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August 21, 2008

Ms. Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard Avenue, 12th Floor
Bismarck, ND 58505-0480

Re: Qwest Local Services Platform Agreement between Qwest Corporation and
Comtel Telcom Assets LP d/b/a Excel Telecommunications

Dear Ms. Jeffcoat-Sacco:

I have attached for your information a recently executed copy of an agreement between Qwest Corporation ("Qwest") and Comtel Telcom Assets LP d/b/a Excel Telecommunications ("Excel") called the Qwest Local Services Platform, or "QLSP" agreement. This agreement provides for Excel's purchase from Qwest of mass market switching and shared transport elements that Excel may combine with local loops purchased from the separate interconnection agreement between Qwest and Excel. The services addressed in the QLSP agreement are the same as the services contained in the Qwest Platform Plus, or "QPP" agreement that this Commission previously reviewed and considered. When this Commission reviewed the QPP agreement, it found that it is subject to the filing obligations under Section 252 of the Telecommunications Act. For the reasons stated below, and applying the same reasoning as the Commission when it analyzed the QPP agreement, the QLSP agreement should not be subject to the filing obligations under Section 252.

On April 6, 2005, this Commission issued an order in Case No. PU-04-402 ("Order"), in which the Commission ruled that the QPP agreement was subject to the Section 252 filing requirement. The Commission reasoned that the QPP agreement was subject to Section 252 because it was "integrated" with another agreement that indisputably was an interconnection agreement. The Commission based its conclusion that the QPP agreement was integrated with the interconnection agreement primarily on two factors; however, neither of those factors exist under the QLSP agreement and thus the QLSP is not subject to Section 252.

The factors leading to the Commission's conclusion that the QPP agreement was integrated with the interconnection agreement are as follows:

1. The QPP and interconnection agreement amendment contain mutual provisions triggering the termination of the other agreement.

2. Rate increases for the port element in the QPP were dependent upon implementation of a batch hot cut process pursuant to the Thirteenth Amendment to the interconnection agreement.

The two provisions listed above are not present in the QLSP agreement, and no integration exists between the QLSP agreement and the parties' interconnection agreement. The QLSP is a self-standing agreement that does not address any elements that Qwest is obligated to provide under section 251. Thus, as Qwest has briefed and stated to this Commission previously, because the section 252 filing obligation applies only to agreements addressing services provided under Section 251(b) and (c), the QLSP agreement is not subject to Section 252.

For these reasons, Qwest's QLSP agreement is not subject to the filing and approval requirements of Section 252. But, as part of the company's efforts to promote transparency of its decisions relating to Section 252 issues, we are providing you with a copy of the QLSP agreement for your information along with the above analysis.

Contact information for Excel is as follows:

Deena Falk
Comtel Telcom Assets LP
d/b/a Excel Telecommunications
433 East Las Colinas Boulevard, Suite 1300
Irving, TX 75039
(972) 910-1458
Deena.falk@excel.com

Please contact me if you have any questions or concerns. Thank you.

Very truly yours,


Jason D. Topp

JDT/bardm

Enclosure

cc: Deena Falk (via e-mail)
Gina Buchholtz (via e-mail)