue a final order by that date providing further legal justification in response to the D.C. Circuit's remand of the *ISP Remand Order* and, in that *Order*, it must also ensure that its decision has no unintended retroactive consequences regarding ISP-bound traffic. As Qwest and other carriers have demonstrated, there are multiple potential legal grounds to support the regime created by the *ISP Remand Order*.

Finally, if the Commission does not accomplish comprehensive ICC reform in the near term, it should, in addition to addressing ISP-bound traffic as discussed above, address the following three fundamental issues: First, the Commission should take further steps to prevent massive and fraudulent "access stimulation" by competitive local exchange carriers ("CLECs"). Second, the Commission should rule that IP voice traffic is subject to the same access charge treatment as other traffic that uses the public switched telephone network ("PSTN"). Third, the Commission should adopt the phantom traffic proposal submitted by USTelecom earlier this year.

Again, Qwest applauds the recent indications by the Commission that it plans to address comprehensive ICC reform by the November 5, 2008 deadline in the Core mandamus proceeding.

Qwest reiterates its continued strong support for permanent, comprehensive ICC reform and stands ready to assist the Commission in that effort.

DISCUSSION

I. THE COMMISSION SHOULD ENACT COMPREHENSIVE ICC REFORM AND BILL AND KEEP IS STILL THE IDEAL PLAN

Qwest agrees with AT&T's recent diagnosis that the problems that plague the current ICC regime are largely attributable to arbitrage resulting from the vastly disparate rates applicable to services that are functionally identical.³ These disparate rates are based on such meaningless distinctions as classification of carrier (ISP or interexchange carrier ("IXC"), etc.), location of end points of a call, "direction of traffic," and the like. The Commission should act immediately and decisively to cut to the heart of these arbitrage problems. And, Qwest continues to believe that a bill and keep approach to ICC reform is ideal. If the FCC does not move to a bill and keep approach, adoption of a low and uniform terminating rate such as the recent \$0.0007 approach proposed by Verizon would represent a significant step toward comprehensive ICC reform. However, if the Commission adopts that approach, it should do so consistent with the important clarifications discussed below.

A. Background: Verizon's \$0.0007 Proposal

On September 12, 2008, Verizon submitted an ICC reform proposal⁴ centered on a proposed \$0.0007 terminating rate for all traffic that builds on the broad "reform dials" framework

³ Letter from Henry Hultquist, AT&T to Marlene H. Dortch, FCC, CC Docket Nos. 01-92, *et al.*, July 17, 2008, at 1; and attached thereto, Letter from Robert W. Quinn, Jr., AT&T to Kevin Martin, FCC, CC Docket Nos. 01-92, *et al.*, July 17, 2008, at 4 ("AT&T July 17, 2008 Martin Letter").

proposed by AT&T in July 2008.⁵ The Verizon \$0.0007 proposal, in summary, would establish, as a default rule for intercarrier compensation for all traffic (*i.e.*, including IP voice traffic), a “single federal default termination rate of \$0.0007 per minute of use.”⁶ Verizon’s plan also includes default rules for POIs/network interconnection pursuant to which all terminating carriers must establish at least one POI per LATA.⁷ Each carrier is then “financially responsible for the *transport* to deliver its traffic to the terminating carrier’s POI and for the *termination* functions performed by the terminating carrier.”⁸

Verizon’s plan also includes, among other things: (a) default rules for transit - leaving existing rates in place and capping transit rates currently subject to access tariffs at today’s interstate access rates;⁹ (b) default rules for dedicated transport charges and common transport charges (*i.e.*, charges for indirect interconnection where the terminating carrier provides transport between its meet point with the tandem transit provider and the terminating carrier’s POI);¹⁰ (c) a call for an *FNPRM* to address originating access charges;¹¹ and (d) a provision leaving existing interconnection contracts and other ICC contracts unchanged, but establishing the Verizon

⁴ Letter from Susanne Guyer, Verizon to Kevin Martin, FCC, CC Docket Nos. 01-92 and 96-45, Sept. 12, 2008 (“Verizon Sept. 12, 2008 Martin Letter”).

