

Qwest

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Melissa K. Thompson

Senior Attorney

July 7,2006

Via UPS Overnight

Public Service Commission of Utah

Heber M. Wells Building 160 East 300 South, Fourth Floor Salt Lake City, UT 84.1 11

Re: Docket No. 06-049-43; In the Matter of the Petition of Qwest for Approval of Interconnection Agreements to Implement FCC Ruling in T-Mobile Order

Dear Commissioners:

By this letter, Qwest Corporation ("Qwest") formally extends the deadline for a decision in the above-referenced docket by 30 days. July 1 1,2006 is the decision deadline based upon the requirements of 47 U.S.C. § 252(b) and upon that date Qwest has a right to disconnect service to the named respondents in the docket, Dixie Communications and Old West Paging. During the 30-day period, Qwest will continue to apply the interim compensation scheme established in the T-Mobile Order.

On June 26, the Division of Public Utilities recommended that the Commission schedule a hearing. Qwest respectfully asks the Commission to set the hearing within the 30-day extension affirmed by Qwest. Qwest remains hopeful that the parties will reach an agreement within the 30-day time period.

For the Commission's information, I have attached a copy of the Order entered by the Public Utilities Commission of the State of Colorado in the same matter filed in that state.

Public Service Commission of Utah

July 7, 2006

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Please contact me if you have any questions or concerns. Thank you for your assistance.

Sincerely,

Melissa K. Thompson

Encl.

cc: Division of Public Utilities

James Farr

IN THE MATTER OF THE PETITION OF **QWEST** CORPORATION PURSUANT TO 47 USC 252 (A) AND (B) AND APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT WITH PAGEME AND MOTION FOR WAIVERS AND A VARIANCE.

INITIAL COMMISSION DECISION

I. BY THE COMMISSION

Mailed Date: May 25,2006
Adopted Date: May 24,2006

A. Statement of the Case

1. On March 17, 2006, Qwest Corporation (Qwest) filed a Petition Pursuant to 47 U.S.C. § 252(a) and (b) and Application for Approval of Agreement [Petition] and Motion for Waivers and Variances [Motion].¹ Qwest seeks an interconnection agreement (ICA) with Pageme (Respondent).² The filing commenced this case.

2. By Decision No. C06-0318, the Commission granted the Motion for Waivers

with respect to a waiver of Rule 4 *Code of Colorado Regulations* (CCR) 723-46-3.2.2; referred the

remainder of the Motion for Waivers for determination by an Administrative Law Judge (ALJ);

and referred this matter to an ALJ for hearing. The Commission determined that it would issue

an initial decision in this proceeding.

3. Pursuant to Rule 4 CCR 723-46-5.1, Respondent **was** to file its response to the

Petition within 25 days following the filing of the Petition (*i.e.*, on or before April 11, 2006).

¹ These are contained in one document.

² Appended to the Petition as Exhibit B is the ICA which Qwest seeks to negotiate with Respondent. That

document is entitled: Type 1 and Type 2 Paging Connection Service Agreement.

Respondent did not file a response to the Petition and did not request an enlargement of time within which to respond.

4. Qwest and Respondent are the only parties in this proceeding.

5. Based on the requirements of 47 U.S.C. § 252(a), it appears that the Commission must issue its decision in this matter on or before July 11, 2006.

6. By Decision No. R06-0387-1, the ALJ scheduled a prehearing conference. That Order set out matters to be discussed at the prehearing conference and directed Qwest to provide evidence, either documentary or testimonial, addressing specific issues.

7. On April 24, 2006, the *ALJ* held the scheduled prehearing conference. Qwest appeared through counsel. Respondent did not appear, did not contact either Qwest or the ALJ prior to the prehearing conference, and did not contact the Commission prior to the prehearing conference. Qwest presented the testimony of Paul R. McDaniel, Assistant Vice President of Colorado Regulatory Affairs for Qwest Services Corporation.

8. By Decision No. R06-0451-1, the ALJ scheduled a hearing in this matter for May 5, 2006. In that Order, the *ALJ* explicitly advised Respondent that:

the hearing is the final opportunity for it to appear to contest the Petition. If Respondent does not appear at the scheduled hearing, the Commission may grant the Petition and order adoption of the ICA appended to the Petition or may take other appropriate action.

Id. at ¶ 1.9.

9. At the scheduled date, time, and place, the *ALJ* called this case for hearing.

Qwest appeared through counsel. Respondent did not appear, did not contact either Qwest or the **ALJ** prior to the hearing, and did not contact the Commission prior to the hearing.

