

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Qwest Petition for Pricing Flexibility for	)	CCB/CPD File No. 01-18
Special Access and Dedicated Transport	)	

**REPLY COMMENTS OF QWEST CORPORATION**

Qwest Corporation (“Qwest”) hereby respectfully submits its Reply Comments in response to those parties opposing the grant of pricing flexibility requested by Qwest in the above-captioned proceeding.<sup>1</sup> In these Reply Comments, Qwest shows that opposing parties have made no argument that would justify denial of the pricing flexibility sought by Qwest. Accordingly, the Federal Communications Commission (“Commission”) should deny these oppositions and grant the relief requested by Qwest.<sup>2</sup>

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<sup>1</sup> See Qwest Petition for Pricing Flexibility for Special Access and Dedicated Transport Services, filed Oct. 10, 2001 (“Petition”). AT&T Corp. (“AT&T”), WorldCom, Inc. (“WorldCom”), and South Slope Cooperative Telephone Company, Inc. and Splitrock Telecom Cooperative, Inc. (“South Slope/Splitrock” or “South Slope and Splitrock”) filed oppositions to Qwest’s Petition.

<sup>2</sup> As discussed below, Qwest has removed from consideration 27 collocation arrangements included in its original submission and has revised the revenue figures included in that submission. Except in two cases, these adjustments do not affect Qwest’s qualification for the relief requested in the Petition. For the Denver, CO Metropolitan Statistical Area (“MSA”), Qwest withdraws its request for Phase II relief for channel terminations between Qwest’s end offices and customer premises, and instead requests Phase I relief for such channel terminations in that MSA. For the Richland-Kennewick-Pasco, WA MSA, Qwest withdraws its request for Phase II relief for dedicated transport and special access services, other than channel terminations between end offices and end-user customer premises, and its request for Phase I relief for such channel terminations.

**I. THE COMMISSION SHOULD IGNORE SOUTH SLOPE’S AND SPLITROCK’S COLLATERAL ATTACK ON THE *PRICING FLEXIBILITY ORDER***

In their Joint Comments, South Slope and Splitrock do not question whether Qwest has satisfied the competitive benchmarks in the *Pricing Flexibility Order*.<sup>3</sup> Instead, they criticize the approach adopted by the Commission in that *Order*, essentially because it does not require a petitioner to show that “significant competition” exists in particular MSAs.<sup>4</sup> In reviewing previous petitions for pricing flexibility, the Commission has rejected such collateral attacks of the *Pricing Flexibility Order*. For example, in its recent review of a BellSouth petition, the Commission affirmed that an inquiry into the level of competition in an MSA is not required in order to grant pricing flexibility. “Adoption of a collocation-based trigger for the grant of pricing flexibility relief was meant to provide ‘an administratively simple and readily verifiable mechanism for determining whether competitive conditions warrant the grant of pricing flexibility.’”<sup>5</sup> Moreover, and dispositive in this context, the D.C. Circuit Court of Appeals has explicitly upheld the use of the collocation triggers as an appropriate proxy to determine whether

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<sup>3</sup> *In the Matter of Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers; Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA, Fifth Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd. 14221 (1999) (“*Pricing Flexibility Order*” or “*Order*”).

<sup>4</sup> South Slope/Splitrock Comments at 2. (“The problem with this approach [in the *Pricing Flexibility Order*] is that Qwest has not been required to show that significant competition exists within major portions of its service areas in the Cedar Rapids, Iowa City and Sioux Falls MSAs.”)

<sup>5</sup> *In the Matter of BellSouth Petition for Pricing Flexibility for Special Access and Dedicated Transport Services*, CC Docket No. 01-22, *Memorandum Opinion and Order*, FCC 01-287 ¶ 12, rel. Oct. 3, 2001 (quoting *Pricing Flexibility Order*, 14 FCC Rcd. at 14267 ¶ 84).

sufficient competition exists in an MSA to grant pricing flexibility.<sup>6</sup> As such, South Slope and Splitrock fail to raise a legitimate challenge to Qwest's Petition.<sup>7</sup>

## **II. WITH TWO EXCEPTIONS, QWEST QUALIFIES FOR THE RELIEF SOUGHT IN THE PETITION**

AT&T and WorldCom contend that 11 collocation arrangements identified in the Petition do not satisfy the criteria in the *Pricing Flexibility Order*. Upon investigation, Qwest has discovered that these arrangements should not have been included in the filing. These errors resulted primarily from Qwest's inadvertent inclusion of collocation arrangements that had been decommissioned at the request of the collocator. In revised Attachment F,<sup>8</sup> Qwest has removed 25 collocation arrangements that Qwest's records show have been decommissioned or are in the process of being decommissioned, including 16 collocation arrangements beyond those identified by AT&T and WorldCom.<sup>9</sup> Qwest has also removed two collocation arrangements where AT&T in fact is not using non-Qwest transport facilities.<sup>10</sup>

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<sup>6</sup> *WorldCom v. FCC*, 238 F.3d 449, 459 (D.C. Cir. 2001). The D.C. Circuit also specifically affirmed the Commission's grant of a relief on an MSA-wide basis, which South Slope and Splitrock implicitly challenge. *Id.* at 461. See South Slope/Splitrock Comments at 2.

