-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the Petition of AUTOTEL for Arbitration of an Interconnection Agreement with QWEST CORPORATION Pursuant to Section 252(b) of the Telecommunications Act	)	DOCKET NO. 03-049-19 ORDER ON PETITION FOR RECONSIDERATION AND CLARIFICATION

ISSUED: September 21, 2005

By The Commission:

PROCEDURAL HISTORY

On September 2, 2005, Qwest Corporation ("Qwest") filed a Petition for Reconsideration and Clarification of our Order of August 17, 2005, ("August 2005 Order") seeking: (1) reconsideration to the extent the Commission has concluded it is unable or unwilling to approve an interconnection agreement ("ICA") if the parties fail to file a signed agreement with the Commission, and (2) clarification or reconsideration to the extent the Commission believes it is unable or unwilling to resolve disputes between the parties regarding whether a proposed agreement complies with its arbitration decision.

In its Reply filed September 7, 2005, Autotel appears to oppose any reconsideration or clarification and states its agreement with the Commission to the extent that the August 2005 Order indicates our intent to take no further action in this docket. We issue this order clarifying our August 2005 Order.

DISCUSSION AND CONCLUSION

In its Petition, Qwest notes that other state commissions have required parties to sign interconnection agreements following arbitration proceedings. Qwest argues that the practice of these commissions, as well as federal case law, supports the proposition that state commission arbitration proceedings under §252 of the Telecommunications Act of 1996 (the "Act") are binding such that a state commission can compel a recalcitrant party to sign an ICA at the conclusion of arbitration or approve an ICA absent signature of one of the parties.

Qwest also argues the Commission should clarify its position regarding its ability to resolve disputes between parties regarding the meaning and application of Commission arbitration decisions. Qwest repeats its position stated in its July 14, 2005, Response to Procedural Notice and Reply of Autotel that the Commission can and should require Autotel to specify those portions of Qwest's proposed ICA with which it disagrees and then approve Qwest's proposed ICA with any modifications which the Commission may deem appropriate.

We agree with Qwest's argument that state arbitration decisions are binding on the parties, relative to the issues arbitrated by a state commission. In our August 2005 Order, we made clear our determination to take no further action in this docket, undertaking no future arbitration of the issues previously presented for arbitration, unless and until the parties submit a signed ICA consistent with the requirements of our February 18, 2004, Report and Order ("Arbitration Order"). Qwest appears concerned that, given the Commission's decision in this matter, Autotel may seek continued negotiation, additional arbitration, or action before the

Federal Communications Commission ("FCC") regarding the issues already decided in our Arbitration Order.

We understand Qwest's concern, but our prior order should not be construed for the proposition that a party dissatisfied with the results of an arbitration may unilaterally reject or otherwise attempt to avoid the binding affect of a state commission's decision on the arbitrated issues. This would include, as AutoTel seemingly has done, attempting to start a new Section 252 negotiation, mediation, arbitration cycle on the issues previously arbitrated. We believe that the parties may make an alternative, mutually agreed resolution on an issue resolved by state arbitration, but only if both parties are willing. Absent mutual agreement, either party may rely upon and insist that the state commission's arbitrated decision applies.

We also recognize our authority to resolve disputes regarding the meaning and application of our arbitration decisions, after an ICA has been approved and implemented, and note that we have resolved such disputes in the past. However, we are not at that point. There appear to be additional disputed issues between the parties that have not been properly brought before the Commission for arbitration or decision. These may require further arbitration by the Commission. However, as we tried to indicate in our prior order, we leave it to the parties (particularly to AutoTel) to submit an executed ICA for Commission approval that will dictate the timing or process to be followed to resolve any additional disputes between the parties beyond those which we have already resolved through our binding February 18, 2004, Order

However, given the parties' submissions and conflicting conduct, we believe this clarification of our position is appropriate. The Arbitration Order constitutes a binding order on

the merits of the eight arbitrated issues. Should the parties want us to arbitrate other contractual terms, they must present them to us in an appropriate manner. The appropriate course of action for Autotel, if it disagrees with the results of our arbitration, is to file an appeal with the appropriate federal district court after the Commission has approved a signed ICA, which includes our arbitrated resolutions of disputed issues, submitted by the parties pursuant to 47 U.S.C. §252(e). We consider the findings and conclusions contained in the Arbitration Order to be res judicata or the law of the case and will not revisit these issues now or in the future.

DATED at Salt Lake City, Utah, this 21st day of September, 2005.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#45806