

TCU4-U8C

RW

In the Matter of \_\_\_\_\_

IN THE MATTER OF THE FILING FOR  
APPROVAL OF A BUSINESS  
ESCALATION AGREEMENT BETWEEN  
QWEST CORPORATION AND MCI  
WORLDCOM NETWORK SERVICES,  
INC. AND ITS AFFILIATES

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
<i>4/21 04</i>	<i>Filed and Docketed;</i>
<i>4/22 04</i>	<i>Weekly Filings;</i>
<i>6/30 04</i>	<i>Order Approving Agreement;</i>
<i>6/30 04</i>	<i>Docket Closed.</i>

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TRANSMITTAL

BGPW # 2104.078

**TO:** Delayne 605-773-3809  
**FROM:** Vera in Tom Welk's office  
**DATE:** April 21, 2004  
**RE:**  
**PAGES:** 4 (including cover sheet)  
**COMMENTS:** Attached is the revised filing letter and the Agreement for MCI.

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**IF YOU HAVE ANY PROBLEMS RECEIVING THIS FACSIMILE, PLEASE  
CONTACT : Vera J. Jongeling @ 605-336-2424.**

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April 21, 2004

Pam Bonrud, Executive Director  
Public Utilities Commission of the State of South Dakota  
500 East Capitol Avenue  
Pierre, SD 57501

**Re: Filing of Business Escalation Agreement between Qwest Corporation and MCI  
Worldcom Network Services, Inc. and its Affiliates  
Our File No. 2104.078**

Dear Ms. Bonrud:

Pursuant to ARSD 20:10:32:21 enclosed for filing are eleven (11) copies of the Business Escalation Agreement between MCI WORLDCOM Network Services, Inc. and its affiliates ("MCI") and Qwest Corporation ("Qwest") for approval by the Commission. We have also attached a statement that the CLEC signed only one document so there is no original to file with the Commission.

The agreement is made to agree to attend and participate in executive meetings as necessary, the purpose of which will be to address and discuss issues, open items or disputes and future business needs.

MCI has authorized Qwest to submit this agreement on MCI's behalf.

Sincerely yours,

BOYCE, GREENFIELD, PASHBY & WELK, L.L.P.



Thomas J. Welk

TJW/vjj  
Enclosures

cc: T.D. Huynh - MCI (w/o enc)  
Ms. Colleen Sevold (w/o enc)  
Ms. Philynda Dillard (w/o enc)

*FILE*

**BUSINESS ESCALATION AGREEMENT**

This Business Escalation Agreement ("Agreement") is entered into this 20<sup>th</sup> day of February, 2004, by and between Qwest Corporation, a Colorado corporation ("Qwest") and MCI WORLDCOM Network Services, Inc. and its affiliates ("MCI"), on behalf of themselves and their affiliates and subsidiaries, for consideration of the mutual promises herein and other good and valuable consideration. The parties agree to: (1) arrange Executive-Level meetings as necessary between executives of each company to address unresolved and/or anticipated business issues; and (2) establish and follow escalation procedures designed to facilitate and expedite business-to-business dispute solutions.

**1. EXECUTIVE-LEVEL MEETINGS**

Beginning upon the date of full execution of this Agreement, the parties agree to attend and participate in executive meetings as necessary, the purpose of which will be to address and discuss issues, open items or disputes, and future business needs. The participants in the meeting will include executives from both companies at the vice-president and/or above level.

**2. BUSINESS ESCALATION PROCEDURES**

The parties wish to establish an improved business-to-business relationship and agree that they will attempt to resolve business issues that may arise between them, in accordance with the escalation procedures set forth herein. The parties agree, subject to any subsequent written agreement between the parties, to: (1) utilize the following escalation process and time frames to resolve such disputes; (2) commit the time, resources and good faith necessary to meaningful dispute resolution; (3) grant to one another, at the request of the other party, reasonable extensions of time at Levels 1 and 2 of the dispute resolution process to facilitate a business resolution.

