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REDACTED – FOR PUBLIC INSPECTION

VIA COURIER

January 19, 2010

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

RE: *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25;*
In the Matter of AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593

Dear Ms. Dortch:

Pursuant to the Public Notice of November 5, 2009 in the above-captioned proceedings, as published in the Federal Register on December 4, 2009, Qwest Communications International Inc. is filing the attached Comments.

Qwest seeks confidential treatment of the Declaration of Timothy Tardiff and Dennis Weisman, attached to its Comments, pursuant to the June 8, 2005 Order and Protective Order in WC Docket No. 05-25, 20 FCC Rcd 10160 (2005) (or Protective Order). Qwest also notes that notwithstanding the Protective Order, there is a separate statutory basis for not making the confidential information in the Declaration available for public inspection. 47 C.F.R. §§ 0.457(d), 0.459. Thus, Qwest also seeks confidential treatment of its Declaration in WC Docket No. 05-25, as well as in RM-10593, wherein the FCC has *not* adopted a Protective Order, pursuant to 47 C.F.R. §§ 0.457(d) and 0.459, for which it provides justification in the attached appendix. Qwest and its consultants, Tardiff and Weisman, consider the information in the Declaration attached to its Comments to be confidential trade secret, commercial information that is “not routinely available for public inspection.” 47 C.F.R. § 0.457(d).

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It was not feasible to physically separate the confidential information in the Declaration from the non-confidential information, per 47 C.F.R. § 0.459(a), so Qwest is filing non-redacted and redacted versions of its submission. Qwest has marked each page of its Declaration (non-redacted version) as follows: **“CONFIDENTIAL INFORMATION (COPYING PROHIBITED) – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission”**. Each page of the redacted version of its Declaration is marked **“REDACTED – FOR PUBLIC INSPECTION”**. A copy of Qwest’s Comments, the text of which includes no confidential information, is associated with the submission of both the non-redacted and redacted versions of the Declaration. This cover letter contains no confidential information and is included (with the same text except for the markings) with both the non-redacted and redacted versions of the submission.

Qwest considers information contained in the Tardiff/Weisman Declaration -- which illustrates special access prices for 2002 and 2005 through 2008 for certain Metropolitan Statistical Areas that Qwest serves and also ARMIS 2008 Report revenue-related and derived data for Qwest Corporation -- to be confidential, and proprietary as “trade secrets” and/or “commercial information” or is otherwise confidential under Section 0.457(d) and the June 8, 2005 Protective Order. This Protective Order defines “Confidential Information” (at paragraph 1 of Appendix A attached thereto) as “information contained in Stamped Confidential Documents or derived therefrom that is not otherwise available from publicly available sources[.]” Qwest has marked the information in the Declaration as confidential; not withholding this type of confidential information from public inspection would risk revealing company-sensitive proprietary commercial and financial information. Given the sensitivity of this information, Qwest is designating it “Copying Prohibited” pursuant to paragraph 6 of the Protective Order.

For the non-redacted version of the submission, Qwest is filing via courier with the Office of the Secretary one copy in each of the above-captioned dockets, along with an additional copy to be stamped and returned to the courier. As to the redacted version of the submission, wherein the confidential information has been omitted from the Declaration, Qwest is filing it via the FCC’s Electronic Comment Filing System in each of the above-captioned dockets. Also, pursuant to paragraphs 3 of the Order and 8.d. of the Protective Order, two copies of the non-redacted version (with confidential information) are to be transmitted to Margaret Dailey (Room 5-A221) or Pamela Arluk (Room 5-A266), Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission at 445 12th Street, S.W., Washington, DC 20554. In addition, pursuant to the November 5, 2009 Public Notice, Qwest is also serving a copy of the redacted version of its submission via e-mail on Ms. Daily and the FCC’s copy contractor, Best Copy and Printing, Inc.

Please contact me at 303.383.6649 if you have any questions.

Marlene H. Dortch
January 19, 2010

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/s/ Craig J. Brown

Attachments

Two copies (non-redacted version) to be delivered to:
Margaret Dailey or Pamela Arluk

Copy (redacted version) via email to:
Margaret Daily (Margaret.daily@fcc.gov)
Best Copy and Printing, Inc. (fcc@bcpiweb.com)

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APPENDIX

Confidentiality Request and Justification

Qwest requests confidential treatment of the Declaration of Timothy Tardiff and Dennis Weisman, as attached to its January 19, 2010 Comments in WC Docket No. 05-25 and RM-10593, pursuant to the Order and Protective Order (or Protective Order) in WC Docket No. 05-25, released on June 8, 2005, as well as pursuant to 47 C.F.R. §§ 0.457(d), 0.459.

