

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Request of TelePacific Communications) WC Docket No. 06-122
for Review of a Universal Service)
Contribution Decision of the Universal)
Service Administrative Company and a)
Stay of that Decision)

**COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.**

Qwest Communications International Inc. (Qwest) submits these comments in accord with the Federal Communications Commission's (Commission) Wireline Competition Bureau (Bureau) Public Notice in the above-referenced docket¹ and in support of the Petition. The Petitioners seek to have the Bureau clarify or partially reconsider its *TelePacific Order*² and confirm that TelePacific's underlying wholesale carriers cannot be required to restate prior year revenues and make additional contributions to the Universal Service Fund (USF) as a result of the Bureau's decision. The Bureau should confirm, not only for this specific matter but also generally, that underlying carriers have no mandatory obligation to restate prior year revenues or make additional contributions to the USF, when a reselling carrier errs in completing its reseller certification. To the extent that the underlying carrier has obtained a reseller certification from the reseller and verified the reseller's contribution status on the Commission's website, the underlying carrier has fully complied with the Commission's Form 499-A Instruction guidance

¹ *Public Notice*, WC Docket No. 06-122, "Comment Sought on Petition for Clarification and Reconsideration of the Wireline Competition Bureau's TelePacific Order Filed by AT&T Inc., CenturyLink, Surewest Communications, and Verizon," DA 10-1012 (rel. June 3, 2010).

² *In the Matter of Universal Service Contribution Methodology, Request for Review of the Decision of the Universal Service Administrator and Emergency Petition for Stay by U.S. TelePacific Corp. d/b/a TelePacific Communications*, Order, 25 FCC Rcd 4652 (2010).

and should not be held liable for any error made by the reseller in completing its certification.³

Failure of the Bureau to hold the certifying party accountable for its certification renders the certification process meaningless, and contrary to the purpose of the carrier's carrier rule, places the entire burden of universal service contributions on the wholesale carrier.

Further, as the Petitioners have stated, the underlying carriers were not on notice that they could be strictly liable for an erroneous reseller certification provided to them. The Instructions to the Form 499-A set out the requirements for the reseller certification and the recommended use of the Commission's website to validate the contributor status of the reseller. The Instructions then state that "[f]ilers that do not comply with the above procedures will be responsible for any additional universal service assessments that result if its customers must be reclassified as end users."⁴ Nowhere, however, do the Instructions or any other guidance from the Commission provide notice that an underlying carrier that fully complies with the procedures will nevertheless be responsible for additional universal service assessments *whenever* its customers must be reclassified as end users. If the Commission intends to impose such strict financial liability on underlying carriers, it needs to do so through a proper notice and comment process. And, the Commission would need to revisit the purposes of the carrier's carrier rule and the reseller certification process.

But, until such steps are taken, the Bureau should clarify that a carrier that follows the Commission's Form 499-A Instruction guidance regarding reseller certifications is not categorically required to restate revenues on prior Form 499-A filings or make additional USF payments due to a reseller's erroneous reseller certification.

³ If, however, the underlying carrier somehow contributed to the reseller's error in completing the reseller certification (*e.g.*, through faulty instruction for completing the reseller certification), then the underlying carrier might have an obligation to restate revenues to correct its own error.

⁴ Instructions, p. 19.

QWEST COMMUNICATIONS
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Respectfully submitted,

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Its Attorneys

July 6, 2010

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be: 1) filed with the FCC via its Electronic Comment Filing System in WC Docket No. 06-122; 2) served via e-mail on Mr. Nicholas A. Degani, Telecommunications Access Policy Division, Wireline Competition Bureau, at Nicholas.degani@fcc.gov; 3) served via e-mail on Mr. Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, at Charles.tyler@fcc.gov; and 4) served via email on the FCC's duplicating contractor, Best Copy and Printing, Inc. at fcc@bcpiweb.com.

/s/ Richard Grozier

July 6, 2010