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August 15, 2008

RECEIVED

AUG 18 2008

PUBLIC SERVICE COMMISSION

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

Re: Confidential Billing Dispute Settlement Agreement between Qwest Corporation and 360networks (USA) inc.

Dear Ms. Jeffcoat-Sacco:

On July 18, 2008, Qwest Corporation ("Qwest") filed with the Commission a Transit Rate Calculation Amendment to the Interconnection Agreement between Qwest and 360networks (USA) inc. ("360") for review and approval under Section 252(a) and (e) of the Telecommunications Act.

I have enclosed another agreement between Qwest and 360 that the parties negotiated contemporaneously with the filed amendment to the interconnection agreement. The enclosed agreement is not an "interconnection agreement" or "interconnection amendment" under Section 252(a) and (e) of the Telecommunications Act, because it does not create any on-going obligations pertaining to services provided under Sections 251(b) or (c) of the Telecommunications Act.¹ Thus, Qwest has not filed the enclosed agreement for review and approval by the Commission pursuant to Section 252(e).

Qwest encloses this agreement for informational purposes and to present the context in which the Section 251 agreement arose. Qwest is providing this information in the spirit of cooperation with state commissions relating to the Section 252 filing requirement.

We emphasize our review and analysis of the enclosed agreement results in the conclusion that it is not an interconnection agreement or amendment within the Section 252 filing requirement. The enclosed agreement has no legal connection to the amendment to the 360 interconnection agreement. The filed amendment to the interconnection agreement stands on its own independent of the enclosed agreement, and parties will be able to opt into the interconnection amendment without reference to the terms of the enclosed contract.

Pages: 12

PU-08-690 Filed: 8/18/2008
Transit Rate Calculation Amendment to
Interconnection Agreement

Qwest Corporation

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¹ See *In the Matter of Qwest Communications International Inc. Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*, WC Docket No. 02-89 (Rel. October 4, 2002), ¶¶ 8-14.

Ms. Illona Jeffcoat-Sacco

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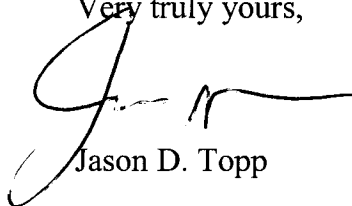
August 15, 2008

Because the enclosed agreement contains information that the parties consider proprietary in nature, such as settlement amounts, please treat this agreement and its contents as confidential information pursuant to Chapter 69-02-09 of the North Dakota Administrative Code. Enclosed is an Application Requesting Trade Secret Protection of Confidential Information.

Please note that the enclosed agreement refers in paragraph 3 to the parties' execution of an interconnection amendment in a separate document for the purposes of filing with the applicable state commissions pursuant to Section 252(e). Again, the agreement with 360 containing the on-going Section 251 obligations and creating a filing requirement under Section 252(a) and (e) has in fact been filed with the Commission under Section 252(e); and it is Qwest's understanding that simply a reference in the enclosed agreement to the interconnection agreement amendment does not itself raise any filing requirements under Section 252(a) and (e).

Please contact the undersigned if you have any questions or concerns about the attached agreement. Thank you.

Very truly yours,



Jason D. Topp

JDT/bardm

Enclosure

cc: Legal Department – 360networks
Gina Buchholtz

CONFIDENTIAL BILLING DISPUTE SETTLEMENT AGREEMENT

This Confidential Billing Dispute Settlement Agreement ("Agreement") is between Qwest Corporation ("Qwest") and 360networks (USA) inc. ("360networks"). Qwest and 360networks are collectively referred to as the "Parties" and individually as a "Party".

RECITALS

WHEREAS, 360networks and Qwest are parties to an interconnection agreement ("ICA") approved by the Washington Utilities and Transportation Commission ("Commission") in Docket No. UT-063008 on March 15, 2006, including subsequent amendments thereto.

