

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Request for Review by AT&T of Decision) WC Docket No. 05-337
of Universal Service Administrator)

**COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.
IN SUPPORT OF AT&T'S REQUEST FOR REVIEW**

Qwest Communications International Inc. ("Qwest"), submits these comments in accord with the Federal Communications Commission's ("Commission") Public Notice and in support of AT&T Inc.'s ("AT&T") Request for Review filed April 24, 2009 in the above-referenced docket.¹

AT&T seeks review of the Universal Service Administrative Company's ("USAC") audit finding that certain AT&T companies were in "material noncompliance" with the Commission's high-cost support program rules. The finding was apparently based on the application of a USAC guideline for high-cost program audits that "any non-compliance which results in a monetary impact which exceeds the lesser of 5% of funds disbursed, relative to each component of the [high-cost program], or \$100,000 is considered material."² The AT&T companies were found to be materially non-compliant because the monetary impact of their inaccurate line count submissions exceeded \$100,000.

Qwest agrees with AT&T that a fixed-dollar amount threshold for material non-compliance is not appropriate. Instead, any threshold guideline should use a percentage of the support received, such as the 5% materiality guideline. Even then, as AT&T notes, any

¹ See Public Notice, Comment Sought on AT&T Request for Review of a Decision of the Universal Service Administrator, DA 09-1561, WC Docket No. 05-337, rel. July 21, 2009.

² AT&T Request at 4-5.

percentage threshold should be a guideline and not an absolute requirement. The auditor must still be able to exercise its independent judgment as to whether other factors would result in a conclusion that the non-compliance was not material.

When the amount of support under review is in excess of \$10 million, which can be the case for larger companies, a \$100,000 materiality threshold equates to an error rate of less than 1.0%. Finding material non-compliance on this basis alone is absurd. It is a threshold that for some requires nothing short of perfection. A fixed-amount materiality threshold, without any consideration of other factors, actually creates a significantly different materiality threshold for different carriers. It imposes a higher compliance standard for any carrier whose support under review is greater than \$2 million. The fixed amount threshold -- even as guidance -- must be eliminated in order to avoid this inequitable treatment.

A finding of material noncompliance is a serious finding that implies that a company has significant problems with its internal processes. Such a determination should be made after careful consideration of all the relevant factors as part of the auditor's application of proper auditing techniques and the exercise of its professional judgment. It should not be made merely upon a finding that a certain monetary threshold has been crossed.

For these reasons, Qwest supports AT&T's Request for Review and agrees that the Commission should direct USAC to remove any fixed-amount threshold from its guidelines for evaluating material non-compliance.

Respectfully submitted,

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August 20, 2009

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. IN SUPPORT OF AT&T'S REQUEST FOR REVIEW** to be: 1) filed with the FCC via its Electronic Comment Filing System in WC Docket No. 05-337; 2) served via e-mail on Mr. Ernesto Beckford at Ernesto.beckford@fcc.gov and Ms. Antoinette Stevens at Antoinette.stevens@fcc.gov, both of the Telecommunications Access Policy Division, Wireline Competition Bureau; 3) served, via e-mail on the FCC's duplicating contractor Best Copy and Printing, Inc. at fcc@bcpiweb.com; and 4) served via e-mail on Ms. Cathy Carpino, AT&T at Cathy.carpino@att.com.

/s/ Richard Grozier

August 20, 2009