47 C.F.R. § 0.457(d)

Qwest and its consultants, Tardiff and Weisman, consider the information contained in the Tardiff/Weisman Declaration to be confidential, and proprietary as “trade secrets” and/or “commercial information” or is otherwise confidential under Section 0.457(d) and the Protective Order. The Protective Order defines “Confidential Information” (at paragraph 1 of Appendix A attached thereto) as “information contained in Stamped Confidential Documents or derived therefrom that is not otherwise available from publicly available sources[.]” Qwest has marked the information in the Declaration as confidential; not withholding this type of confidential information from public inspection – which illustrates special access prices for 2002 and 2005 through 2008 for certain Metropolitan Statistical Areas that Qwest serves and also includes ARMIS 2008 Report revenue-related and derived data for Qwest Corporation -- would risk revealing company-sensitive proprietary commercial and financial information. Given the sensitivity of this information, some of which shows revenue-weighted average price calculations for multiple price flexibility categories and is 2008 revenue-related and derived data, Qwest is designating it “Copying Prohibited” pursuant to paragraph 6 of the Protective Order.

Qwest also seeks non-disclosure to the public of the information it has designated confidential under Section 0.457(d). This information is described in the preceding paragraph. Disclosure of this information to the public that Qwest and its consultants, Tardiff and Weisman, consider confidential would risk revealing company-sensitive proprietary commercial and financial information. Therefore, in the normal course of Commission practice this information should be considered “Records not routinely available for public inspection.”

47 C.F.R. § 0.459

Specific information included with Tardiff/Weisman Declaration is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

Information for which confidential treatment is sought

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Qwest requests that the information contained in the Tardiff/Weisman Declaration be withheld from public disclosure under Exemption 4 of the Freedom of Information Act. The Declaration contains sensitive trade secrets, commercial/financial or other information which Qwest maintains as proprietary and/or confidential and is not normally made available to the public. Release of the information could have a negative competitive impact on Qwest. Each page of the Declaration (non-redacted version) is marked with the following legend:

“CONFIDENTIAL INFORMATION (COPYING PROHIBITED) – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission”.

Commission proceeding in which the information was submitted

The filing is being submitted in *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25; and *In the Matter of AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information designated as confidential contains sensitive trade secrets, commercial/financial or other information which Qwest maintains as proprietary and withholds from public inspection. Release of the information could have a negative competitive impact on Qwest.

Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

The type of trade secrets or commercial/financial information characterized as confidential by Qwest and its consultants, Tardiff and Weisman, is relevant to Qwest’s special access pricing for 2002 and 2005 through 2008 for certain Metropolitan Statistical Areas that Qwest serves and also includes ARMIS 2008 Report revenue-related and derived data for Qwest Corporation. This sensitive or proprietary internal Qwest confidential commercial/financial information contained in the Declaration attached to its Comments, some of which shows revenue-weighted average price calculations for multiple price flexibility categories and is 2008 revenue-related and derived data (which is designated “Copying Prohibited” pursuant to paragraph 6 of the Protective Order), would generally not be subject to routine public inspection under the Commission’s rules (47 C.F.R. § 0.457(d)), which demonstrates that the Commission already anticipates that the release of this kind of information likely would produce competitive harm. Qwest confirms that release of this information would cause it competitive harm by allowing competitors to become aware of sensitive trade secrets, commercial/financial or other confidential information regarding the operation of Qwest’s business as it relates to the provision of special access services.

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Measures taken by Qwest to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Qwest has treated and treats the information disclosed in this submission, which it has shared with its consultants, Tardiff and Weisman, as confidential and has protected it from public disclosure to parties outside of the company.

Justification of the period during which Qwest asserts that the material should not be available for public disclosure

Qwest cannot determine at this time any date on which this information should not be considered confidential, or would become stale for purposes of the current action, except that the information would be handled in conformity with general Qwest records retention policies, absent any continuing legal hold on the data.

Other information that Qwest believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) trade secrets or commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question satisfies this test.