Level	Participants	Time frame for discussions
LEVEL 1	Directors	15 business days
LEVEL 2	Vice Presidents	10 business days
LEVEL 3	Senior and/or Executive Vice Presidents	5 business days

In the event mutually agreeable resolution is not achieved, either party may seek legal, regulatory, or other relief.

Notwithstanding the above escalation procedures, the parties expressly reserve the right to pursue legal, regulatory, and/or other relief at any time

before any court, administrative agency, or other body as each party, in its sole discretion, deems appropriate or necessary to protect its interests. In the event either party avails itself of such right to relief, the other party may, to the extent feasible, accelerate the escalation process so as to reach Level 3 prior to the time at which a responsive filing would be required of that party.

If reporting or filing obligations or requirements are imposed upon Qwest by any third party or regulatory agency in connection with this Agreement, MCI agrees to assist Qwest in complying with such obligations and requirements, as reasonably required by Qwest and to hold Qwest harmless for any failure by MCI in this regard. MCI also acknowledges that Qwest may, in its sole discretion and to the extent that Qwest determines that this Agreement contains an ongoing term of interconnection, file this Agreement with a state commission pursuant to 47 U.S.C. § 252.

In the event either party pursues legal, regulatory, or other relief, both parties agree that they will continue to use this escalation process in an attempt to continue to seek settlement of that dispute and other disputes that may exist at that time or subsequently arise between the parties.

If the parties agree with the terms set forth above, they will each execute a copy of this Agreement in the signature spaces provided on the last page. Upon signature of both parties, the parties will be bound as of the date set forth above by the terms set forth herein, through March 31, 2007. This Agreement may be executed in counterparts and exchanged by facsimile.

Qwest Corporation

MCI WORLDCOM Network Services, Inc. and its affiliates

By: *Beth Halvorson*  
Signature

By: *[Signature]*  
Signature

Beth Halvorson  
Printed Name

MICHAEL A. BEAZAR  
Printed Name

Its: VP-Wholesale Strategic Accounts  
Title

Its: VICE PRESIDENT  
Title

*Legal Review by J. Monroe*

**South Dakota Public Utilities Commission**  
**WEEKLY FILINGS**  
**For the Period of April 15, 2004 through April 21, 2004**

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact  
Delaine Kolbo within five business days of this report. Phone: 605-773-3201

**RULEMAKING**

**RM04-001     In the Matter of the Petition of Midcontinent Communications to Amend ARSD  
20:10:33:19.**

On April 15, 2004, Midcontinent Communications (Midcontinent) filed a Petition For Rulemaking to amend ARSD 20:10:33:19. Midcontinent states that advances in technology and consumer preference have made the rule impractical. Midcontinent has filed proposed amendments to the rule.

Staff Analyst: Harlan Best  
Staff Attorney: Karen E. Cremer  
Date Filed: 04/15/04

**TELECOMMUNICATIONS**

**TC04-078     In the Matter of the Filing for Approval of an Amendment to an Interconnection  
Agreement between Qwest Corporation and MCImetro Access Transmission  
Services, LLC.**

On April 15, 2004, the Commission received a filing for approval of a Qwest DSL (with discount) provided with UNE-P Amendment to the Interconnection Agreement between Qwest Corporation and MCImetro Access Transmission Services, LLC. According to the parties, the Amendment adds terms, conditions and rates for Qwest DSL (with discount) provided with UNE-P. Any party wishing to comment on the Amendment may do so by filing written comments with the Commission and the parties to the Amendment no later than May 5, 2004. Parties to the Amendment may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest  
Date Filed: 04/15/04  
Initial Comments Due: 05/05/04

**TC04-079     In the Matter of the Application of RC Communications, Inc. for a Certificate of  
Authority to Provide Local Exchange Services in the Territory of Qwest Corporation.**

On April 15, 2004, RC Communications, Inc. filed for Commission approval to provide competitive local exchange services in Corona, South Dakota. RC Communications, Inc. is a facilities-based provider currently providing service in Wilmot, Summit, Peever and Veblen. The customers in Corona will be connected with a fiber from the Wilmot switch. Copper and fiber backbone will be constructed in the town of Corona to serve individual customers.

Staff Analyst: Michele Farris  
Staff Attorney: Karen Cremer

Date Filed: 04/15/04

Intervention Deadline: 05/07/04

**TC04-080 In the Matter of the Filing for Approval of an Agreement for Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation and AT&T Communications of the Midwest, Inc.**

On April 16, 2004, the Commission received a filing for approval of an Agreement for Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunication Services Between Qwest Corporation (Qwest) and AT&T Communications of the Midwest, Inc. (AT&T). According to the parties, the "Agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide services for resale to AT&T for the provision of local exchange services." Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the Agreement no later than May 6, 2004. Parties to the Agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest

Date Filed: 04/16/04

Initial Comments Due: 05/06/04

**TC04-081 In the Matter of the Application of Midcontinent Communications for Approval to Expand its Certificate of Authority to Provide Local Exchange Service in the Waubay Exchange of the Service Territory of Interstate Telecommunications Cooperative, Inc.**

On April 20, 2004, Midcontinent Communications filed an application to amend its certificate of authority to provide local exchange service and long distance services in the Waubay exchange of Interstate Telecommunications Cooperative, Inc. (ITC), a rural telecommunications carrier. In the Waubay exchange Midcontinent Communications will use a combination of ITC resold services and the hybrid fiber coax of its cable plant to provide primary transport for residential telephone service. Midcontinent Communications will also provide intrastate and interstate interexchange services for commercial and residential customers. Midcontinent Communications has requested interconnection pursuant to 47 U.S.C. Section 251(f)(1)(A) with ITC, requests confidential treatment of its financial information, and requests a waiver from providing service to the entire ITC service area to provide local exchange service in the Waubay exchange of ITC.

Staff Analyst: Harlan Best

Staff Attorney: Karen E. Cremer

Date Docketed: 04/20/04

Intervention Deadline: 05/07/04

**TC04-082 In the Matter of the Filing for Approval of a Business Escalation Agreement between Qwest Corporation and MCI WorldCom Network Services, Inc. and its Affiliates.**

On April 21, 2004, the Commission received a filing for approval of a Business Escalation Agreement between MCI WORLDCOM Network Services, Inc. and its affiliates and Qwest Corporation. According to the parties, the Agreement "is made to agree to attend and participate in executive meetings as necessary, the purpose of which will be to address and discuss issues, open items or disputes and future business needs." Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the Agreement no later than April 29, 2004. Parties to the Agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest  
Date Filed: 04/21/04  
Initial Comments Due: 05/11/04

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE FILING FOR )	ORDER APPROVING
APPROVAL OF A BUSINESS ESCALATION )	AGREEMENT
AGREEMENT BETWEEN QWEST )	
CORPORATION AND MCI WORLDCOM )	TC04-082
NETWORK SERVICES, INC. AND ITS )	
AFFILIATES )	

On April 21, 2004, the Commission received for approval a filing of a business escalation agreement between Qwest Corporation (Qwest) and MCI WorldCom Network Services, Inc. and its Affiliates (WorldCom).

On April 22, 2004, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the parties' request for approval had until May 11, 2004, to do so. No comments were filed.

At its duly noticed June 22, 2004, meeting, the Commission considered whether to approve the agreement between Qwest and WorldCom. Commission Staff recommended its approval.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996. In accordance with 47 U.S.C. § 252(e)(2), the Commission found that the agreement does not discriminate against a telecommunications carrier that is not a party to the agreement and the agreement is consistent with the public interest, convenience, and necessity. The Commission unanimously voted to approve the agreement. It is therefore

ORDERED, that the Commission approves the agreement.

Dated at Pierre, South Dakota, this 30<sup>th</sup> day of June, 2004.

<b>CERTIFICATE OF SERVICE</b>
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u><i>Delaine Kalbo</i></u>
Date: <u>7/1/04</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Robert K. Sahr*

ROBERT K. SAHR, Chairman

*Gary Hanson*

GARY HANSON, Commissioner

*James A. Burg*

JAMES A. BURG, Commissioner