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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF)	Docket No. 04-2277-02
DIECA COMMUNICATIONS, INC., D/B/A)	
COVAD COMMUNICATIONS)	COVAD COMMUNICATIONS
COMPANY FOR ARBITRATION TO)	COMPANY'S RESPONSE TO QWEST
RESOLVE ISSUES RELATING TO AN)	CORPORATION'S MOTION FOR
INTERCONNECTION AGREEMENT)	REVIEW
WITH QWEST CORPORATION)	

April 4, 2005

Introduction

In its Motion for Review Seeking Clarification of a Portion of the Commission's Arbitration Report and Order ("Qwest Motion"), Qwest takes issue with the Commission's decision to adopt Covad's proposed language (with one exception) for section 9.1.15. Because Qwest's Motion appears to seek reconsideration of this decision rather than clarification, and it is brought pursuant to R746-100-11.F, Covad will construe it as a Petition for Review and respond accordingly.

Qwest correctly concludes that the Commission's decision, as written, requires Qwest to provide a list of impacted customer addresses to Covad in connection with its copper retirement activity. Qwest argues that this ruling unfairly shifts the burden of determining the impact of its retirements from CLECs to Qwest. Tellingly, Qwest cites no authority for its argument. This is because the FCC has clearly placed the burden on ILECs who undertake such retirements to notify CLECs of the impact of these changes. In addition to being established by rule, this requirement is logical, efficient and equitable.

I. FCC RULES REQUIRE NOTICE OF RETIREMENTS THAT CONTAIN THE INFORMATION DISPUTED BY QWEST

The FCC's rule regarding notice of network changes reads as follows:

Sec. 51.327 Notice of network changes: Content of notice.

(a) Public notice of planned network changes must, **at a minimum**, include:

- (1) The carrier's name and address;
- (2) The name and telephone number of a contact person who can supply additional information regarding the planned changes;
- (3) The implementation date of the planned changes;
- (4) The location(s) at which the changes will occur;
- (5) A description of the type of changes planned (Information provided to satisfy this requirement must include, as applicable, but is not limited to, references to technical specifications, protocols, and standards regarding transmission, signaling,

routing, and facility assignment as well as references to technical standards that would be applicable to any new technologies or equipment, or that may otherwise affect interconnection); and

(6) A description of the reasonably foreseeable impact of the planned changes.

(b) The incumbent LEC also shall follow, as necessary, procedures relating to confidential or proprietary information contained in Sec. 51.335.

[emphasis added]

The FCC's rules regarding network modifications clearly require *ILECs* to inform their CLEC wholesale customers of the "reasonably foreseeable impact of the planned changes" when retiring copper. Qwest offers absolutely no explanation as to how it meets this requirement through its proposals, because it cannot. The most that can be said about Qwest's current notices is that they inform CLECs in some vague terms that a project is being undertaken. There is plainly a difference between notifying others that an event is taking place, and determining the "reasonably foreseeable impact" of that event. The Commission's decision correctly recognized that Qwest's proposal was therefore deficient.

While Covad believes that reading the FCC rule to require a listing of all addresses impacted by the retirement is still a minimalist, and potentially deficient reading, there is certainly no room to read less into the rule. To do so would be to ignore the FCC's directive, which clearly places the burden on ILECs to notify its wholesale customers of the impact of network changes, including planned copper retirements.

II. A REQUIREMENT THAT QWEST LIST ALL IMPACTED ADDRESSES IS NOT INCONSISTENT WITH THE COMMISSION'S DECISION NOT TO REQUIRE A SPECIFIC LISTING OF COVAD CUSTOMERS

Qwest next argues that the Commission's decision to require a listing of impacted customers is inconsistent, because the Commission also ruled that Qwest is not required to give Covad specific notice of its impacted customers. Qwest argues that the remaining requirement is even more burdensome on Qwest.

This is simply not true. Qwest can quickly and easily produce a list of all customer addresses impacted by a given retirement with its databases. While Covad's proposal would have required an additional notice tailored to any impacted CLECs, the general notice approved by the Commission requires a single, one size fits all notice to all CLECs that can be used to cross-reference their existing customer lists. This is plainly less work for Qwest than providing specific, targeted notices to Covad (and presumably other CLECs). That being said, Covad still believes the FCC rule requires specific notice of impacted CLEC customers.

Conclusion

For the reasons set forth above, Covad respectfully requests that this Commission deny Qwest's Motion.

Dated this 4th day of April, 2005.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing COVAD COMMUNICATIONS COMPANY'S RESPONSE TO QWEST CORPORATION'S MOTION FOR REVIEW was mailed by U.S. Mail, postage prepaid, and electronically mailed to the following on this 4th day of April, 2005:

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