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EX PARTE

*Filed electronically via ECFS*

December 4, 2008

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

Re: *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92  
*In the Matter of High-Cost Universal Service Support*, WC Docket No. 05-337  
*In the Matter of Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68  
*In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135  
*In the Matter of Universal Service Contribution Methodology*, WC Docket No. 06-122  
  
*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

Dear Ms. Dortch:

On December 4, 2008, Lynn Starr and Melissa Newman of Qwest met in separate meetings with Amy Bender, Legal Advisor to Commissioner Martin, and with Scott Deutchman, Legal Advisor to Commissioner Copps, to discuss the above-captioned proceedings.

The attached document was used as a basis for the ARMIS discussion. The discussion regarding intercarrier compensation reform was consistent with Qwest's past filings, particularly Qwest's filing of November 26, 2008.

Pursuant to Sections 1.1206 and 1.49(f), 47 C.F.R. §§ 1.1206, 1.49(f), of the Commission's Rules, this *ex parte* is being filed electronically with the Commission.

Sincerely,

/s/ Melissa E. Newman

Attachment

Copy via email to:  
Amy Bender  
Scott Deutchman

**Qwest**®



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WC Docket 07-204  
ARMIS Forbearance Petition

December 4, 2008

## Introduction

- The Commission implemented ARMIS in 1987 to meet the needs of a bygone regulatory era—rate-of-return regulation.
- Small ILECs, CLECs, Cable, Wireless, VOIP and satellite providers do not file ARMIS.
- The reporting for which relief has not already been granted is high-level corporate and financial information.
- Reporting of high-level financial information by a small subset of ILECs regulated under price caps is unnecessary to 1) ensure just and reasonable rates, 2) to protect consumers or 3) to protect the public interest.
- Qwest's request for forbearance easily satisfies the Section 10 criteria.

# Summary of Relief Sought By Qwest in Its Petition and Granted By the Commission in Other Proceedings

- ARMIS Report 43-01, Annual Summary – partially granted (1)
- ARMIS Report 43-02, USOA Report – partially granted (1)
- ARMIS Report 43-03, Joint Cost Report – partially granted (1)
- ARMIS Report 43-04, Separations and Access Report – granted (2) (3)
- ARMIS Report 43-05, Service Quality Report – granted (3)
- ARMIS Report 43-06, Customer Satisfaction Report – granted (3)
- ARMIS Report 43-07, Infrastructure Report – granted (3)
- ARMIS Report 43-08, Operating Data Report – granted (3) (4)
- ARMIS Report 495A, Forecast of investment Usage – granted (3)
- ARMIS Report 495B, Actual Usage of Investment – granted (3)
- FCC 492A Report, Rate-Of-Return Monitoring Report – granted (3)

(1) After Qwest's cost assignment forbearance compliance plan is approved, Qwest will not generate some of the federal regulatory data used to populate this report.

(2) After Qwest's compliance plan is approved, Qwest will not provide this report.

(3) Relief granted by FCC 08-203. See ¶ 22, ¶ 51 and footnote 82.

(4) Qwest's request did not include the data in ARMIS 43-08 Table III, columns FC, FD and FE. This data is business line counts associated with the Commission's establishment of non-impairment thresholds in the TRRO order. See TRRO at ¶105 and 47 CFR §51.5

## ARMIS Report 43-01, Annual Summary

- Filed by Study Area
- Table 1 – Cost and Revenue
  - Data generated after compliance plan approval:
    - (b) Total
  - Data not generated for federal regulatory purposes after compliance plan approval:
    - (c) Non-regulated
    - (d) Adjustments
    - (f) Subject to Separations
    - (g) State
    - (h) Interstate
    - (m) Common Line
    - (n) Traffic Sensitive Switching
    - (p) Traffic Sensitive Transport
    - (r) Traffic Sensitive Total
    - (s) Special Access
    - (u) Billing & Collection
    - (v) IX

## ARMIS Report 43-01, *continued*

- Table 2 – Demand Analysis

- Unaffected by prior forbearance orders
- Switched Traffic Sensitive Demand MOU - provided quarterly to NECA
- Access Line data - largely duplicative of data provided on ARMIS 43-08

- Table 3 – Pole and Conduit Rental Calculation Information

Qwest agrees to file, voluntarily and publicly, pole attachment data (*i. e.*, the same pole attachment data that is contained in ARMIS Report 43-01, Table III) with the Commission upon grant of Qwest's pending ARMIS forbearance petition. *See October 23, 2008 Qwest ex parte in Docket No. 07-204*

## ARMIS Report 43-02, USOA Report

- Filed at the operating company level only
- Provides corporate and financial information:
  - Table C-3 Respondent Corporate Information
  - Table C-5 Important Changes During the Year
  - Table B-1 Balance Sheet Accounts
  - Table B-2 Statement of Cash Flows
  - Table B-3 Investments in Affiliated Companies
  - Table B-4 Analysis of Assets Purchased From or Sold To Affiliates (1)
  - Table B-5 Analysis of Entries in Accumulated Depreciation
  - Table B-6 Summary of Investment and Accumulated Depreciation By Jurisdiction
  - Table B-7 Bases of Charges for Depreciation
  - Table B-10 Accounts Payable To Affiliates
  - Table I-1 Income Statement Accounts
  - Table I-2 Analysis of Services Purchased From or Sold to Affiliates (1)
  - Table I-6 Special Charges
  - Table I-7 Donations or Payments for Services Rendered by Persons Other Than Employees

(1) After Qwest's cost assignment forbearance compliance plan is approved, Qwest will not generate some of the federal regulatory data used to populate this report.