WHEREAS, 360networks and Qwest are also parties to ICAs in 13 other states, as follows: Arizona, Docket No. T-01051B-06-0056 approved 05/02/06; Colorado, Docket No. 06T-043, approved 03/15/06; Idaho, Docket No. QWE-T-06-2, approved 03/07/06; Iowa, Docket No. NIA-06-57, approved 06/20/06; Minnesota, Docket Nos. P-5816,421/IC-06-57, approved 02/10/06; Montana, Docket No. D2006.1.5, approved 04/04/06; Nebraska, Docket No. C-360, approved 07/05/06; New Mexico, Docket No. 06-00008-UT, approved 03/28/06; North Dakota, Docket No. PU-06-34, approved 04/17/06; Oregon, Docket No. ARB 715, approved 02/24/06; South Dakota, Docket No. TC06-157, approved 10/31/06; Utah, Docket No. 06-049-12, approved 04/20/06; and, Wyoming, Docket No. 70000-1199-TK-06 & 70075-4-TK-06, approved 03/20/06.

WHEREAS, 360networks has disputed Qwest billings for transit services in Washington, and in other states in which it has transit traffic, claiming that such services should be billed at a TELRIC rate, and Qwest has denied those disputes, claiming that, in negotiating the most recent ICA between the Parties, 360networks and Qwest agreed to the rate in Exhibit A to the ICA as the applicable rate.

WHEREAS, Attachment A sets forth the amounts that are associated with the Disputed Billings through June 9, 2008.

WHEREAS, each Party is willing to compromise their position in furtherance of a settlement. The parties have agreed to certain credits regarding the Disputed Billings, and an amendment to the ICA to resolve the issue for the remaining term of the ICA.

WHEREAS, the Parties wish to resolve the foregoing billing and other disputes amicably without further delay or resort to costly litigation or other legal proceedings. Therefore, in consideration of the foregoing the Parties agree as follows:

AGREEMENTS AND COVENANTS

1. This Agreement shall be effective on the date of the latest signature ("Effective Date").
2. Qwest and 360networks will resolve the Disputed Billings by Qwest's issuance of a bill credit, within thirty (30) days of the Effective Date, in each affected state in the amount set forth in Attachment A. 360networks will then pay the amount not credited within thirty (30) days if the issuance of the bill credit.
3. Within 30 days of the Effective Date, Qwest and 360networks will enter into an amendment to the Parties' ICA in each state in the form set forth in Attachment B.

4. Notwithstanding the confidentiality provisions in paragraph 15, the Parties will cooperate to submit this Agreement to the state commission in each state, for informational purposes as a settlement of a historic dispute. The Parties will also cooperate to submit an executed version of Attachment B for each state, and Qwest will request approval by the applicable commission of that negotiated amendment pursuant to Section 252 of the Telecom Act. The date of commission approval of that amendment shall be the "Approval Date".
5. On the Approval Date, Qwest releases, acquits, holds harmless and forever discharges 360networks, its officers, directors, employees, agents, attorneys, successors, assigns, parents, subsidiaries, affiliates, shareholders, partners, insurance companies and bonding companies and each of their directors, officers, agents, attorneys, employees and representatives (collectively "360networks Released Parties") from any and all claims, demands, damages, disputes, actions, causes of action, suits, debts, duties, losses, and obligations of any kind or nature whatsoever through June 9, 2008, known or unknown, related to or arising out of the billing disputes described in this Agreement which it has, had or may have against the 360networks Released Parties, or any of them.
6. On the Approval Date, 360networks releases, acquits, holds harmless and forever discharges Qwest its officers, directors, employees, agents, attorneys, successors, assigns, parents, subsidiaries, affiliates, shareholders, partners, insurance companies and bonding companies and each of their directors, officers, agents, attorneys, employees and representatives and its affiliates (collectively "Qwest Released Parties") from any and all claims, demands, damages, disputes, actions, causes of action, suits, debts, duties, losses and obligations of any kind or nature whatsoever through June 9, 2008, known or unknown, related to or arising out of the billing dispute which it has, had or may have against the Qwest Released Parties, regarding the appropriate transit rate or rates to be charged by Qwest.
7. The terms, conditions and provisions of this Agreement will inure to the benefit of, and are binding upon, the respective successors and subsidiaries of Qwest and 360networks, and each of them.
8. Qwest and 360networks each represents and warrants, that:
 - a. It has full authority and the present ability to perform all of its obligations under this Agreement;
 - b. It has obtained all governmental consents, approvals and authorizations required or necessary in order for it to perform all of its obligations under this Agreement;
 - c. It has all requisite corporate and other legal power and authority to enter into and perform its obligations under this Agreement;
 - d. It will comply with all applicable laws, rules, regulations and orders of all governmental agencies, bodies and other organizations in performing its obligations under this Agreement;
 - e. Commission approval is necessary for this Agreement, and each party will take all reasonable steps necessary in order to obtain such approval; and
 - f. It has not assigned, sold or transferred its right, power or authority to execute and grant the releases and enter into the covenants and agreements contained herein.
9. This Agreement constitutes the full, entire and complete understanding and agreement between Qwest and 360networks and supersedes any prior understandings, agreements or representations, if any, whether written, oral or otherwise, that relate in any manner whatsoever to the Disputed Billings described in this Agreement and the Petition.

