

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Qwest Corporation
Request to Withdraw SGAT Available Terms/Conditions
Application**

Case No. PU-07-314

Staff Memorandum

October 29, 2009

On June 14, 2007, Qwest Corporation (Qwest) filed an application to withdraw its Statement of Generally Available Terms and Conditions (SGAT) in North Dakota. The SGAT is a statement of the terms and conditions under which Qwest provides access and interconnection to its network facilities for the network facilities of unaffiliated competing providers of telephone exchange services.

Qwest stated that the SGAT was last updated on May 30, 2002 and, due to changes in applicable law since then, the SGAT is outdated.

On July 25, 2007, the Commission issued a Notice of Opportunity for Hearing. On August 29, 2007, Level 3 Communications, LLC filed comments requesting that the Commission require Qwest to file an updated SGAT for approval, that all carriers operating in North Dakota have the opportunity to participate in the approval process regarding the SGAT, and that the Commission order Qwest to allow Level 3 to continue to operate under its current interconnection agreement until an updated SGAT has been submitted and approved.

Since the Commission Notice, Qwest has indicated that certain actions may resolve the issues in this proceeding.

On October 15, 2009, Qwest filed a request that the Commission issue an order approving Qwest's withdrawal of its SGAT. Qwest believes that three developments support the Commission issuing an order approving withdrawal and closing this docket: (1) on June 9, 2008, the intervenor, Level 3, entered into a Term Extension Agreement of its interconnection agreement with Qwest, extending that agreement until July 31, 2010; (2) the Idaho Commission granted Qwest's request to withdraw the Idaho SGAT finding that intervenors did not identify a legal requirement in Idaho that an SGAT remain in effect; and (3) in the two years since Qwest made its filing to withdraw the SGAT, no CLEC has opted into Qwest's SGAT in North Dakota.

Staff Recommendation:

Since the telecommunications market has evolved another two years, I recommend the Commission issue another Notice of Opportunity for Hearing.

PJF