10. At the hearing, Qwest made an oral motion that its Petition be granted; that the Commission enter an order requiring Respondent to execute an ICA with Qwest; and that, if Respondent does not enter into an ICA with Qwest, the Commission enter an order approving the ICA appended to the Petition as the ICA between Qwest and Respondent. That oral motion and this matter were taken under advisement.

11. FINDINGS AND DISCUSSION

11. Qwest is an Incumbent Local Exchange Carrier (ILEC), as that term is defined in federal and state law. Qwest is one of the ILECs which provides telecommunications services and products in the State of Colorado. Qwest is also a Bell Operating Company, as that term is defined in 47 U.S.C. § 153(35).

12. Respondent is a paging provider licensed by the Federal Communications Commission to provide paging services in the State of Colorado. Respondent provides paging services within Qwest's Colorado service territory.

13. Respondent began taking service from Qwest pursuant to Qwest's then-existing Colorado tariffs, catalogs, and price lists governing wireless termination service. On January 6, 2006, Qwest filed with the Commission Advice Letter No. 3037 withdrawing that tariff offering.

14. At present, Qwest and Respondent are interconnected but have no written ICA. In addition, the tariffs pursuant to which Respondent once purchased service from Qwest no longer exist.

15. At present, Qwest bills Respondent for services and products used in their existing interconnection. This has been the situation for some time.

16. At present, Respondent pays the bills which Qwest renders for services and products used in their existing interconnection. This has been the situation for some time.

17. By letter dated October 11, 2005, Qwest formally sought to negotiate, pursuant to 47 U.S.C. § 252, an ICA with Respondent. Respondent did not respond, and has not responded, to that request to negotiate. In addition, Respondent did not respond to additional and later attempts by Qwest to initiate negotiation[^].[^] To date, Qwest and Respondent have not negotiated, and have not entered into, a written ICA.

18. The ICA appended to the Petition as Exhibit B is consistent with applicable law and is commercially reasonable.

19. The Petition is unopposed.

20. Qwest and Respondent must have an ICA in order for Respondent to continue to provide its service in Qwest's service territory in Colorado. The facts in this case establish that granting the Petition will allow such an ICA to be filed with the Commission and, thus, enable Respondent to continue to offer its service to Colorado customers. Granting the Petition will advance the federal and state policies favoring competition and the offering of many types of telecommunications services to customers.

21. Pending before the Commission is Qwest's oral motion that its Petition be granted; that the Commission enter an order requiring Respondent to execute an ICA with Qwest; and that, if Respondent does not enter into an ICA with Qwest, the Commission enter an order approving the ICA appended to the Petition as the ICA between Qwest and Respondent. Subsumed within the oral motion is a request that the remainder of the Motion for Waivers be granted. The oral motion is unopposed.

These later attempts did not affect the statutory time periods which commenced with the October 11, 2005 letter.

22. The oral motion will be granted. The Petition will be granted. Respondent will be ordered to sign, on or before June 9, 2006, a written ICA with Qwest. If Respondent does not sign an ICA with Qwest by that date, then Qwest may file the ICA appended to the Petition as Exhibit B for approval by the Commission. In addition, the Motion for Waivers, to the extent not already granted, will be granted. Rule 4 CCR 723-44-4.4.4, Rule 4 CCR 723-44-5.1.4.3, Rule 4 CCR 723-44.5.4, and Rule 4 CCR 723-44-5.6.2 will be waived or variances will be granted.

111. ORDER

A. The Commission Orders That: 1. The oral motion of Qwest Corporation (Qwest) that its Petition be granted; that

the Commission enter an order requiring Pageme (Respondent), to execute an interconnection agreement with Qwest; and that, if Respondent does not enter into an interconnection agreement with Qwest, the Commission enter an order approving the interconnection agreement appended to the Petition as the interconnection agreement between Qwest and Respondent is granted.

2. The Petition filed in this case on March 17, 2006 is granted.

3. On or before June 9, 2006, Respondent shall sign an interconnection agreement with Qwest.

4. If Respondent fails to comply with Ordering Paragraph 11.3, then Qwest may file the interconnection agreement appended to the Petition as Exhibit B for approval by the Commission, provided the changes discussed above are made.

There are blanks in Exhibit B (e.g., identification of the provider with which the ICA is made) which Qwest would need to complete prior to filing the ICA for Commission approval.

5. To the extent not previously granted, the Motion for Waivers and Motion for Variances are granted.

6. The requested waiver of, and variance of, the following rules are granted: Rule 4 *Code of Colorado Regulations* (CCR) 723-44-4.4.4, Rule 4 CCR 723-44-5.1.4.3, Rule 4 CCR 723-44.5.4, and Rule 4 CCR 723-44-5.6.2

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 24,2006.**

(SEAL)

Commissioners

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER