

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of an Investigation Regarding Qwest's Compliance with Section 271 of the Telecommunications Act of 1996 with Respect to the Provisions of InterLATA Services Originating in Minnesota

PUC Docket No. P-421/CI-96-1114  
OAH Docket No. 12-2500-14473-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist items 3, 7, 8, 9, 10, and 12

PUC Docket No. P-421/CI-01-1370  
OAH Docket No. 12-2500-14485-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist items 1, 2, 4, 5, 6, 11, 13, and 14

PUC Docket No. P-421/CI-01-1371  
OAH Docket No. 7-2500-14486-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 272 of the Telecommunications Act of 1996's Separate Affiliate Requirement

PUC Docket No. P-421/CI-01-1372  
OAH Docket No. 7-2500-14487-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(d)(3)(C) of the Telecommunications Act of 1996 That the Requested Authorization is Consistent with the Public Interest, Convenience and Necessity

PUC Docket No. P-421/CI-01-1373  
OAH Docket No. 6-2500-14488-2

In the Matter of a Qwest's Statement of Generally Available Terms (SGAT) Pursuant to Section 252(f) of the Telecommunications Act of 1996

PUC Docket No. P-421/CI-01-1374  
OAH Docket No. 12-2500-14489-2

In the Matter of the Commission's Review and Investigation of Qwest's Unbundled Network Element (UNE) Prices

PUC Docket No. P-421/CI-01-1375  
OAH Docket No. 12-2500-14490-2

## **TENTH PREHEARING ORDER**

These matters are before the Administrative Law Judges to establish standards and procedures regarding incorporation of materials from other jurisdictions into the record of these dockets. It is intended that the following provisions apply to all dockets except Docket 1372, the Separate Affiliate Docket, where the hearing has already occurred and specific rulings were made during the hearing.

### **INCORPORATION OF MATERIALS**

1. Proceedings regarding Qwest 271 applications are ongoing in all the states in Qwest's territory, sometimes in multi-state regions (the Related 271 Proceedings). Use of evidence and other materials from the Related 271 Proceedings in the Minnesota dockets presents an opportunity to avoid unnecessary duplication of effort and cost and to learn from those other jurisdictions. However, the receipt of such material into the records here must be subject to standards ensuring its relevance and reliability and procedures ensuring fair notice and opportunity to object, respond, and, if appropriate, cross-examine. We are particularly concerned that parties involved in the Related 271 Proceedings may use incorporation as a method of placing large amounts of marginally relevant material into the record that is beyond the capacity of the Department, the Office of the Attorney General, the Office of Administrative Hearings, and the Commission to analyze within the given timelines and without the opportunity for discovery.

2. Any material, including testimony, exhibits, reports, recommendations, and decisions, available in document form in any of the Related 271 Proceedings may be incorporated into the record of any Minnesota docket if it is relevant, reliable, and not unduly repetitious under the Rules of Evidence of the Office of Administrative Hearings, Minn. R. 1400.7300, does not create unfair surprise or burden, and is submitted in accordance with the following paragraphs.

3. Any party seeking to incorporate any material from a Related 271 Proceeding shall serve and file a Notice of Intent to Incorporate along with a copy of the material to be incorporated or an adequate reference to that material in resources known to be readily accessible to the parties, Administrative Law Judges, and Commission. The Notice shall contain a brief statement as to the need for the incorporation, how the material is limited to that necessary, and whether any witness whose testimony is sought to be incorporated can be made available for cross-examination. The Notice of Intent to Incorporate shall be served in the same manner and on the same schedule, as nearly as practical, as the existing filing deadlines for direct and rebuttal testimony.

4. Any party may object to incorporation of material from a Related 271 Proceeding. Any party objecting to incorporating testimony due to lack of opportunity to cross-examine must show that any existing cross-examination was inadequate and that

the lack of cross-examination cannot be cured in some other manner, such as by making the witness available for cross-examination or introduction of responsive testimony from the related proceeding or in the Minnesota docket.

5. Any objection will be made in the form of a motion no later than five working days after receipt of the Notice of Intent to Incorporate. The motion shall state the reason for the objection. The Administrative Law Judge will hear argument on the objection promptly by telephone conference.

6. Material to be incorporated into the record shall be presented at the hearing in the same manner as witness testimony. It shall be marked as an exhibit and admitted to the record.

January 10, 2002

/s/ Steve M. Mihalchick  
STEVE M. MIHALCHICK  
RICHARD C. LUIS  
ALLAN KLEIN  
Administrative Law Judges