VIA ELECTRONIC DELIVERY

August 7, 2009

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554 (via e-mail)

Re: Ex Parte Communication, WC Docket No. 05-337 and CC Docket No. 96-45

Dear Ms. Dortch:

On July 13, 2009, Qwest Communications International, Inc. (“Qwest”) filed a report of a meeting that Qwest personnel had with staff of the Federal Communications Commission (“FCC” or “Commission”) Wireline Competition Bureau Telecommunications Access Policy Division (“TAP”), concerning the high-cost Universal Service Fund (“USF”) for non-rural carriers. Because the information provided to TAP was seriously incomplete and repeated errors made by Qwest in earlier filings in these dockets, the National Association of State Utility Consumer Advocates (“NASUCA”)[1] provides this response in the interest of an accurate record.

- Qwest states: “Qwest is projected to receive less than $24 million in federal high cost support in 2009, in just four states (Montana, Nebraska, South Dakota and Wyoming)”[2]

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[1] NASUCA is a voluntary national association of consumer advocates in more than 40 states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. *See, e.g.*, Ohio Rev. Code Chapter 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205(b); Minn. Stat. Ann. Subdiv. 6; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

[2] Qwest Presentation at 3.

Once again, Qwest mentions only the support it receives from the FCC's high-cost model ("HCM") and omits the substantial support it receives from the rest of the high-cost fund, specifically Interstate Access Support ("IAS"). In 2009, based on annualized figures for the third quarter of 2009, Qwest should receive some $64 million in high-cost support, when both HCM and IAS are counted.[3]

- Similarly, Qwest states, "The non-rural program currently provides support in only 10 states, with Mississippi receiving $199 million or 59% of the fund"[4]

In 2008, the high-cost fund disbursed a total of $1.4 billion to non-rural carriers, with only two jurisdictions – the District of Columbia and New Jersey – receiving no high-cost funding for non-rural carriers.[5] This included HCM, IAS, and for a few non-rural carriers, Interstate Common Line Support ("ICLS"); the total includes both incumbent and competitive carriers, as did Qwest's $199 million HCM figure.

- Qwest asserts that it receives no support in Gunnison, Colorado, "where density is less than 5 access lines per [square] mile in an area larger than Rhode Island"[6]

It is hard to believe that none of the almost $18 million in IAS Qwest received in Colorado in 2008 found its way to Gunnison. More importantly, Qwest's residential **rates** in Gunnison are the same as in Denver and throughout the rest of the state.[7] Thus under the law, Qwest's rural rates in Colorado are "reasonably comparable" to its urban rates, and it needs no additional support.

These statewide uniform rates undercut Qwest's claims that:

- "The underpinnings of statewide averaged-based support have been undermined by substantial market share losses in urban areas (e.g., Omaha, Phoenix, Seattle, Denver, Minneapolis)"[8]

It is up to Qwest to seek rate relief first from the state. If Qwest will not do so (or if the state will not accede to that request), then it should not be the responsibility of consumers

[3] Universal Service Administrative Company ("USAC") filing for 3Q09, Appendix HC-01.

[4] Qwest Presentation at 2.

[5] USAC 2008 Annual Report, at 48. It is true that in 2008 the HCM amounted to $350 million, with Mississippi receiving $203 million (or 58%) of that total. Id. at 47. In 2008 in Mississippi, incumbent carriers (non-rural and rural) received $128 million, while competitive carriers received $162 million, for a total of $289 million. Id. at 48. Thus elimination of the identical support rule, which NASUCA and Qwest (see Qwest Comments (April 17, 2008) at 2) have both supported, would ease this problem in Mississippi.

[6] Qwest Presentation at 3.

[7] Currently, the uniform rate is $14.88 per month; within a short time, the rate will be $16.52, **again uniform statewide.** See TR State Newswire (July 28, 2009).

[8] Qwest Presentation at 7.

in other states to provide additional support, especially when the state rates are both reasonably comparable within the state and reasonably comparable to the national average urban rate.[9]

- Qwest describes its proposal as to "[r]e-target support to all wire centers served by non-rural carriers with a cost per line of more than 125% of the national average urban rate"[10]

Qwest does not mention that, by its own calculation, its proposal would increase the high-cost fund by **$1.2 billion**.[11] And Qwest does not mention its "compromise" proposal, which was to eliminate AT&T and Verizon from the take. That would reduce the incremental funding to $322 million.[12]

- Qwest says that "[t]he FCC can offset potential increases to the universal service fund size by:
  – Only supporting a single line per household or business per eligible telecommunications carrier
  – Adopting its tentative conclusion to eliminate interstate access support (IAS) and interstate common line support (ICLS) for competitive eligible telecommunications carriers"[13]

Qwest does not indicate how much revenue would be able to be reallocated to its plan from these two sources. But a back-of the-envelope calculation from USAC's Appendix HC01 for 3Q09 shows that non-rural CETCs are scheduled to receive just over $600 million in IAS and ICLS in 2009. It is not clear how many dollars would be saved by not supporting multiple lines per household for a single ETC.[14] Thus the offset would be insufficient.

The more fundamental question, however, is whether Qwest's wire-centric proposal is necessary to ensure that non-rural carriers' rural rates are reasonably comparable to their urban rates. **Neither Qwest nor any other carrier making a similar proposal has demonstrated such a necessity**. Qwest's proposal must be rejected.

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[9] In 2007, the national urban average rate was $25.62, with a standard deviation of $5.45. December 2008 Monitoring Report, Table 7.9.

[10] Qwest Presentation at 4.

[11] Qwest Proposal, cover letter at 2. Previously, Qwest had proposed a wire-center-centric support mechanism that would have cost an additional $1.9 billion. See NASUCA Reply Comments (May 26, 2008) at 28.

[12] Qwest Proposal, cover letter at 1.

[13] Qwest Presentation at 11.

[14] Indeed, NASUCA has long favored supporting only a single line per household; thus only one ETC would receive support for a specific household. Unfortunately, Congress has, on a year-by-year basis, forbidden the Commission from adopting such a measure. See, e.g., Omnibus Appropriations Act (Pub. Law 118-8), § 502.

Respectfully submitted,

/s/
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