

Thomas Dethlefs
Qwest Corporation
1801 California Street, 10th Floor
Denver, CO 80202
(303) 383-6646
(303) 298-8197 (fax)
thomas.dethlefs@qwest.com

Gregory B. Monson (2294)
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
(801) 328-3131
(801) 578-6999 (fax)
gbmonson@stoel.com

Attorneys for Qwest Corporation

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of the Petition of QWEST CORPORATION for Arbitration of an Interconnection Agreement with UNION TELEPHONE COMPANY d/b/a UNION CELLULAR under Section 252 of the Federal Telecommunications Act</p>	<p>Docket No. 04-049-145</p> <p>QWEST CORPORATION'S PETITION FOR CLARIFICATION AND RECONSIDERATION</p>
---	---

Qwest Corporation (“Qwest”), pursuant to Utah Code Ann. §§ 54-7-15 and 63-46b-13 and Utah Admin. Code R746-100-11.F, respectfully seeks clarification of the Report and Order issued in this docket on April 3, 2008 (“Order”). In addition, Qwest seeks reconsideration of the Order if it is not as understood by Qwest.

Qwest seeks clarification concerning whether the Commission has adopted Union Telephone Company d/b/a Union Cellular’s (“Union” or Union Cellular”) additional proposed contract language for Sections 6.2.2 and 6.2.4.1.1 of the arbitrated

interconnection agreement. Qwest seeks reconsideration of the Order to the extent the Order has adopted these sections proposed by Union because the additional proposed contract language is inconsistent with the Order's resolution of the dispute regarding the location of the point of interconnection between the parties.

I. INTRODUCTION

This dispute is an interconnection arbitration between Qwest and Union Cellular conducted pursuant to Section 252 of the Telecommunications Act of 1996 (the "Act"). Qwest is an incumbent local exchange carrier ("ILEC") in certain local exchange areas within Utah. Union operates as a commercial mobile radio service ("CMRS") provider doing business as Union Cellular and serves wireless subscribers in Utah and three adjoining states (Idaho, Wyoming and Colorado). Union also operates as a wireline incumbent local exchange carrier known as Union Telephone.

This arbitration addressed the terms and conditions for interconnection between Qwest and Union Cellular. Qwest and Union Cellular presently interconnect using an interim Type 2 interconnection arrangement. (Qwest Ex. 1, p. 9, lines 162-164.) Under this arrangement, Union Cellular exchanges wireless traffic with Qwest in Salt Lake City within Qwest's service territory in Utah LATA 660. Union transports traffic from its wireless switch located in Wyoming to this interconnection point over facilities that it owns or leases.¹

On April 3, 2008, the Commission issued the Order resolving the issues in dispute between the parties. In the Order, the Commission ruled in Qwest's favor on Issue No. 3, which concerned the location of the point of interconnection between the parties.

¹ Union Telephone's wireline switch is also located in Wyoming.

Specifically, the Commission determined that Union must interconnect with Qwest within Qwest's ILEC territory in each LATA in which Union seeks to exchange traffic.

In particular, the Commission stated the following:

The ALJ concludes Qwest has no obligation to interconnect with a requesting carrier outside its ILEC territory within a LATA. Concluding otherwise would conflict with the many statutory and FCC references evincing an intent that interconnection occur within an ILEC's local calling area. The ALJ therefore recommends the Commission adopt Qwest's proposed ICA language. (Order, p. 40.)

The point at which Qwest and Union interconnect (Issue No. 3) is a different issue than the method the parties use to accomplish interconnection (Issue No. 1). Issue No. 1 concerned whether Union would be required to use a Type 2 interconnection arrangement to interconnect with Qwest. Qwest argued that Union should be required to continue to use the existing interim Type 2 interconnection arrangement so that Qwest could properly record and bill wireless traffic that Union exchanged with Qwest and so that Qwest could produce transit records to other carriers who terminate traffic originated by Union that transits Qwest's network before being delivered to these carriers. Union proposed that all references to "Type 2" be removed from the Parties' agreement.

An ambiguity in the Order has arisen because certain language that Union proposed for Issue No. 1 (method of interconnection) really falls within the scope of Issue No. 3 concerning the point of interconnection. In particular, Union proposed the following additional language for Sections 6.2.2 and 6.2.4.1.1:

Each Party will establish a one-way trunk group from its network to the other Party's access tandem or end-office switch(es) as required to provide at least .001 grade of service.

The Commission ruled in Qwest's favor on Issue No. 3 but ruled in Union's favor on Issue No. 1, subject to certain qualifications and limitations. As a result, it is not clear

whether the Commission intended to adopt Union’s additional proposed language for Sections 6.2.2 and 6.2.4.1.1. In this petition, Qwest seeks clarification as to whether the Commission intended to adopt Union’s additional proposed language for these sections. In the event the Commission did intend to adopt Union’s additional proposed language, Qwest seeks reconsideration because adoption of the additional proposed language is inconsistent with the Commission’s Order on Issue No. 3.

II. ARGUMENT

The Commission should clarify that it did not intend to adopt Union’s additional proposed language for Sections 6.2.2 and 6.2.4.1.1. Union’s additional proposed language is inconsistent with the Order’s determination that the point of interconnection between Qwest and Union must be within Qwest’s network in the state of Utah. Under applicable law, Qwest is not required to interconnect with Union at points outside of Qwest’s network in Utah.

The point at which Qwest and Union interconnect is the operational demarcation point between the two networks. This point determines who has operational responsibility for facilities. (Qwest Ex. 1, p. 20, lines 404-406.) Qwest is responsible for operating the facilities on its side of the point of interconnection. Union is responsible for operating the facilities on its side of the point of interconnection.

