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*J.W. Boyce (1884-1915)*

November 24, 2004

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

RECEIVED

NOV 29 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re: Filing of Amendment to the Interconnection Agreement between Qwest Corporation and MCImetro Access Transmission Services, LLC.  
Our File No. 2104.078

Dear Ms. Bonrud:

Pursuant to ARSD 20:10:32:21 enclosed for filing are an original and ten (10) copies of the Interim Amendment for Certain Disputed Traffic between MCImetro Access Transmission Services, LLC ("MCI") and Qwest Corporation ("Qwest") for approval by the Commission.

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

Sincerely yours,

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

Thomas J. Welk

TJW/vjj

Enclosures

cc (w/o enc): MCImetro  
Colleen Sevold  
Debi Hartl

NOV 29 2004

**INTERIM AMENDMENT FOR CERTAIN DISPUTED TRAFFIC**  
**Between**  
**Qwest Corporation and MCImetro Access Transmission Services, LLC**  
**for the State of South Dakota**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

This Interim Amendment is entered into by and between Qwest Corporation ("Qwest"), a Colorado corporation, and MCImetro Access Transmission Services, LLC ("MCI") effective as of the Effective Date, defined below. Qwest and MCI shall be known jointly as the "Parties".

**RECITALS**

WHEREAS, MCI and Qwest entered into an interconnection agreement (the "ICA") which was approved by the Commission ("Commission"); and

WHEREAS, the Parties have certain disagreements (the "Disagreement") concerning the interpretation and/or applicability of the ICA and MCI's ability to establish and use a single Point of Interconnection ("POI") in a given LATA for the purpose of MCI receiving certain traffic originated on Qwest's network, and the financial arrangements between the Parties for such POIs, facilities, and traffic ("Disputed Traffic"). Disputed Traffic includes without limitation traffic originated on Qwest's network from a Local Calling Area ("LCA") to an NPA-NXX obtained by MCI and filed in the Local Exchange Routing Guide ("LERG") as being associated to a rate center within the LCA but terminating to an end user not located in that same LCA (which Qwest refers to as "VNXX Traffic");

WHEREAS, to address the Disagreement without either Party waiving rights to advocate its position and seek appropriate remedies, and to allow the network configuration specified below to be installed and/or maintained so that traffic can be exchanged, the Parties have agreed to the following terms and conditions.

**INTERIM AMENDMENT**

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Interim Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Section 1.0 – General Terms and Conditions**

1.1 Effective Date. This Interim Amendment shall become effective on September 1, 2004 ("Effective Date").

1.2 Term. The term of this Interim Amendment shall begin on the Effective Date and shall remain in effect until such time as the Commission or another authoritative body with competent jurisdiction resolves the Disagreement. Upon such resolution, the Parties shall work promptly and expeditiously to incorporate the decision of the Commission or other authoritative body into the ICA, if necessary, without regard to whether the resolution is appealed (absent the granting of a lawful stay). This Interim Amendment shall remain in effect until such incorporation is accomplished.

1.3 Scope of Interim Amendment. The provisions of this Interim Amendment are intended to operate in place of the existing provisions of the ICA only to the extent necessary to establish the rates, terms, and conditions for the Parties for the purpose of MCI receiving Disputed Traffic, including in the 19 LATAs listed in Appendix A to this Interim Amendment and only for the Term of this Interim Amendment, as noted above. To the extent the ICA is not inconsistent with this

Interim Amendment, the ICA remains in full force and effect during and after the Term of this Interim Amendment. Upon expiration of this Interim Amendment as described in Section 1.2, above, the underlying language of the ICA, which is not being altered, stricken, or modified in any way, shall remain in full force and effect, except as modified by the Parties during the process of incorporating the decision of the Commission or other authoritative body, if necessary. For the purpose of incorporating such decision and applying any resulting true-ups, the Parties shall ignore the terms of this Interim Amendment and calculate such true-ups as though the resolution of the Disagreement, as subsequently implemented by the Parties, had been in full force and effect during the term of this Interim Amendment.

1.4 Entire Agreement. This Interim Amendment (including all Appendixes) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of this Interim Amendment and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, including but not limited to, any term sheet or memorandum of understanding entered into by the Parties, to the extent they relate in any way to the subjects of this Interim Amendment.

1.5 Commission Approval. This Interim Amendment is subject to approval by the Commission, and either Party or both Parties may submit this Interim Amendment to the Commission for approval. The Parties shall operate under this Interim Amendment immediately upon execution, without waiting for Commission approval.