⁵ *See, e.g.*, Letter from Brian Benison, AT&T to Marlene H. Dortch, FCC, CC Docket Nos. 01-92, *et al.*, July 24, 2008; AT&T July 17, 2008 Martin Letter at 4-7.

⁶ Verizon Sept. 12, 2008 Martin Letter at 4.

⁷ *See id.*, Exhibit, attached thereto, at 1-3.

⁸ *Id.*, Exhibit at 2 (emphasis in original).

⁹ *See id.*, Exhibit at 3-4.

¹⁰ *See id.*, Exhibit at 4-5.

¹¹ *See id.*, Exhibit at 5.

\$0.0007 plan as the default rule for new agreements or for negotiations upon expiration of existing agreements (hereafter the “grandfathering provision”).¹²

As a glidepath, the Verizon \$0.0007 proposal calls for a transition to a default rate over three years and encourages the Commission to consider stepping down initially during the transition by moving intrastate access rates of all carriers simultaneously to interstate levels.

Finally, the Verizon \$0.0007 plan includes an access recovery framework that seeks to both bring equity to retail end-user rates and give providers the opportunity to recover revenues they previously collected through access charges.¹³ Specifically, the Verizon plan would have the Commission set a “National Comparability Benchmark” (possibly the average urban rate for flat rate residential local telephone service) and a new flexible SLC cap and allow (but not require) providers to raise their SLCs to meet the benchmark.¹⁴ In the event that SLC increases do not, alone, enable providers to recover their lost access revenues, Verizon’s plan would allow them to draw from a new universal service fund (“USF”).¹⁵ However, the support available for a given provider from that fund “will be calculated as though the carrier has raised its SLC rates to the highest levels permitted under the plan.”¹⁶ Under Verizon’s plan, the “access shift” or the amount of lost access revenue each carrier is entitled to seek to recover is defined differently for price cap ILECs and rate-of-return ILECs.¹⁷ The access shift for price cap ILECs is the interstate and

¹² *See id.*, Exhibit at 5-6.

¹³ Verizon Sept. 12, 2008 Martin Letter at 4.

¹⁴ *See id.* at 4.

¹⁵ *See id.* at 4-5, Exhibit at 7-8.

¹⁶ Verizon Sept. 12, 2008 Martin Letter at 8 (internal reference omitted).

¹⁷ *See id.* at 6.

intrastate access revenue that the carrier loses, while the access shift for rate-of-return ILECs is this amount plus the net change in reciprocal compensation that the carrier experiences under the plan.¹⁸

B. Bill And Keep Is The Ideal Approach To Comprehensive ICC Reform

A bill and keep at the edge approach to intercarrier compensation, rather than a system like Verizon's \$0.0007 proposal where carriers pay regulated rates to each other for transport and termination, is the ideal approach for comprehensive ICC reform. As with any plan, it is critical that, in adopting a bill and keep plan, the Commission ensure that carriers be given the opportunity to recover access revenues lost under such a plan. But, the Commission can satisfy this essential requirement, as well as provide answers to the other minimal details which must accompany a bill and keep approach, by adopting the transition, POI, and access recovery concepts contained in the recent Verizon ICC proposal. However, in doing so, the Commission should provide certain clarifications regarding carrier flexibility to charge average company SLCs. Additionally, the Commission should also clarify that the status of transit services and signaling is unchanged by the adoption of bill and keep.

The advantages of a bill and keep approach to comprehensive ICC reform are many. Bill and keep is the only solution that is a comprehensive fix of all of the broad variety of arbitrage problems (*e.g.*, all rate disparity (RC v. access, intrastate v. interstate) arbitrage schemes, ISP-bound traffic, access stimulation, treatment of VoIP, VNXX and numbers as jurisdictional determinant, etc.) that underlie the current ICC regime. Additionally, by requiring terminating carriers to look to their end users as the primary source of revenue recovery for the costs of

¹⁸ *See id.*

terminating calls, bill and keep better targets cost recovery to the cost causers of both local and long distance calls. It, thus, improves upon the Commission's strict traditional CPNP approach which is based upon the outdated and faulty assumption that only calling party end users benefit from a given call. Similarly, a bill and keep approach would enable the Commission to finally meet Congress' instruction to the Commission, in adopting section 254 of the Act, that the Commission eliminate the access regime subsidy framework that distorts choices in the telecommunications market. Finally, a bill and keep approach carries with it huge practical advantages, such as the elimination of costly aspects of the current regime -- *i.e.*, costly billing systems designed to track the variety of disparate rates and types of traffic and the billing disputes and litigation that often result.