Under Section 251(c)(2)(B) of the Act, Qwest is required to allow wireless carriers such as Union to interconnect at any technically feasible point “within” Qwest’s network.² The FCC has interpreted this statutory provision to require at least one

² 47 U.S.C. §251(c)(2)(B); *see also* 47 CFR 51.305(a).

interconnection point within the ILEC's network in each LATA.³ ILECs such as Qwest do not have an obligation to interconnect at points located outside of their service territory. (Qwest Ex. 1, p. 21, lines 417-421.) Thus, the Commission correctly ruled in Qwest's favor on Issue No. 3 by holding that "Qwest has no obligation to interconnect with a requesting carrier outside its ILEC territory within a LATA." (Order, p. 40.)

Union's additional proposed language for Sections 6.2.2 and 6.2.4.1.1 was listed as part of Issue No. 1 in the Disputed Points List submitted to the Commission. However, Union's additional proposed language addresses the point of interconnection between the parties. The requirement that Qwest establish one-way trunks from its network to Union's wireline "access tandem or end office switch(es)" effectively requires Qwest to create a point of interconnection at a point within Union's network in Wyoming. That is not a lawful requirement, as the Commission itself found in ruling on Issue No. 3.

Moreover, Union's proposed language for Sections 6.2.2 and 6.2.4.1.1 does not properly fall within the scope of Issue No. 1. Issue No. 1 concerned whether Union would be required to establish a Type 2 interconnection arrangement and virtually all of Union's proposed language changes under this issue involved the simple removal of the phrase "Type 2" from the interconnection agreement. Qwest opposed these changes and argued that Union should be required to use a Type 2 interconnection arrangement so that Qwest could properly separate Union Cellular's wireless traffic from Union Telephone's wireline traffic and rate and bill each type of traffic correctly. Moreover, Type 2

³ Further Notice of Proposed Rulemaking, *In the Matter of Developing a Unified Intercarrier Compensation Regime*, 20 FCC Rcd 4685, ¶ 87 (FCC rel. Feb. 10, 2005). All but the southeastern corner of Utah is located in LATA 660. LATA 660 does not include Wyoming where Union Cellular's wireless and Union Telephone's wireline switches are located.

interconnection is necessary so that Qwest can prepare transit records for wireless traffic that Union sends through Qwest to be terminated by other carriers.

The Order does not specifically address Union's proposed additions to Sections 6.2.2 and 6.2.4.1.1 in its ruling on Issue No. 1. In the Order, the Commission stated the following:

Given the FCC's pronouncements and the Parties' arguments, the ALJ finds and concludes the ICA need not identify the type of interconnection as Type 1 or Type 2. However, the ALJ shares Qwest's concern that any form of interconnection must provide the information necessary to allow Qwest to properly rate and bill wireless traffic that Union delivers to Qwest so that Qwest can prepare its own bills and provide records for third party terminating carriers. Qwest notes that Union has not offered in this proceeding to provide such information; implicit in this statement is the assumption that Union is able to provide such information if required to do so. Therefore, while the ALJ recommends the Commission adopt Union's proposed language on this Issue, Union must as a consequence, provide Qwest the information it requires to properly rate and bill the wireless traffic Union delivers to Qwest. If Union is not able to provide this information under its current network configuration, it must change said configuration so that it is able to gather and provide the information to Qwest or so that Qwest is able to gather said information for itself at minimal cost. (Order, pp. 34-35.)

Moreover, the Order's resolution of Issue No. 1 does not identify the specific contract language adopted. Thus, it is not clear whether the Commission intended to adopt Union's additional proposed language for Sections 6.2.2 and 6.2.4.1.1.

In this petition for clarification and reconsideration, Qwest requests that the Commission clarify that with respect to Sections 6.2.2 and 6.2.4.1.1, the Commission intended only to remove the references to "Type 2" and that it did not adopt Union's additional proposed language for Sections 6.2.2 and 6.2.4.1.1. However, in the event that the Commission did intend to adopt Union's additional proposed language, Qwest requests that the Commission reconsider its decision on the grounds that Union's

additional proposed language unlawfully requires Qwest to extend its network outside of its service territory in Utah to Union's switches located in Wyoming. As discussed above, Qwest is not lawfully required to extend its network outside its service territory in Utah or to create points of interconnection located at Union Cellular's wireless switch or Union Telephone's wireline switch in Wyoming.

III. CONCLUSION

For the foregoing reasons, the Commission should clarify that its ruling on Issue No. 3 is controlling and that it has not adopted Union's additional proposed contract language for Sections 6.2.2 and 6.2.4.1.1 of the arbitrated interconnection agreement between the parties.

RESPECTFULLY SUBMITTED: May 5, 2008.

Thomas Dethlefs
Qwest Corporation

Gregory B. Monson
Stoel Rives LLP

Attorneys for Qwest Corporation

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **QWEST CORPORATION'S PETITION FOR CLARIFICATION AND RECONSIDERATION** was served upon the following by electronic mail on May 5, 2008:

Bruce S. Asay
Associated Legal Group, LLC
1807 Capitol Avenue, Suite 203
Cheyenne, WY 82001
basay@associatedlegal.com

Stephen F. Mecham
Callister, Nebeker & McCullough
10 E. South Temple, Suite 900
Salt Lake City, UT 84133-1101
sfmecham@cnmlaw.com

Michael Ginsberg
Patricia E. Schmid
Assistant Attorney Generals
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, Utah 84111
mginsberg@utah.gov
pschmid@utah.gov