

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Filing Under Protest        )  
of the Commercial Agreement between            )  
Qwest Corporation and Cordia                    )  
Communications Corp. for the Provision        )  
of Qwest Platform Plus Service                 )  
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DOCKET NO. 06-049-20

REPORT AND ORDER

ISSUED: April 25, 2006

SYNOPSIS

The Master Services Agreement at issue being defective as involving a non-certificated carrier, the Commission rejects the Master Services Agreement.

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By The Commission:

On January 20, 2006, Qwest Corporation filed under protest a Master Services Agreement for the Provision of Qwest Platform Plus Service (“QPP Service Agreement”) with Cordia Communications Corp. (hereafter “CLEC” (Competing Local Exchange Carrier)). The Commission asked the Division of Public Utilities, Utah Department of Commerce (“DPU”), to review the matter and the DPU filed its Memorandum on April 11, 2006, recommending denial due to CLEC’s failure to date to obtain a Certificate of Public Convenience and Necessity to provide services in Utah.

Pursuant to our Order issued September 30, 2004, in Docket No. 04-2245-01 and 47 U.S.C. § 252, the Commission rejects the QPP Service Agreement submitted herein. 47 U.S.C. §252(e)(2) provides the basis upon which we may reject a negotiated interconnection agreement. That section, in part, provides that: “The State commission may only reject - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that -

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity. . .”

The fact that CLEC is not certificated to provide services within the State of Utah is dispositive in our consideration of this QPP Services Agreement. As of the date of this Order, CLEC has not been granted, let alone applied for, a certificate to provide any public telecommunication services in Utah.

In this context, we conclude that the QPP Services Agreement must be rejected as “not consistent with the public interest, convenience, and necessity” in attempting to position CLEC to provide public telecommunication services in the State of Utah without a certificate. CLEC’s failure to be subject to and to be able to comply with these requirements precludes us from approving the QPP Services Agreement. We conclude that it would also “discriminate against [all other] telecommunications carrier[s] not a party to the Agreement” that have complied with Utah law and obtained their certificates to provide the services that CLEC seeks to provide.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Master Services Agreement for the Provision of Qwest Platform Plus Service filed herein is rejected. This rejection is without prejudice, permitting the QPP Services Agreement to be resubmitted when Cordia Communications Corp. has remedied the deficiencies noted in this Order.

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2. Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 25<sup>th</sup> day of April, 2006.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

G#48683