

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of QWEST)
CORPORATION for Arbitration of)
Interconnection Rates, Terms, Conditions, and)
Related Arrangements with AT&T)
COMMUNICATIONS OF THE MOUNTAIN)
STATES, INC. AND TCG UTAH)
)

DOCKET NO. 04-049-09
ORDER ON JOINT MOTION OF
ATT, TCG AND QWEST

ISSUED: November 1, 2004

By the Commission:

On October 13, 2004, AT&T Communications of the Mountain States, Inc., TCG Utah (collectively ATT), and Qwest Corporation (Qwest) submitted a Joint Motion requesting the Commission resolve a dispute between the parties, relating to what language should be used to conform their interconnection agreements to our May 20, 2004, Report and Order (May 20th Order), which had resolved various interconnection disputes between the parties.

In our May 20th Order, we determined that ATT could receive tandem switch based reciprocal compensation when Qwest network originated local traffic was terminated on ATT's network. This conclusion was based on the ability of an interconnecting carrier, such as ATT, to rely on Qwest's network costs as a proxy to determine the interconnecting carrier's call termination costs, rather than its own network's costs, for reciprocal compensation calculation purposes. In the May 20th Order, we noted that Qwest does not always receive tandem based reciprocal compensation for the termination of local traffic. Sometimes, Qwest's reciprocal compensation for local call termination is based on an end-office switch cost basis. Our conclusion was that, as ATT has elected to use Qwest's network's costs as a proxy for reciprocal compensation calculation, ATT would also rely upon Qwest's network as a proxy on when a tandem switch or end-office switch based cost could be claimed.

As the parties have tried to draft an interconnection agreement that is consistent with the resolutions made in our May 20th Order, the parties have encountered some difficulty in determining when ATT can appropriately

distinguish when it can claim tandem switch based compensation and when it can claim end-office switch based compensation. This difficulty arises from trying to apply a tandem/end-office switch based reciprocal compensation scheme to ATT's network, which does not use tandem or end-office switches. ATT argues that it will be difficult, and it may never be able, or the effort may be cost prohibitive, to obtain the ability to make the determination of when termination of a local call on ATT's network should be charged a tandem or end-office rate.

To resolve the parties' inability to agree on interconnection agreement language for how ATT should charge a tandem switch rate or an end-office switch rate, ATT now argues that the Commission approve the use of the following language for the interconnection agreement:

As of the Effective Date, CLEC is not able to bill Qwest using Qwest's network as a proxy for determining actual rating for each call. Until such time as CLEC is able to bill based on the foregoing, CLEC shall develop a factor to determine the ratio of tandem routed versus end office routed calls. CLEC will bill Qwest for call termination based on such factor. Such factor will include the recurring fixed tandem transmission charge at the 0 to 8 mileage band for all tandem routed calls, but it will not include the recurring per mile tandem transmission charge. CLEC will update this factor quarterly.

Qwest opposes use of ATT's proposed language. Qwest argues that it is premature to attempt to resolve an anticipated billing dispute, with the parties having had no opportunity to present any supporting or opposing evidence regarding ATT's proposal, which Qwest views as one-side, vague and confusing. We agree with Qwest. We acknowledge ATT's position that its proposal can be viewed as compromising the level of its reciprocal compensation it is able to claim and applies a technique which has been used to calculate carrier charges in other circumstances. We conclude, however, that we can not rely upon the existing (or non-existing) record as support for a conclusion, to be made by us on a contested matter, that ATT's proposal is an appropriate resolution. If the parties continue at an impasse, they may request further proceedings before the Commission, for a Commission resolution of the matter.

The Administrative Law Judge recommends that the Commission deny, without prejudice, the use of ATT's proposed language.

Dated this 1st day of November, 2004.

/s/ Sandy Mooy _____
Administrative Law Judge

Based on the Administrative Law Judge's discussion of the issue raised in the Joint Motion and conclusions made therein, we adopt his recommendation and will deny, without prejudice, the inclusion of ATT's proposed language in an interconnection agreement.

DATED at Salt Lake City, Utah, this 1st day of November, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard _____
Commission Secretary

GW#41153