

The Commission met on **Thursday, September 11, 2003**, with Chair Koppendrayer and Commissioners Johnson, Reha and Scott present.

**Comment [COMMENT1]:** Minutes by Eric Witte. 23 motions were made.

The following items were taken up by the Commission:

## **TELECOMMUNICATIONS AGENDA**

### **P-442,421/IC-03-759**

In the Matter of the Petition of AT&T Communications of the Midwest, Inc. (AT&T) for Arbitration of an Interconnection Agreement with Qwest Corporation (Qwest) Pursuant to 47 U.S.C. § 252(b)

Issue No. 1: Regarding the ability of a competitive local exchange carrier to obtain services from an agreement or tariff, Chair Koppendrayer moved to decline the recommendation of the Administrative Law Judge's Arbitrator's Report (ALJ Report) and to adopt the position recommended by AT&T.

The motion passed 4-0.

Issue No. 2: Regarding the process for incorporating changes in law into the interconnection agreement (ICA), Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 3: Regarding the definition of "tandem office switch," Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue Nos. 4, 6 and 7: Regarding the definitions of "exchange access," "intraLATA toll traffic" and "local calling area," Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

Chair Koppendrayer withdrew the motion.

Issue No. 5: Regarding the definition of "extended area/local traffic," Commissioner Reha moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 8: Regarding limitations on liability, Commissioner Reha moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.



Issue No. 9: Regarding indemnity obligations, Commissioner Johnson moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 14: Regarding the termination of extended area service (EAS) and local traffic, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 16: Regarding the use of a relative use factor for calculating the rate for private line transport, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 17: Regarding the sharing of costs for two-way trunking, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 19: Regarding the ratio of terminating to originating traffic, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 21: Regarding billing for calls with no calling party number, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 22: Regarding Qwest's handling of equipment or property abandoned by AT&T, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 23: Regarding loop audits, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 24: Regarding Qwest's obligation to construct unbundled network element facilities for AT&T, Commissioner Scott moved to decline the ALJ Report's recommendation and to adopt AT&T's position.

The motion passed 4-0.

Issue No. 26: Regarding the inclusion of wholesale service quality standards in the agreement, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Chair Koppendrayer moved to reconsider the prior question.

The motion passed 4-0.

Chair Koppendrayer moved to adopt the ALJ Report's recommendation as amended by the following language:

Section 20.02. The CLEC hereby notes its intension to incorporate the Minnesota Wholesale Service Quality Plan (MN WHSQ Plan), including all applicable remedies, found in Exhibit K of this Agreement, into this ICA. In the event that, for whatever reason, the MN WHSQ Plan is not effective (due to stay upon appeal, etc.), the Parties agree to abide by the Minnesota Performance Assurance Plan (MPAP), including all applicable remedies, until, if at all, the MN WHSQ Plan becomes effective following exhaustion of any appeal rights. During the period the MN WHSQ Plan is not effective, Qwest shall keep records that would enable a look-back to reconstruct the amounts, if any, CLEC would receive under the MN WHSQ Plan in excess of the amounts payable, if any, under the MPAP.

If, following appeal and the expiration of any not effective period, the MN WHSQ Plan becomes effective in a substantially unmodified form, the CLEC may elect to readopt the MN WHSQ Plan on a prospective basis only or on a retroactive basis back to the later of (i) the date of CLEC's original adoption of the MN WHSQ Plan or (ii) the effective date of the MN WHSQ Plan determined by the relevant judicial or administrative agency. In the event that appellate review leads to substantial modifications in the form of the MN WHSQ Plan, or leads to remand of the MN WHSQ Plan, readoption of the MN WHSQ Plan shall be on a prospective basis only from the effective date of any modified or new plan following court order or further order of the Commission, as appropriate. In the event of a readoption of the MN WHSQ Plan on a retroactive basis, as provided above, then Qwest shall reconstruct the amounts payable to the CLEC in excess of the amounts payable under the MPAP for the period of the look-back and the Parties shall true-up, with interest, the difference between the two.

Nothing in this provision shall constitute any waiver or admission by Qwest that the MN WHSQ Plan is lawful or valid or properly ordered, nor shall anything in this provision be construed as a waiver by Qwest of any objections, issues or arguments that Qwest has raised or may raise in connection with any appeal, remand, reconsideration, or further consideration of the MN WHSQ Plan in any forum.

Chair Koppendrayer withdrew the motion.  
Commissioner Reha moved to adopt the following language:

Section 20.2. The Parties hereby incorporate the Minnesota Wholesale Service Quality Plan (MN WHSQ Plan), including all applicable remedies, found in Exhibit K of this Agreement, into this ICA. In the event that, for whatever reason, the MN WHSQ Plan is not effective (due to stay upon appeal, etc.), the Parties agree to abide by the Minnesota Performance Assurance Plan (MPAP), including all applicable remedies, until the MN WHSQ Plan becomes effective and the CLEC readopts the MN WHSQ Plan into the ICA. During the period the MN WHSQ Plan is not effective, Qwest shall keep a record of, and shall report to CLEC on a monthly basis, its performance under the MN WHSQ Plan and the amounts CLEC would receive under the MN WHSQ Plan in excess of the amounts payable under the MPAP.

If CLEC does readopt the MN WHSQ Plan, CLEC may elect to have such plan be effective as to CLEC on a prospective basis only or retroactively back to the later of (i) the date of CLEC's original adoption of the MN WHSQ Plan or (ii) the effective date of the MN WHSQ Plan determined by the relevant judicial or administrative agency once the period during which the MN WHSQ Plan was not effective terminates. Upon CLEC's readoption of the MN WHSQ Plan on a retroactive basis, Qwest shall compare the amounts due under the MN WHSQ Plan and the MPAP from the date upon which the MN WHSQ Plan is deemed effective as to CLEC, and the Parties shall true-up, with interest, the difference between the two.

Nothing in this provision shall constitute any waiver or admission by Qwest that the MN WHSQ Plan is lawful or valid or properly ordered, nor shall anything in this provision be construed as a waiver by Qwest of any objections, issues or arguments that Qwest has raised or may raise in connection with any appeal, remand, reconsideration, or further consideration of the MN WHSQ Plan in any forum.

The motion passed 4-0.

Issue No. 27: Regarding the format of bills to be submitted by each party to the other, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 30: Regarding billing for traffic lacking carrier identification codes, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.



Issue No. 33: Regarding compensation for alternatively billed calls, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 34: Regarding how Qwest as the local primary interexchange carrier should bill for interLATA toll calls, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Issue No. 35: Regarding the pricing of services provided to Qwest by AT&T, interim rates, and individual case-based pricing, Chair Koppendrayer moved to adopt the ALJ Report's recommendation.

The motion passed 4-0.

Commissioner Scott moved to direct the parties to file their complete ICA within thirty days of the Commission's Order.

The motion passed 4-0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION

Approval Date:

September 26 , 2003

Burl W. Haar  
Executive Secretary