

Docket No. 09-049-__

QWEST'S PETITION FOR ARBITRATION OF AN INTERCONNECTION
AGREEMENT WITH FIRSDIGITAL TELECOM

Qwest's template interconnection agreement can be found at the following Qwest website link:

<http://www.qwest.com/wholesale/clecs/sgatswireline.html>

Sanderson, Bryan

From: Sanderson, Bryan
Sent: Thursday, May 14, 2009 9:42 AM
To: 'wmcDougal@firstdigital.com'

Attachments: First DigitalTelecom5-13-09.doc



First

talTelecom5-13-09.c

Mr. McDougal please see the attached letter from Qwest requesting 251/252 negotiations to replace your existing interconnection agreement in Utah with Qwest.

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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the **CUSTOMER**
experience



Bryan Sanderson
Interconnection Negotiator
1600 7th Ave., Room 1507
Seattle, WA 98191
Phone: 206-345-2275
E-mail: bryan.sanderson@qwest.com

May 14, 2009

First Digital Telecom
Wesley McDougal
President
90 S. 400 West, Suite M100
Salt Lake City, UT 84101

VIA US MAIL and EMAIL

Dear Mr. McDougal:

The purpose of this letter is to provide notice to First Digital Telecom of Qwest's intent to terminate its existing Interconnection Agreement (ICA) in Utah and replace it with an updated ICA. The existing ICA has long passed its expiration date and is no longer up to date with many of Qwest's current ICA terms and conditions. Using the date of this letter as the trigger date to open a 160 day window that consists of a 135 day negotiation window followed by a 25 day arbitration window; the negotiation window closes on September 24th, 2009 followed by the arbitration window that will close on October 20th, 2009. During the arbitration window either party can file for arbitration before the Commission over disputed terms and conditions.

To begin the process for replacement of the ICA there are three (3) options you could explore:

Option 1. The Multi-State Negotiation Interconnection Agreement is our latest offering to CLECs; including terms, conditions, rates, and product and services. The Agreement can be found on the Qwest web page at: <http://www.qwest.com/wholesale/clecs/sgatswireline.html>. Please open the Multi-state Negotiation Interconnection Agreement. Rates (Exhibit As) and other Exhibits are listed by state below the Multi-State Interconnection Agreement. The entire Agreement will consist of the Agreement and appropriate Exhibits.

Option 2. Opt-In - This option allows the adoption of the terms and conditions of one of the more recently approved ICAs available in a state.

Option 3. Negotiations - This option uses the Multi-state Negotiations Interconnection Agreement template as a starting point for negotiations and you may propose changes to the terms and conditions of the Agreement. This is typically done by redlining your proposed changes into the template and returning it to Qwest to begin negotiations.

Please contact me and let me know which option you would like to pursue.

Throughout the negotiation window, I will be making periodic contacts via calls and/or emails to check status if I do not hear from you. The purpose of these contacts are to ensure sufficient progress is being made to achieve the requirements imposed on both parties by the language of the current ICA.

Sincerely,

Bryan Sanderson

Exhibit C

Sanderson, Bryan

From: Sanderson, Bryan
Sent: Tuesday, June 09, 2009 6:31 AM
To: 'wmcdougal@firstdigital.com'
Subject: FW: Adoptable Utah
Attachments: Adoptable All states.xls

Mr. McDougal per our discussion yesterday here is a list of agreements in Utah that are currently adoptable. Please let me know at your earliest convenience how you want to proceed with renewing your interconnection agreement with Qwest. Thank you.

Best regards,

Bryan Sanderson

From: Dea, Steve
Sent: Tuesday, June 09, 2009 5:54 AM
To: Sanderson, Bryan
Subject: RE: Adoptable Utah

