

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

In the Matter of the Application of Qwest )  
Corporation to Modify the Jurisdictional )  
Report Requirements in Section 2 by ) Docket No. TC08-127  
Establishing a Percent Interstate Usage )  
(PIU) Floor for Unidentified Feature Group )  
D (FGD) Terminating Traffic. )

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**PETITION FOR INTERVENTION AND REQUEST TO SUSPEND BY AT&T  
COMMUNICATIONS OF THE MIDWEST, INC. ON PETITION OF QWEST  
FOR ACCESS TARIFF CHANGES**

Pursuant to ARSD Sec. 20: 10:01: 15.02, AT&T Communications of the Midwest, Inc., ("AT&T") petitions to intervene in the above captioned proceeding. In its Petition filed on October 31, 2008, Qwest Corporation ("Qwest") requests to modify the Jurisdictional Report Requirements in Section 2, by establishing a Percent Interstate Usage (PIU) floor for unidentified Feature Group D (FGD) terminating traffic. In addition to this Petition, AT&T also requests that the Commission suspend Qwest's proposed revisions to Tariff Section 2 pending a hearing on the matter. As grounds therefore, AT&T states as follows:

**OBJECTION**

1. AT&T objects to Qwest's proposed revisions for the reasons that follow:
  - a. Qwest proposes to revise its Access Service Tariff, State of South Dakota, Section 2, by establishing a percent interstate usage ("PIU") floor of 5% for Feature Group D ("FCG") terminating traffic that does not contain originating number information, otherwise known as the Calling Party Number ("CPN"). Generally, when a call lacks CPN, the terminating carrier is not able to determine

whether the call should be billed pursuant to inter or intra state access rates and, so the carrier must develop a proxy to assign the appropriate rate.

b. Qwest asserts that its revisions are necessary to ensure accurate “jurisdictional” reporting and reduce misuse of such reporting. There are both legitimate and illegitimate reasons why CPN may not be available. In some cases, a carrier simply cannot obtain or determine the CPN; for example, when a call originates from an international wireless customer roaming in the United States there is not a North American Numbering Plan CPN for the carrier to determine jurisdiction. In other cases, carriers may be stripping the CPN from the Signaling System 7 (“SS7”) data stream so as to avoid paying the higher intrastate switched access rates. While AT&T does not dispute the necessity of Qwest’s proposed floor, it is concerned that several important protections for access customers are missing from Qwest’s revised tariff.

c. First, the 5% floor that Qwest has established is too low. There are numerous legitimate reasons why carriers may not be able to send CPN and as discussed later the Federal Communications Commission (“FCC”) recognizes these exceptions. There may be from time-to-time a situation when the CPN is not available and a customer with a PBX located outside of South Dakota sends an unusual number of calls into South Dakota that increases the traffic ratio above the 5% floor: these calls would be billed at the intrastate rate instead of the proper interstate rate.

d. Second, Qwest’s proposed tariff revisions lack any mechanism through which access customers may challenge the application of incorrect intrastate rates

above the 5% PIU floor. Consequently, Qwest could assess access customers a much higher intrastate access rate than is appropriate. This issue might arise where, for example, a carrier encounters a temporary problem with a switch causing it to be temporarily unable to transmit CPN. Similarly, the FCC has created several exceptions for calls that cannot transmit CPN, such as calls originating from PBXs and payphones, among others.<sup>1</sup>

e. AT&T's third concern involves the proposed tariff's lack of any definition of the critical term "sufficient call detail." Frequently Qwest's tariff asserts that if the "terminating call details are insufficient to determine the jurisdiction of the call," it will assess the intrastate rate.<sup>2</sup> Defining what constitutes "sufficient" or "insufficient" detail is extremely important for accomplishing the goal of reducing reporting abuses and putting all industry members at competitive parity. That is, if a carrier chooses to populate the CPN field with false numbers or a combination of letters and numbers such that it had stripped the actual originating NPA-NXX from the data stream and populated it with junk, it—under Qwest's proposal—could still claim that there was "sufficient" detail to assume it was an interstate call.

2. As noted above, AT&T is not opposed to Qwest's tariff revisions so long as they are altered to create an environment that protects an access customer's right to challenge Qwest's PIU designation and they foster fair competition between carriers rather than giving some disreputable carriers an advantage over those who play fair.

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<sup>1</sup> 47 C.F.R. § 64.1601.

<sup>2</sup> *See e.g.*, South Dakota, Access Service Section 2.3.10.B.2.c.

3. As an interexchange carrier, AT&T is required to pay intrastate switched access fees to local exchange carriers, such as Qwest, for toll calls that originate and terminate in the State. The amount paid by AT&T for switched access calls is a significant cost component in its provision of interexchange services. Thus, AT&T has a substantial interest in insuring that access fees are reasonable, accurate and consistent with the public interest and the establishment of a PIU floor for unidentified FGD terminating traffic as proposed by Qwest would have an adverse financial impact on AT&T and its customers in South Dakota.

#### **REQUEST TO SUSPEND THE PROPOSED REVISIONS**

4. AT&T requests that the Commission suspend Qwest's proposed tariff revisions pursuant to SDCL 49-31-12.4 effective December 1, 2008, until such time as the Commission has conducted the necessary investigation and hearing in this matter.

#### **CONCLUSION**

For the reasons stated above, AT&T respectfully requests that the Commission grant this intervention and suspend Qwest's proposed revisions effective December 1, 2008, to its Access Service Tariff Section 2 pending the outcome of this matter.

Submitted this 21<sup>st</sup> day of November, 2008.

OLINGER, LOVALD, MCCAHERN & REIMERS, P.C.

*/s/ filed electronically*

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## CERTIFICATE OF SERVICE

William M. Van Camp hereby certifies that on the 21<sup>st</sup> day of November, 2008, he electronically filed a true and correct copy of the Petition for Intervention and Request to Suspend by AT&T Communications of the Midwest, Inc. on Petition of Qwest for Access Tariff Changes to the following at their email addresses, and by U. S. Mail, first-class postage thereon prepaid, a true and correct copy of the above-referenced document to Qwest Corporation:

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