10. No term or condition of this Agreement, including without limitation the terms and conditions of this paragraph, may be amended, modified or supplemented, and no waivers or consents to departures from any of the terms and conditions of this Agreement will be effective or of any force or effect other than as will be set forth in and pursuant to a written instrument signed by both Qwest and 360networks, as applicable. No waiver by either party of any default, misrepresentation or breach of any term or condition of this Agreement, whether intentional or otherwise, will be deemed to extend to any prior or subsequent default, misrepresentation or breach of any term or condition of this Agreement or in any manner affect any rights arising by reason of any such prior or subsequent default, misrepresentation or breach.
11. To the extent not governed by the Communications Act of 1934, as amended (47 USC Section 201 et seq.), this Agreement will be interpreted and construed in accordance with the laws of the State of Washington.
12. Any dispute arising out of this Agreement will be brought in the United States District Court for the Western District of Washington if it has subject matter jurisdiction over the action, and will otherwise be brought in the state courts for the State of Washington. The Parties agree that such courts have personal jurisdiction over them. Each Party, to the extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a trial by jury.
13. Any notice to Qwest or 360networks required or permitted under this Agreement will be in writing and will be personally served, delivered by Certified US Mail, or by a courier service. Any notice will be delivered using one of the aforementioned means and will be directed as indicated below:

If to Qwest: Qwest Corporation
 Attention: Legal Department
 1801 California Street, Suite 1000
 Denver, Colorado 80202

If to 360networks: 360networks (USA) inc.
 Legal Department
 867 Coal Creek Circle, Suite 160
 Louisville, CO 80027

14. Qwest and 360networks acknowledge and agree that they have legitimate disputes regarding the subject matter of this Agreement and that the resolutions of these disputes embodied in this Agreement represent compromises of the positions of each of them. Accordingly, Qwest and 360networks deny any wrongdoing or liability that each alleges against the other and expressly acknowledge and agree that the resolutions contained in this Agreement may not and cannot be used against the other in any manner whatsoever in any forum, other than in respect of a breach of this Agreement. Further, Qwest and 360networks acknowledge and agree that this Agreement does not constitute an admission by either of them of the truth, accuracy or merit of any fact, asserted principle of law, any matter, claim or cause of action alleged or asserted in any judicial, regulatory or other forum, whether past, present or future, relating to the subject matter of this Agreement. This Agreement does not constitute an admission with respect to the appropriateness or legality of any charges, billed or unbilled, whether paid or unpaid, nor does it constitute an ongoing term or condition of any interconnection agreement or otherwise. Nothing

contained herein will be construed or interpreted to preclude representatives of Qwest or 360networks from responding to legal process in connection with the subject matter of this Agreement; provided, that any such responding party will provide prompt notice of any such response to the other party.

15. Neither Party will, without the prior written consent of the other Party: (a) issue any public announcement regarding, or make any other disclosure of the terms of, this Agreement or (b) disclose or use (except as expressly permitted by, or required to achieve the purposes of, this Agreement) the Confidential Information of the other Party. Such consent may only be given on behalf of a Party by its Legal Department. A Party may disclose Confidential Information if required to do so by a governmental agency, by operation of law, or if necessary in any proceeding to establish rights or obligations under this Agreement, provided that the disclosing Party gives the non-disclosing Party reasonable prior written notice. "Confidential Information" means any information that is not generally available to the public, whether of a technical, business, or other nature and that: (a) the receiving Party knows or has reason to know is confidential, proprietary, or trade secret information of the disclosing Party; and/or (b) is of such a nature that the receiving Party should reasonably understand that the disclosing Party desires to protect such information against unrestricted disclosure. Confidential Information will not include information that is in the public domain through no breach of this Agreement by the receiving Party or is already known or is independently developed by the receiving Party. Notwithstanding the foregoing, if reporting or filing obligations or requirements are imposed upon Qwest by any third party or regulatory agency in connection with this Agreement, 360networks agrees to assist Qwest in complying with such obligations and requirements, as reasonably required by Qwest and to hold Qwest harmless for any failure by 360networks in this regard. 360networks also acknowledges that Qwest may, in its sole discretion and to the extent that Qwest determines that this Agreement contains an ongoing term of interconnection, file this Agreement with a state commission pursuant to 47 U.S.C. § 252.