If the Commission adopts a bill and keep approach at this time, there are certain essential components of such a plan that must be addressed upfront -- namely a transition, a definition of the edge or POI and an access recovery mechanism. But, for each of these issues, the Commission can simply borrow from the Verizon \$0.0007 proposal. The Commission should, in adopting a bill and keep plan, simply modify Verizon's transition proposal -- *i.e.*, to adopt a three-year transition to bill and keep with an interim step of moving intrastate access charges to interstate rates -- and adopt Verizon's approach to defining the POI and network interconnection (with the exception of transit services, as discussed below). Similarly, the Commission should, in adopting bill and keep, also adopt the Verizon proposed access recovery framework subject to an important clarification. The Commission should clarify that multi-study area companies have the flexibility as may be necessary to charge average company SLCs, if companies wish to price their services in that manner.

As with Verizon's \$0.0007 proposal, the Commission can leave other issues to be addressed later should it adopt bill and keep. But, it should clarify that certain services are not impacted by the new plan. As with the Verizon \$0.0007 plan, the Commission should, in a bill and keep approach, leave originating access out of a bill and keep regime initially in order to ease implementation and rate rebalancing issues. The Commission should clarify that a new bill and keep plan would replace only terminating ICC charges (*i.e.*, reciprocal compensation for local traffic and interstate and intrastate terminating access charges). Originating access should remain unchanged under this bill and keep approach and the Commission should address the future status of originating access in an *FNPRM*. The Commission should also clarify that the status of transit services and signaling are unchanged by a bill and keep regime. These services are not now covered by reciprocal compensation arrangements covering the exchange of local traffic and are also not tariffed access services.

C. If The Commission Were To Adopt, The Verizon \$0.0007 Proposal, It Must Accompany That Ruling With Several Important Clarifications

As demonstrated above, the Commission can and should enact comprehensive ICC reform by adopting a bill and keep at the edge plan which incorporates, along with the clarifications discussed above, the transition, edge/POI and access recovery concepts included in the Verizon \$0.0007 plan. But, if the Commission were to adopt the Verizon \$0.0007 proposal, it must accompany adoption of that plan with several important clarifications. Again, with adoption of the Verizon \$0.0007 proposal, as with a bill and keep plan, the Commission must make the clarifications discussed above that multi-study area companies have the flexibility to charge average company SLCs as part of the access recovery framework and that the status of transit

services and signaling remain unchanged by the new plan. Additionally, the Commission should modify the definition under the Verizon \$0.0007 proposal of the access shift amount so that price cap ILECs as well as rate-of-return ILECs have an opportunity to recover both lost interstate and intrastate access revenue and the net change in reciprocal compensation that the carrier experiences under the plan. All carriers who face higher reciprocal compensation expenses as a result of a \$0.0007 plan should have the opportunity to recover those in an access recovery mechanism. Finally, the Commission should also modify the “grandfathering provision” contained in the Verizon proposal to ensure that in no event will adoption of the Verizon \$0.0007 proposal result in higher ICC rates anywhere. Again, a significant contributing factor to the problems underlying the current ICC regime are the high level of ICC rates, generally, and the implicit subsidies inherent in those high rates. Any ICC reform solution therefore should move in the direction of lowering existing rates and, in all events, avoid increasing rates where parties have already negotiated or states have already ruled that bill and keep or a lower rate is appropriate in a given context. In other words, in such circumstances, those arrangements should not now go to \$0.0007 as a result of the adoption of Verizon’s plan. Verizon’s “grandfathering provision,” which leaves existing contracts unchanged until evergreen and then establishes \$0.0007 as the default rate subject to negotiations for a new agreement is not adequate to accomplish this.

**II. THE COMMISSION MUST, IN ALL EVENTS, ADDRESS
ISP-BOUND TRAFFIC BY NOVEMBER 5, 2008**

Regardless of whatever else the Commission may be able to accomplish regarding comprehensive ICC reform in the near term, it is imperative that the Commission also take action in the ISP remand docket by November 5, 2008. The action it takes there depends of course upon

whether it accomplishes comprehensive ICC reform by that date. If the Commission implements comprehensive ICC reform by November 5, 2008, it must ensure that its decision implementing that reform has no unintended retroactive consequences regarding ISP-bound traffic. In the event the Commission does not implement comprehensive ICC reform by November 5, 2008, it must issue a final order by that date providing further legal justification in response to the D.C. Circuit's remand of the *ISP Remand Order* and, in that order, it must also ensure that its decision has no unintended retroactive consequences regarding ISP-bound traffic. As Qwest and other carriers have demonstrated, there are multiple potential legal grounds to support the regime created by the *ISP Remand Order*. Specifically, the Commission can rule: (a) that ISP-bound traffic is non-local and therefore falls outside the reach of section 251(b)(5); (b) that ISP-bound traffic imposes no "additional costs" on LECs that terminate calls to ISPs; or (c) that it forbears from applying traditional reciprocal compensation rates to ISP-bound traffic.¹⁹ But, no matter how the issue is resolved, the Commission cannot allow vacation of the *ISP Remand Order* by virtue of its failure to act by November 5.

III. IN THE EVENT THE COMMISSION DOES NOT ENACT COMPREHENSIVE REFORM IN THE NEAR-TERM, IT SHOULD ALSO ADOPT FURTHER INTERIM RULINGS TO ACCOMPANY ACTION ON THE *ISP REMAND ORDER*

As noted above, in the event the Commission does not enact comprehensive reform in the near-term, it is most critical that the Commission adopt, by November 5, 2008, a final order providing further legal justification for the framework adopted in the *ISP Remand Order* and ensuring that that decision has no unintended retroactive consequences regarding ISP-bound

¹⁹ Qwest is, this same date, filing a separate *ex parte* letter addressing these issues related to ISP-

traffic. But, in that event, the Commission should also take the following important actions:²⁰

(1) take further steps to prevent massive and fraudulent “access stimulation” by CLECs; (2) rule that, at least on an interim basis, IP voice traffic is subject to the same access charge treatment as other traffic that uses the PSTN; and (3) address phantom traffic by adopting the proposal of USTelecom submitted earlier this year.²¹

A. The Commission Should Resolve The Access Stimulation Problem

Almost as critical as the *ISP Remand* issue is the issue of “access stimulation.” The practice of some rural ILECs and CLECs of abusing their terminating monopolies and their ability to charge extremely high access rates by artificially “pumping” access traffic into their switches continues to grow despite the fact that the Commission has taken great strides to fix the problem in the case of ILECs.²² This is because the artificially pumped traffic is, in many cases, being shifted to sham CLECs -- *i.e.*, CLECs owned by the same small ILECs whose access stimulation activities the Commission has tried to deal with in the past. Access stimulation is a scam, pure and simple. Qwest agrees with AT&T that the Commission can address the problem of access

bound traffic and the *ISP Remand Order* in greater detail.

²⁰ In addition to the ISP-bound traffic/*ISP Remand Order*, access stimulation, access charges for IP voice traffic, and phantom traffic issues discussed herein, Qwest believes the Commission should also take interim action, as soon as possible and consistent with Qwest’s past filings regarding transiting, VNXX, and intraMTA traffic. *See, generally*, Qwest Reply Comments, CC Docket No. 01-92, filed Feb. 1, 2007. Qwest also agrees with AT&T that the Commission should promptly address the asymmetrical compensation, “IP-in-the-Middle,” and interconnection point manipulation problems addressed by AT&T in its July 17th *ex parte*. AT&T July 17, 2008 Martin Letter at 10-12. The issues noted above, however, are of highest priority.

²¹ *See* letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission from Glenn Reynolds, USTelecom, CC Docket No. 01-92, filed May 16, 2008.

stimulation through modest and immediate measures.²³ The Commission should take immediate action to address this issue consistent with these prior Qwest filings.