Bryan – here you go

State	Company	Type	Status	Agreement Expires
Utah	Access Point, Inc.	Wireline	Approved	06/30/2011
Utah	Bandwidth.com CLEC, LLC	Wireline	Approved	06/01/2011
Utah	Beehive Telecom, Inc.	Wireline	Approved	12/31/2010
Utah	Broadband Dynamics LLC	Wireline	Approved	11/30/2011
Utah	Central Telcom Service, LLC dba CentraCom Interactive CTS	Wireline	Approved	08/31/2010
Utah	Clertech.com, Incorporated	Wireline	Approved	09/30/2011
Utah	Eschelon Telecom of Utah, Inc.	Wireline	Approved	10/19/2011
Utah	NextG Networks of California Inc. dba NextG Networks West	Wireline	Approved	09/30/2011
Utah	QuantumShift Communications, Inc., dba vCom Solutions	Wireline	Approved	11/30/2011
Utah	XMission Networks, LLC	Wireline	Approved	08/31/2010

Steve Dea
Qwest - Wholesale Contracts
1801 California Street, 24th Floor
Denver, CO 80202
303-965-3029
steve.dea@qwest.com

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From: Sanderson, Bryan [mailto:Bryan.Sanderson@qwest.com]


11/2/2009

Sent: Monday, June 08, 2009 4:21 PM
To: 'Steve Dea'
Subject:

Exhibit C

Steve can you get me a list of the adoptable agreements in Utah. Thanks

Bryan Sanderson
Qwest Wireless Negotiator
306-345-2275
bryan.sanderson@qwest.com

 Right-click here to download pictures.
To help protect your privacy, Outlook prevented automatic download of this picture from the Internet.

Sanderson, Bryan

From: Sanderson, Bryan
Sent: Monday, July 06, 2009 8:28 AM
To: 'wmcDougal@firstdigital.com'
Subject: Adoption

Mr. McDougal:

I am following up on my original letter, voice mails and emails to you terminating your current interconnection agreement with Qwest. In early June you indicated that you wanted to adopt a current interconnection agreement in Utah. On June 9, I sent you via email a list of adoptable agreements in Utah. Since that time I have not heard back from you. We are fast approaching the mid point of the 135 day negotiations window. I am hopeful we can reach agreement on a new adoption before the negotiation window closes, otherwise Qwest will file for arbitration with the Utah Commission during the arbitration window (day 135 through 160). Please let me know which agreement from the list I provided you in June, First Digital Telecom would like to adopt. I will also need the following information to process this request:

Company Legal Name:
Also any (Also Known As) AKA if applicable:

Contact Information:

Name:
Title:
Address:
Phone:
Fax:
Email:

Who will be signing the Agreement and Title:

Please respond at your earliest convenience.

Sincerely,

Bryan Sanderson
Qwest Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Tuesday, July 21, 2009 11:24 AM
To: 'wmcDougal@firstdigital.com'

Attachments: First DigitalTelecom7-21-09.doc

Mr. McDougal please see the attached letter.



First
talTelecom7-21-09.c

Best Regards,

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Bryan Sanderson
Interconnection Negotiator
1600 7th Ave., Room 1507
Seattle, WA 98191
Phone: 206-345-2275
E-mail: bryan.sanderson@qwest.com

July 21, 2009

First Digital Telcom
Wesley McDougal
President
90 S. 400 West, Suite M100
Salt Lake City, UT 84101

VIA US MAIL and EMAIL

Dear Mr. McDougal:

This letter is a follow up to Qwest's original letter sent on May 14, 2009, terminating your current interconnection agreement (ICA) with Qwest in the state of Utah and requesting new negotiations under Sections 251/252 of the Act. We are now slightly over half way through the 135 day negotiations window. Since my original letter, I have sent several emails and voicemails to you and have not heard back from you for some time. At approximately 100 days into the negotiations window I will be contacting the Qwest law department to let them know we have not reached agreement on a new ICA and they should begin preparing to file for arbitration with the commission (day 135 through 160) unless we reach agreement on a new ICA. Again, First Digital Telecom may choose one of the three options available as outlined below.

Option 1. The Multi-State Negotiation Interconnection Agreement is our latest offering to CLECs; including terms, conditions, rates, and product and services. The Agreement can be found on the Qwest web page at: <http://www.qwest.com/wholesale/clecs/sgatswireline.html>. Please open the Multi-state Negotiation Interconnection Agreement. Rates (Exhibit As) and other Exhibits are listed by state below the Multi-State Interconnection Agreement. The entire Agreement will consist of the Agreement and appropriate Exhibits.