## ARMIS Report 43-02, *continued*

### Table B-4 Analysis of Assets Purchased From or Sold to Affiliates

- Federal regulatory data generated after compliance plan is approved
  - Column (c) Net Book Cost Total Purchases/Sales
  - Column (g) Total Purchases/Sales
- Federal regulatory data not generated after compliance plan is approved
  - Column (d) Fair Market Value
  - Column (e) Tariff
  - Column (ee) Publicly Filed Agreements
  - Column (f) Prevailing Market Price

### Table I-2 Analysis of Services Purchased From or Sold to Affiliates

- Federal regulatory data not generated after compliance plan is approved
  - Column (c) Fully Distributed Cost
  - Column (cc) Fair Market Value
  - Column (d) Tariff Rate
  - Column (dd) Publicly Filed Agreements
  - Column (e) Prevailing Market Price
- Federal regulatory data generated after compliance plan is approved
  - Column (f) Total Purchases/Sales

## ARMIS Report 43-03, Joint Cost Report

- Filed by Study Area
- Contains one schedule: Table 1 – Regulated/Nonregulated Data
  - Federal regulatory data generated after compliance plan approval:
    - Column (b) Total only
  - Federal regulatory data not generated after compliance plan approval:
    - Column (c) Direct Regulated
    - Column (d) Direct Non-regulated
    - Column (e) Indirect Regulated
    - Column (f) Indirect Non-regulated
    - Column (g) Generally Allocated Regulated
    - Column (h) Generally Allocated Non-regulated
    - Column (i) Total Regulated
    - Column (j) Total Non-regulated
    - Column (k) Adjustments
    - Column (m) Subject to Separations

## Who Files

- Filers
  - Mandatory Price Cap ILECs
  - Elective Price Cap ILECs above \$138M revenue threshold (43-01 only)
  - Non-Price Cap ILECs above \$138M revenue threshold (43-01 only)
- Non-filers
  - Elective Price Cap ILECs below \$138M revenue threshold
  - Non-Price Cap ILECs below revenue threshold
  - CLECs
  - Cable providers
  - Mobile Wireless providers
  - Fixed Wireless providers
  - VOIP providers
  - Satellite providers

## Original Purpose

“This automated system is intended to facilitate the timely and efficient analysis of revenue requirements and rates of return, to provide an improved basis for audit and other oversight functions and to enhance our ability to quantify the effects of alternative policy proposals.” FCC 87-242 ¶ 1

“Our need to organize and automate...has arisen from the increasing scope and complexity of our regulatory responsibilities.” FCC 87-242 ¶ 2

More detailed examination of jurisdictional separations post divestiture.

Review access tariff filings annually.

Determine whether joint costs incurred are properly allocated between regulated and non-regulated.

## Section 10 Forbearance Criteria

- (1) enforcement of the regulation is not necessary to ensure that charges and practices are just, reasonable, and not unjustly or unreasonably discriminatory;
- (2) enforcement of the regulation is not necessary to protect consumers; and
- (3) forbearance is consistent with the public interest.

## Just Rates

None of these reports is necessary to ensure that charges and practices are just, reasonable, and not unjustly or unreasonably discriminatory.

- They do not contain data used to set rates.
- With the approval of Qwest's compliance plan, they will not contain data that could be used to set rates because they lack Part 36 and 64 data.

## Consumer Protection

None of these reports is necessary to protect consumers.

- High level corporate and financial data is not useful for consumer protection.
- Therefore no connection exists between these regulations and consumer protection.

## Public Interest

- In 2001 the Commission—with an eye towards achieving Congress’s goal in the 1996 Act of achieving a truly “pro-competitive, de-regulatory national policy framework”—recognized that “any unnecessary regulation places a corresponding unnecessary burden on the carriers subject to it.” Phase III FNPRM, FCC 01-305, ¶ 2.
- In the 2001 Phase III FNPRM, the Commission tentatively concluded that it “should leave these federal [accounting and reporting] requirements in place for a period of three years...after which the federal requirements would terminate.” FCC 01-305 ¶ 207.
- The industry’s evolution makes the Commission’s reasoning far more compelling now than it was seven years ago.
- Relief from the remaining ARMIS reporting requirements will unburden Qwest from preparing and filing financial reports that are:
  - unnecessary under price caps regulation and
  - not filed by most ILECs, all CLECs, and all cable, wireless, VOIP and satellite operators.