B. The Commission Should Rule That Access Charges Apply To IP Traffic

As indicated by the completely divergent positions reflected in the petitions for forbearance filed recently by FGIP²⁴ and Embarq²⁵ and the recent AT&T petition,²⁶ there are ongoing carrier disputes with regard to the proper regulatory treatment of IP voice traffic for intercarrier compensation purposes. IP voice traffic uses local exchange switching facilities to originate and terminate non-local voice traffic in the same manner as all other providers and users of voice services. Accordingly, the Commission should rule that access charges apply to IP voice traffic in the same way that they apply to all other traffic that uses the PSTN.

As Qwest demonstrated in its comments filed in connection with the FGIP and Embarq petitions, the best way to accomplish that would be to grant the relief requested in the Embarq forbearance petition and extend that relief to all similarly situated carriers. Again, that ruling

²² See, e.g., *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers*, Notice of Proposed Rulemaking, 22 FCC Rcd 17989, 17994-95 ¶¶ 11-12, 17995-96 ¶¶ 14-15, 17997-98 ¶¶ 18-20 (2007).

²³ See, e.g., Qwest *ex partes* in WC Docket No. 07-135, dated May 21, 2008 and attachment thereto at 3; Apr. 25, 2008 and attachment (“Access Stimulation”) thereto at 7-8. See also AT&T July 17, 2008 Martin Letter at 10.

²⁴ See Petition for Forbearance of Feature Group IP West LLC, Feature Group IP Southwest LLC, UTEX Communications Corp., Feature Group IP North LLC, and Feature Group IP Southeast LLC Pursuant to 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(a)(1) and Rule 69.5(b), WC Docket No. 07-256, filed Oct. 23, 2007 (“FGIP Petition”).

²⁵ See Petition of the Embarq Local Operating Companies for Limited Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Rule 69.5(a), 47 U.S.C. § 251(b), and Commission Orders on the ESP Exemption, WC Docket No. 08-8, filed Jan. 11, 2008.

²⁶ See Petition of AT&T Inc. for Interim Declaratory Ruling and Limited Waivers Regarding Access Charges and the “ESP Exemption”, WC Docket No. 08-152, filed July 23, 2008.

should be granted consistent with several important clarifications discussed in Qwest's filings.²⁷

In its petition, Embarq contended that non-local IP voice traffic should be, for purposes of applying switched access charges, treated the same as any other traffic terminating on the PSTN -- *i.e.*, access charges would always apply to such traffic. Embarq asserted that the Commission's ESP exemption does not apply to IP voice traffic and in any event that the ESP exemption should not be construed to exempt IP voice traffic from access charges. But, in the alternative, Embarq asked that the Commission forbear from enforcement of the ESP exemption to the extent it may be claimed to apply to IP voice traffic. In what would be a change of law ruling, Qwest encourages the Commission to grant the Embarq forbearance request on behalf of Embarq and all similarly situated carriers and forbear from enforcement of the ESP exemption to the extent it may be claimed to apply to IP voice traffic.

**C. The Commission Should Enter Interim Relief
With Respect To Phantom Traffic**

Qwest also echoes AT&T's comments that the phantom traffic problem can and should be addressed in immediate interim action by the Commission. Qwest and numerous other carriers have stated their support for the proposal of USTelecom submitted earlier this year.²⁸ Adopting USTelecom's proposal would represent a significant step towards solving this problem.

²⁷ In addition to ensuring that a grant of the Embarq Petition applies to the entire industry, the Commission should make it unambiguously clear that geographical end-points and not telephone numbers are the proper determinants of whether a call is local versus non-local (or, for non-local traffic, whether interstate or intrastate access charges apply). As Qwest explained in that filing, carriers may use telephone numbers as a surrogate for billing purposes provided, however, that, as in other contexts such as nomadic wireless use, there must be an ability for carriers to ensure that, in the end, billing accurately reflects jurisdiction. Additionally, the Commission should clarify that the requested relief applies only to non-local IP voice traffic.

²⁸ See note 21, *supra*.

Ms. Marlene H. Dortch
September 24, 2008

Page 16 of 16

IV. CONCLUSION

Qwest respectfully requests that the Commission take action consistent with the above.

Respectfully submitted,

/s/ Melissa E. Newman

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