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Option 3. Negotiations - This option uses the Multi-state Negotiations Interconnection Agreement template as a starting point for negotiations and you may propose changes to the terms and conditions of the Agreement. This is typically done by redlining your proposed changes into the template and returning it to Qwest to begin negotiations.

Please contact me at your earliest convenience so that we may get this resolved prior to Qwest taking the next step.

Sincerely,

Bryan Sanderson

Sanderson, Bryan

From: Sanderson, Bryan
Sent: Monday, August 31, 2009 10:39 AM
To: 'wmcdougal@firstdigital.com'
Subject: 251/252 Negotiations

Mr. McDougal:

This email is to notify you for failing to negotiate a new agreement with Qwest, I have turned this matter over to the Qwest law department for further legal action. If you would like to resolve this before the arbitration window opens on September 25, 2009 please contact me via phone or email.

Sincerely,

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Exhibit G

Sanderson, Bryan

From: Sanderson, Bryan
Sent: Tuesday, September 22, 2009 10:36 AM
To: 'bertelsens@ballardspahr.com'
Subject: FW: Adoptable Utah

Sharon his is the list for Utah that are available for adoption. Let me know if there is anything else I can do. Thank you. Bryan

From: Sanderson, Bryan
Sent: Tuesday, June 09, 2009 6:31 AM
To: 'wmcdougal@firstdigital.com'
Subject: FW: Adoptable Utah

Mr. McDougal per our discussion yesterday here is a list of agreements in Utah that are currently adoptable. Please let me know at your earliest convenience how you want to proceed with renewing your interconnection agreement with Qwest. Thank you.

Best regards,

Bryan Sanderson

From: Dea, Steve
Sent: Tuesday, June 09, 2009 5:54 AM
To: Sanderson, Bryan
Subject: RE: Adoptable Utah

Bryan - here you go

State	Company	Type	Status	Agreement Expires
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Utah	Broadband Dynamics LLC	Wireline	Approved	11/30/2011
Utah	Central Telcom Service, LLC dba CentraCom Interactive CTS	Wireline	Approved	08/31/2010
Utah	Clertech.com, Incorporated	Wireline	Approved	09/30/2011
Utah	Eschelon Telecom of Utah, Inc.	Wireline	Approved	10/19/2011
Utah	NextG Networks of California Inc. dba NextG Networks West	Wireline	Approved	09/30/2011
Utah	QuantumShift Communications, Inc., dba vCom Solutions	Wireline	Approved	11/30/2011
Utah	Xmission Networks, LLC	Wireline	Approved	08/31/2010

Steve Dea
Qwest - Wholesale Contracts
801 California Street, 24th Floor
Denver, CO 80202
303-965-3029
steve.dea@qwest.com

11/2/2009

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Exhibit G

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From: Sanderson, Bryan [mailto:Bryan.Sanderson@qwest.com]

Sent: Monday, June 08, 2009 4:21 PM

To: 'Steve Dea'

Subject:

Steve can you get me a list of the adoptable agreements in Utah. Thanks

Bryan Sanderson

Qwest Wireless Negotiator

306-345-2275

bryan.sanderson@qwest.com


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Exhibit H

Sanderson, Bryan

From: Sanderson, Bryan
Sent: Monday, September 28, 2009 11:02 AM
To: 'Bertelsen, Sharon M. (SLC)'
Subject: RE: FirstDigital
Attachments: EschelonUtah Compliance Filing ICA October.13.2008.doc; Eschelon Exhibit A to ICA.final.xls

sharon here is the Eschelon ICA and Exhibit A (rate pages) for your review. Bryan

From: Bertelsen, Sharon M. (SLC) [mailto:bertelsens@ballardspahr.com]
Sent: Tuesday, September 22, 2009 10:29 AM
To: Sanderson, Bryan
Cc: Wesley McDougal
Subject: FirstDigital

Bryan,

On behalf of FirstDigital, please forward the list of agreements available for adoption from your June 8, 2009 email communication.

Here is my contact information.