16. This Agreement may be executed by facsimile and in multiple counterparts, each of which will be deemed an original, but all of which will be deemed one and the same document.

IN WITNESS THEREOF, Qwest and 360networks have caused this Agreement to be duly executed and delivered as of the date set forth below.

Qwest Corporation

By: 

Name: L. Christensen

Title: Director

Date: June 27, 2008

360networks (USA) inc.

By: 

Name: Ron Gustafson

Title: VP/GC

Date: June, 2008

**Transit Rate Calculation Amendment
to the Interconnection Agreement between
Qwest Corporation and _____
for the State of _____**

This is an Amendment ("Amendment") for Transit Rate Calculation to the Interconnection Agreement between Qwest Corporation ("Qwest"), a Colorado corporation, and _____ ("CLEC"), a _____ Company. Qwest and CLEC shall be known jointly as the "Parties".

RECITALS

WHEREAS, the Parties entered into an Interconnection Agreement, for service in the State of _____, that was approved by the _____ Commission on _____, as referenced in Docket No. _____ ("Agreement"); and

WHEREAS, the Parties agree to amend the Agreement under the terms and conditions contained herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Amendment Terms

The Agreement is hereby amended by adding terms and conditions to calculate the rate for which CLEC will pay to Qwest for Transit Traffic, as that term is defined in the Agreement. Such additional terms and conditions are set forth in Attachment 1 and Exhibit A to this Amendment, attached hereto and incorporated herein by this reference.

Effective Date

This Amendment is subject to approval by the Commission; however, the Parties agree to implement the agreed to rates as of June 10, 2008.

Further Amendments

Except as modified herein, the provisions of the Agreement shall remain in full force and effect. The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

Entire Agreement

The Agreement as amended (including the documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of the Agreement as amended and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subjects of the Agreement as amended.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

360networks (USA) Inc.

Qwest Corporation

Signature

Signature

Name Printed/Typed

L. T. Christensen

Name Printed/Typed

Title

Director – Interconnection Agreements

Title

Date

Date

ATTACHMENT 1

DETERMINATION OF TRANSIT RATE

Qwest and CLEC agree that the following calculation process will determine the rate for Transiting Services provided by Qwest under this Agreement. This rate will supersede and replace the rate listed in Sections 7.9.1 and 7.9.2 of Exhibit A of the Agreement. Qwest and CLEC agree to perform the calculation process on an annual basis, from the date that this Amendment is effective. The initial rate agreed to is based on the formula that follows and is set forth in Exhibit A. The process for determination of the rate is as follows:

Qwest and CLEC will review the most recent three months' of transiting records between Qwest and CLEC. All terminating carriers for which more than 200,000 minutes of use ("MOUs") receive traffic originating from CLEC are determined and all MOUs terminating to those carriers are then added together ("DS1 Volume MOUs"). The DS1 Volume MOUs are then divided by the total number of transiting MOUs (the "Blended Ratio").

The Blended Ratio is multiplied by \$.0045 and that product is added to the product of (1-Blended Ratio) multiplied by [placeholder for the state transit rate (TELRIC)]. This sum will be the new Transit Rate until the next recalculation.

State	Total Transit Costs/MOU
AZ	\$ 0.0013400
CO	\$ 0.0011120
IA	\$ 0.0020300
ID	\$ 0.0014033
MN	\$ 0.0016400
MT	\$ 0.0019340
ND	\$ 0.0021000
NE	\$ 0.0014545
NM	\$ 0.0016740
OR	\$ 0.0011250
SD	\$ 0.0011860
UT	\$ 0.0018132
WA	\$ 0.0022164
WY	\$ 0.0006900