<sup>7</sup> South Slope and Splitrock state that Qwest has not indicated the identities of the collocating entities included in its Petition. South Slope/Splitrock Comments at 3. As required by the Commission's rules, the collocators were identified in Qwest's submission to the Commission and were each provided their own collocation information that was included in Qwest's filing. See Petition at 3, Attachment C. Consistent with the *Protective Order* adopted in this proceeding, Qwest supplied South Slope and Splitrock with Qwest's confidential revenue information, but did not provide these parties with the identities of the collocating parties.

<sup>8</sup> Consistent with the protective order entered in this proceeding, Qwest is submitting public and proprietary versions of this attachment, as well as Attachment E. See *In the Matter of Qwest Petition for Pricing Flexibility for Special Access and Dedicated Transport*, CCB/CPD File No. 01-18, *Protective Order*, DA 01-2382, rel. Oct. 15, 2001.

<sup>9</sup> Twelve of the 25 collocation arrangements are still in the process of being decommissioned, and were requested to be decommissioned within two weeks of Qwest's filing.

<sup>10</sup> All of the collocation arrangements identified in AT&T's and WorldCom's oppositions have been removed from Attachment F.

With one exception, the exclusion of these collocation arrangements does not affect Qwest's qualification for the relief sought in the Petition, because there is at least one other collocater in those wire centers that uses transport facilities furnished by a provider other than Qwest. However, in the Denver MSA, the exclusion of collocation arrangements results in Qwest no longer qualifying for Phase II relief for channel terminations between Qwest's end offices and customer premises, though Qwest continues to qualify for Phase I relief for such channel terminations in that MSA.<sup>11</sup>

Qwest has also discovered two additional errors in the Petition. First, Qwest inadvertently excluded certain interoffice channel mileage revenues from the revenue calculations submitted with the Petition. As Qwest explained in its Petition, Qwest's methodology for assigning interoffice channel mileage revenues to wire centers was to attribute 50% of the revenue for a circuit to each wire center at the two ends of the circuit.<sup>12</sup> While the computer program that was used to extract billing data was designed to follow this methodology, errors in the program caused some mileage revenue to be excluded from the correct MSAs.<sup>13</sup> Revised Attachments E and F reflect the corrected revenue numbers. Because some revenues were incorrectly excluded from the original filing, the revenue figures in Revised Attachments E and F generally are larger than the revenues in the original filing.<sup>14</sup> While these revenue figures

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<sup>11</sup> See Revised Attachment A; Revised Attachment E.

<sup>12</sup> See Petition, Attachment D at 2.

<sup>13</sup> In particular, some records generated by the computer program contained a truncated Common Language Location Identifier ("CLLI"), which caused the associated revenue to be assigned to non-MSA areas within a study area. Other records included an incorrect state identifier, which caused some records, and their associated revenue, to be ignored.

<sup>14</sup> The one exception is in the Richland-Kennewick-Pasco, WA MSA, to which a Corvallis, OR wire center was improperly assigned in the original submission, as explained below.

have changed, the percentages of revenues in qualifying wire centers generally have changed little as compared to the percentages in the original submission.

Qwest also discovered that a Corvalis, OR wire center was improperly assigned to the Richland-Kennewick-Pasco, WA MSA. Because the remaining wire center in this MSA does not include a qualifying collocator, Qwest currently does not qualify for any pricing flexibility in this MSA. Revised Attachments E and F have been revised to reflect this change.

Qwest regrets the errors in its Petition and assures the Commission that these errors were inadvertent. Qwest notes that the corrections discussed above caused Qwest to have to delete only five wire centers relied on in the Petition.<sup>15</sup> In investigating and correcting these issues, Qwest has carefully reviewed again each step in its methodology to ensure that the analysis and data reflected in this filing are correct. Qwest also emphasizes that it has not modified the methodology described in its Petition, but rather has corrected errors in the execution of that methodology.

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<sup>15</sup> Four of the wire centers removed from Revised Attachment F are in the Denver MSA: Arvada (ARVDCOMA), Cottonwood (DNVRCOCW), Northglenn (NGLNCOMA), and Westminster (WMNSCOMA). The fifth is the Corvalis, OR wire center (CRVSOR65) that was improperly assigned to the Richland-Kennewick-Pasco MSA.

### **III. CONCLUSION**

For the foregoing reasons, the Commission should reject the oppositions to Qwest's Petition and grant the pricing flexibility relief requested by Qwest.

Respectfully submitted,

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