Thank you,

Sharon M. Bertelsen
Ballard Spahr LLP
One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221
Direct 801.517.6833
Mobile 801.918.8064
Fax 801.596.6833
bertelsens@ballardspahr.com | www.ballardspahr.com

From: Wesley McDougal [mailto:wmcDougal@firstdigital.com]
Sent: Thursday, September 17, 2009 3:09 PM
To: Bertelsen, Sharon M. (SLC)
Subject: FW:

Wesley J. McDougal
FirstDigital Telecom
801) 456-1005
801) 456-1010 fax
www.firstdigital.com

From: Sanderson, Bryan [mailto:Bryan.Sanderson@qwest.com]
Sent: Tuesday, July 21, 2009 12:24 PM

11/2/2009


Exhibit H

To: 'wmcdougal@firstdigital.com'

Subject:

Mr. McDougal please see the attached letter.
Best Regards,

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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The name of the firm has changed. Ballard Spahr Andrews & Ingersoll, LLP is now Ballard Spahr LLP. All other information remains the same. Please update your records. Thank you.

Sanderson, Bryan

From: Sanderson, Bryan
Sent: Monday, September 28, 2009 3:32 PM
To: 'Bertelsen, Sharon M. (SLC)'
Subject: XO

Attachments: XO-Qwest-UT--5-15-08 Final.doc

Sharon here is the XO agreement. Sections 7.3.10 and 11 are unique to XO's traffic exchange with Qwest and therefore



XO-Qwest-UT--5-15
-08 Final.doc...

not adoptable.

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Tuesday, September 29, 2009 9:43 AM
To: 'Bertelsen, Sharon M. (SLC)'

Attachments: XO-EXA-UT-08-18-08.xls



XO-EXA-UT-08-18-0
8.xls

Sharon here is the rate sheets for XO.

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Thursday, October 08, 2009 12:45 PM
To: 'Bertelsen, Sharon M. (SLC)'
Subject: First Digital

Sharon do you have a decision from your client yet? I am planning to talk to the Qwest attorneys tomorrow about First Digital Telecom and tell them they need to prepare an arbitration petition in Utah and file it before October 20, 2009.

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Duarte, Alex

From: Duarte, Alex
Sent: Wednesday, October 14, 2009 8:34 AM
To: 'bertelsens@ballardspahr.com'
Cc: Sanderson, Bryan; Christensen, Larry
Subject: FirstDigital/Qwest- ICA issues

Sharon-

It was nice to chat with you yesterday about the FirstDigital interconnection agreement issues.

I have spoken with my clients and they are OK with a two-week extension as long as FirstDigital provides a firm commitment that it will negotiate an agreement within the two-week period. According to my calculations, the new arbitration window will close on November 3rd. Please confirm that FirstDigital agrees with the November 3 arbitration close date and that it commits to negotiate an agreement within the two-week period.

We request that FirstDigital send us its proposed modifications no later than October 21, which is a week away. In the meantime, Bryan Sanderson will be in touch with you shortly with the changes that Qwest would require to the XO agreement.

I look forward to hearing from you.

Thanks. Alex

Alex M. Duarte
Corporate Counsel
Qwest
421 SW Oak Street, Suite 810
Portland, OR 97204
503-242-5623
503-242-8589 (facsimile)
Alex.Duarte@qwest.com

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EXHIBIT L

Duarte, Alex

From: Bertelsen, Sharon M. (SLC) [bertelsens@ballardspahr.com]
Sent: Thursday, October 15, 2009 11:05 AM
To: Duarte, Alex
Subject: FW: XO Exhibit H

Alex,

Please see the message from Wesley McDougal agreeing on behalf of FirstDigital to negotiating an interconnection agreement within the two-week period ending on November 3.

Thank you,

Sharon M. Bertelsen
Ballard Spahr LLP
One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221
Direct 801.517.6833
Mobile 801.918.8064
Fax 801.596.6833
bertelsens@ballardspahr.com | www.ballardspahr.com

From: Wesley McDougal [mailto:wmcDougal@firstdigital.com]
Sent: Thursday, October 15, 2009 11:57 AM
To: Bertelsen, Sharon M. (SLC)
Subject: RE: XO Exhibit H

Sharon,

I think those time frames are agreeable. Please pass that information on to Qwest.

What does your afternoon look like to discuss? Or tomorrow morning?