## **Section 2.0 – Establishment of POIs**

2.1 Individual POIs. For each of the LATAs listed in Appendix A to this Interim Amendment, MCI shall establish a single POI. The establishment of such POI shall be consistent with the terms and conditions of the Parties' "Single Point of Presence Within the Local Access and Transport Area Amendment" (the "SPOP Amendment") to the ICA, without regard to whether the Disputed Traffic that is the subject to this Interim Amendment is subject to the terms in the SPOP Amendment. The network arrangements created in this Interim Amendment are interim and subject to any rearrangements necessary to implement the resolution of the Disagreement. These network rearrangements will be completed in as expeditious a manner and timeframe as possible after the resolution of the Disagreement. In a proceeding to resolve the Disagreement, each Party shall be free to advocate whether the network arrangements created in this Interim Amendment are appropriate under the ICA for the Disputed Traffic, and neither Party shall be deemed to have waived any position by virtue of executing this Interim Amendment.

2.2 Compensation for Facilities. On an interim basis, Qwest shall bill MCI, and MCI shall pay, for the transport facilities, from each local calling area in a LATA where the Disputed Traffic originates to the POI established pursuant to Section 2.1 above, at the full applicable transport rates contained in MCI's ICAs with Qwest without application of any relative use factor or other cost-sharing mechanism. This billing shall be interim and subject to true-up based on the resolution of the Disagreement. Such true-up shall be undertaken in any given LATA retroactive to the date on which the interim network arrangements implemented under this Interim Amendment in that LATA were first turned up and capable of passing traffic. In a proceeding to resolve the Disagreement, each Party shall be free to advocate any facility compensation it claims is applicable, and neither Party shall be deemed to have waived any position by virtue of executing and/or provisioning facilities pursuant to this Interim Amendment.

2.3 Compensation for Traffic Origination and Termination. On an interim basis, the Disputed Traffic originating on Qwest's network in the 19 LATAs listed in Appendix A to this Interim Amendment shall be originated by Qwest and terminated to MCI on a bill and keep basis. This interim arrangement applies only in the 19 LATAs listed in Appendix A, and only for the

Disputed Traffic originated on Qwest's network and terminated on MCI's network. This bill and keep arrangement is interim and subject to true-up based on the resolution of the Disagreement. Such true-up shall be undertaken in any given LATA retroactive to the date on which the interim network arrangements implemented under this Interim Amendment in that LATA were first turned up and capable of passing traffic. In a proceeding to resolve the Disagreement, each Party shall be free to advocate any traffic termination compensation scheme it claims is applicable, and neither Party shall be deemed to have waived any position by virtue of executing this Interim Amendment.

**Section 3.0 – Resolution of the Disagreement**

3.1 Cooperation of the Parties. The Parties shall work cooperatively and expeditiously to resolve the Disagreement. Either Party may petition the Commission or any other authoritative body with competent jurisdiction to resolve the Disagreement. Each Party is free to advocate any network or financial arrangement it claims is applicable, but neither Party shall use the contents of this Interim Amendment as evidence to determine the appropriate final arrangements between the Parties. Each Party may use the ICA, including without limitation the language that a party may claim is the operative existing language that is the subject of the Disagreement, and all applicable laws, rules, orders, tariffs, regulations, and other relevant and admissible evidence as evidence to determine the appropriate final arrangements between the Parties. By entering into this Interim Amendment, Qwest does not waive and specifically reserves its rights to seek compensation from MCI and/or network reconfiguration by MCI beyond the 19 LATAs identified on Appendix A, in which MCI may have established single POIs or other network arrangements for the transport of Disputed Traffic.

**Section 4.0 Other Terms and Conditions of Interconnection Agreements**

4.1 Other Interconnection Terms. This Interim Amendment is not intended to alter, adjust or extend existing interconnection arrangements between Qwest and MCI except as expressly set forth herein and all such other interconnection arrangements and related terms and conditions shall remain in full force and effect.