Wesley J. McDougal
FirstDigital Telecom
(801) 456-1005
(801) 456-1010 fax
www.firstdigital.com

From: Bertelsen, Sharon M. (SLC) [mailto:bertelsens@ballardspahr.com]
Sent: Thursday, October 15, 2009 10:37 AM
To: Wesley McDougal
Cc: Oldroyd, Jerold G. (SLC)
Subject: FW: XO Exhibit H

Wesley,

Alex Duarte from Qwest sent me the following message because he needs you personally to confirm that First Digital agrees to negotiate an interconnection agreement within the 2-week period ending November 3:

11/2/2009

"Have you heard from Wesley yet? We really need confirmation from you that we are in agreement; otherwise, we will have no choice but to file the petition for arbitration. Please let me know as soon as possible."

Also, please see the email from Bryan Sanderson below.

Would you like to discuss the Interconnection Agreement today? If so, what time are you available?

Thank you,
Sharon

Sharon M. Bertelsen
Ballard Spahr LLP
One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221
Direct 801.517.6833
Mobile 801.918.8064
Fax 801.596.6833
bertelsens@ballardspahr.com | www.ballardspahr.com

From: Sanderson, Bryan [mailto:Bryan.Sanderson@qwest.com]
Sent: Thursday, October 15, 2009 9:24 AM
To: Bertelsen, Sharon M. (SLC)
Subject: XO Exhibit H

Sharon I am proposing to modify one additional document of the XO agreement, Exhibit H, for First Digital. Please see the attached Word file.

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Wednesday, October 14, 2009 10:00 AM
To: 'Bertelsen, Sharon M. (SLC)'
Cc: Duarte, Alex; Christensen, Larry
Subject: Redlined XO ICA-Utah

Attachments: FirstDigitalUT-ICA-10-14-09Draft.doc

Sharon:

Per our discussion this morning here is the proposed Qwest redline of the XO agreement in Utah. In summary I have eliminated the XO specific language, removed all references and language to VoIP traffic, made the agreement a full three year term section (5.2), and made some modifications to the payment section (5.4) of the agreement. Please let me know at your earliest convenience if these changes are acceptable to your client or if you have other modifications you would propose.



FirstDigitalUT-ICA-1
0-14-09Dra...

Sincerely,

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Wednesday, October 14, 2009 11:12 AM
To: 'Bertelsen, Sharon M. (SLC)'

Attachments: XO-UT-Cageless Bay Procur Amd-(v10-1-08).doc

Sharon: I also forgot to ask you on my last email if First Digital wanted the one amendment associated with the XO agreement in Utah. It is a Collocation Bay Procurement Amendment. I have attached a copy for you review. Let me know. Thank you.



XO-UT-Cageless
Bay Procur Amd...

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Thursday, October 15, 2009 8:24 AM
To: 'Bertelsen, Sharon M. (SLC)'
Subject: XO Exhibit H

Attachments: FirstDigitalExhibit-H-UT.doc

Sharon I am proposing to modify one additional document of the XO agreement, Exhibit H, for First Digital. Please see the attached Word file.



FirstDigitalExhibit-H
-UT.doc ...

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Wednesday, October 21, 2009 8:20 AM
To: 'Bertelsen, Sharon M. (SLC)'
Subject: First Digital

Sharon:

According to my source in Denver, two of the Ancillary Agreements would "flow through" to the new agreement. They are:

Ancillary Agreement CDS-010805-0002 ICNAM (Internetwork Calling Name Deliver Service)

Ancillary Agreement CDS-060206-0002 MSA QDF (Master Service Agreement Qwest Dark Fiber) which also has an amendment which extends the expiration date until 12/31/2010.

Bryan Sanderson
Qwest Wireless Negotiator
206-345-2275
bryan.sanderson@qwest.com

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Sanderson, Bryan

From: Sanderson, Bryan
Sent: Friday, October 30, 2009 7:52 AM
To: 'bertelsens@ballardspahr.com'
Subject: First Digital

Sharon:

As a courtesy I wanted to let you know I sent an email to Alex yesterday and let him know the status of Qwest's negotiations with First Digital. As we have not made a lot of progress during the two week extension his response was that the petition was in good shape and he would just need to dust it off for filing on Tuesday, November 3. I hope that does not happen, but Qwest is prepared to file unless an ICA is signed before then.

Bryan