The Parties intending to be legally bound have executed this Interim Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

**MCI Metro Access Transmission Services, LLC**

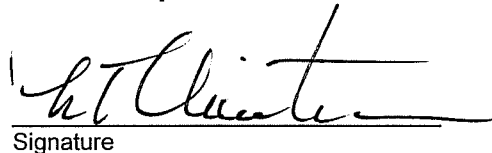
  
Signature

MICHAEL BEACH  
Name Printed/Typed

VP- Carrier Management  
Title

11/12/04  
Date

**Qwest Corporation**

  
Signature

L. T. Christensen  
Name Printed/Typed

Director – Interconnection Agreements  
Title

11/16/04  
Date

## **Appendix A: Affected LATAs**

640 Sioux Falls SD

**South Dakota Public Utilities Commission**  
**WEEKLY FILINGS**  
**For the Period of November 25, 2004 through December 1, 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

**TELECOMMUNICATIONS**

**TC04-255**      **In the Matter of the Filing for Approval of Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation and RC Communications, Inc.**

On November 29, 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 RC Communications, Inc. (RC). 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 RC 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 December 20, 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: Sara Harens  
Date Filed: 11/29/04  
Initial Comments Due: 12/20/04

**TC04-256**      **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 November 29, 2004, the Commission received a filing for approval of an Amendment to the Interconnection Agreement between Qwest Corporation and MCImetro Access Transmission Services, LLC. According to the parties, the Amendment is made in order to address certain disagreements between the parties. 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 December 20, 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: Sara Harens  
Date Filed: 11/29/04  
Initial Comments Due: 12/20/04

**TC04-257**      **In the Matter of the Filing by Qwest Corporation of its Notice of Modifications to Exhibit B and Motion to Modify the Qwest Performance Assurance Plan found in Exhibit K to the Statement of Generally Available Terms and Conditions.**

On November 30, 2004, Qwest Corporation filed to modify Exhibit B of the Statement of Generally Available Terms and Conditions (SGAT) and to modify the Qwest Performance

Assurance Plan (QPAP) found in Exhibit K to the SGAT. Qwest states that "is filing is prompted by the Stipulation reached by the parties to the Arizona First Six Month Review of the QPAP that applies to each of the 14 states within Qwest Corporation's local service area....The Arizona Stipulation anticipates changes to the QPAP....The Arizona Stipulation includes resolution on two issues related to OP-5-B, "New Service Quality/New Service Provisioning Quality" that require red-lined changes to Exhibit B and/or Exhibit K: standards and low volume treatment. Qwest intends that the terms of the Arizona Stipulation be available to and benefit CLECs that opt-in to the QPAP in its local service region and, accordingly, makes this filing to effectuate the Arizona Stipulation." Qwest requests that the Commission approve the changes and order them to become effective no later than December 31, 2004. Qwest further requests that pursuant to Section 18 of Exhibit K, the changes shall automatically apply to and modify all existing interconnection agreements that currently contain Exhibit B and Exhibit K as exhibits.

Staff Attorney: Karen E. Cremer  
Staff Analyst: Harlan Best  
Date Filed: 11/30/04  
Intervention Deadline: 12/17/04

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

<b>IN THE MATTER OF THE FILING FOR )</b>	<b>ORDER APPROVING</b>
<b>APPROVAL OF AN AMENDMENT TO AN )</b>	<b>AMENDMENT TO</b>
<b>INTERCONNECTION AGREEMENT BETWEEN )</b>	<b>AGREEMENT</b>
<b>QWEST CORPORATION AND MCIMETRO )</b>	
<b>ACCESS TRANSMISSION SERVICES, LLC )</b>	<b>TC04-256</b>

On November 29, 2004, Qwest Corporation (Qwest) filed for approval by the South Dakota Public Utilities Commission (Commission) an amendment to an interconnection agreement between MCImetro Access Transmission Services, LLC (MCImetro) and Qwest. The amendment is made in order to address certain disagreements between the parties.

On December 2, 2004, the Commission electronically transmitted notice of the filing of the amendment to interested individuals and entities. The notice stated that any person wishing to comment on the parties' request for approval had until December 20, 2004, to do so. No comments were filed.

At its duly noticed December 28, 2004, meeting, the Commission considered whether to approve the negotiated amendment to the agreement between Qwest and MCImetro. 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 amendment does not discriminate against a telecommunications carrier that is not a party to the amendment and the amendment is consistent with the public interest, convenience, and necessity. The Commission unanimously voted to approve the amendment to the agreement. It is therefore

ORDERED, that the Commission approves the negotiated amendment to the agreement as described herein.

Dated at Pierre, South Dakota, this 29th day of December, 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>Melaine Kolbo</u>
Date: <u>12/29/04</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