

TC00-192

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THESE

IN THE MATTER OF THE FILING FOR
APPROVAL OF AN OPT-IN
INTERCONNECTION AGREEMENT
BETWEEN QWEST CORPORATION
AND NEW-CELL, INC.

DATE _____

2000年12月15日

11/27	00	Filed and Indexed;
11/30	00	Rec'd by Filing;
1/10	01	Order Appraising Instrument;
1/10	01	Rec'd by Clerk.

BOYCE, MURPHY, McDOWELL & GREENFIELD, L.L.P.
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John S. Murphy (1924-1966)

November 22, 2000

VIA UPS OVERNIGHT DELIVERY

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

RECEIVED

NOV 27 2000

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Re: Filing of Opt-In Interconnection Agreement between Qwest Corporation f/k/a U S WEST
Communications, Inc. and New-Cell, Inc.
Our File No. 2104.078

Dear Mr. Bullard:

Pursuant to ARSD 20:10:32:21 enclosed for filing are an original and ten (10) copies of the Wireless Type 2 Opt-in Interconnection Agreement between Qwest Corporation f/k/a U S WEST Communications, Inc. ("Qwest") and New-Cell, Inc. ("New-Cell") for the State of South Dakota for approval by the Commission. The Agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide services for resale to New-Cell for the provision of local exchange services.

The Agreement does not discriminate against other telecommunications carriers, and the Agreement is consistent with the FCC's guidelines for negotiation and performance. Additionally, other telecommunications carriers have the option to adopt any negotiated or arbitrated agreement approved by the Commission.

The Agreement is consistent with the public interest as identified in the state statutes of South Dakota, the Commission's rules, the federal Telecommunications Act of 1996 and the rules of the Federal Communications Commission. Expedient approval of this Agreement will enable New-Cell to enter the local exchange market and provide customers with increased choices among local exchange services.

William Bullard, Executive Director

November 22, 2000

Page 2 of 2

New-Cell has authorized Qwest to submit this Agreement on New-Cell's behalf.

Sincerely yours,

BOYCE, MURPHY, MCDOWELL
& GREENFIELD, L.L.P.

Tom Welk

Thomas J. Welk

TJW(vjj)
Enclosures

cc: Jim Lienau,
Vice-President of Corp. Technical Services for New-Cell
Ms. Colleen Sevold
Ms. Debi Hartl (w/o enclosure)

September 25, 2000

New-Cell, Inc.
450 Security Blvd
Green Bay, WI 54307-9079

Qwest

Dear Mr. Lienau:

We have received your request that, under Section 252(i) of the Telecommunications Act of 1996, New-Cell, Inc. ("CMRS") wishes to "Pick and Choose" in its entirety, the terms of the Interconnection Agreement and any associated amendments, if applicable, ("Agreement") between Western Wireless Corporation and Qwest Corporation fka U S WEST Communications, Inc. ("Qwest") that was approved by the Commission as an effective agreement in the State of South Dakota. We understand you have a copy of the Agreement.

With respect to the aforementioned Agreement, Qwest and CMRS ("the Parties") understand and agree:

1. The Parties shall request the Commission to expedite its review and approval of this Agreement. This Agreement shall become effective upon such approval.
2. Notwithstanding the mutual commitments set forth herein, the Parties are entering into this Agreement without prejudice to any positions they have taken previously, or may take in the future, in any legislative, regulatory, or other public forum addressing any matters, including those relating to the types of arrangements contained in this Agreement. During the proceeding in which the Commission is to review and approve the Agreement, Qwest may point out that it has objected, and continues to object, to the inclusion of the terms and conditions to which it objected in the proceedings involving the approval of the Underlying Agreement.
3. This Agreement contains provisions based upon the decisions and orders of the FCC and the Commission under and with respect to the Act. Currently, court and regulatory proceedings affecting the subject matter of this Agreement are in various stages, including the proceedings where certain of the rules and regulations of the FCC are being challenged. In addition, there is uncertainty in the aftermath of the Supreme Court's decision in AT&T Corp. et al. v. Iowa Utilities Board. Based on that uncertainty, and the regulatory and judicial proceedings which will occur as a result of that decision, the Parties acknowledge that this Agreement may need to be changed to reflect any changes in law. The Agreement has not been corrected to reflect the requirements, claims or outcomes of any of the proceedings. Accordingly, when a final, decision or decisions are made in the proceedings that automatically change and modify the Underlying Agreement, then like changes and modifications will similarly be made to this Agreement. In addition, to the extent rules or laws are based on regulatory or judicial proceedings as a result of the recent Supreme Court decision, this Agreement will be amended to incorporate such changes. In the event of a Commission ruling in a generic cost docket that results in changes to the rates contained in this Agreement, the Agreement shall be automatically modified to reflect such change in rates.
4. Subsequent to the execution of this Agreement, the FCC or the Commission may issue decisions or orders that change or modify the rules and regulations governing implementing of the Act. If such changes or modifications alter the state of the law upon which the Underlying Agreement was negotiated and agreed, and it reasonably appears that the parties to the Underlying Agreement would have negotiated

and agreed to different term(s) condition(s) or covenant(s) than as contained in the Underlying Agreement had such change or modification been in existence before execution of the Underlying Agreement, then this Agreement shall be amended to reflect such different terms(s), condition(s), or covenant(s). Where the Parties fail to agree upon such an amendment, it shall be resolved in accordance with the Dispute Resolution provision of the Underlying Agreement which is being adopted pursuant to Section 252(i).

5. This Agreement shall continue in force and effect through the term of the Underlying Agreement. Thereafter, this Agreement can be terminated by either Party on thirty (30) days written notice, if another Interconnection Agreement will not replace the current Agreement. If there is a replacement Interconnection Agreement, one Party can notify the other Party that it is requesting Section 251/252 negotiations under the Federal Telecommunications Act of 1996 ("Act"). That notification will trigger the timeframes and procedures contained in Section 252 of the Act, or pursuant to the timeframes set forth by the appropriate state commission. In the event of such notice, the arrangements between our companies shall continue and be governed by the terms of the expired agreement until the new agreement is approved by the appropriate state commission.

6. The Parties agree that Qwest's position has been, and continues to be, that Interconnection Agreements entered into pursuant to Sections 251 and 252 of the Act, including the reciprocal compensation provisions of those Agreements, apply only to local traffic. Local traffic is that traffic that originates and terminates in the same local calling area. Each company bears the burden of proof that the traffic being exchanged is in fact local in nature.

7. CMRS adopts the terms and conditions of the Western Wireless Corporation Agreement for interconnection with Qwest and in applying the terms and conditions, agrees that New-Cell, Inc. be substituted in place of " Western Wireless Corporation " throughout the Agreement wherever the latter appears.

8. Qwest requests that notice to Qwest Corporation as may be required under the Agreement shall be provided as follows:

To: Qwest Corporation
Director Interconnection Compliance
1801 California Street, Room 2410
Denver, CO 80202

With copy to:
Qwest Corporation Law Department
Attention: General Counsel, Interconnection
1801 California Street, 51st Floor
Denver, CO 80202

CMRS requests that notice to CMRS as may be required under the Agreement shall be provided as follows:

To: New-Cell, Inc.
Mr. Jim Lienau
PO Box 19079
450 Security Blvd.
Green Bay WI 54307-9079
Phone: 920-617-7101
Fax: 920-617-7329

9. CMRS represents and warrants that it is a certified provider of local dialtone service in the State of South Dakota, and that this Agreement will cover services in that state only.

Please sign all three original copies of this letter; retain one copy, and overnight two copies to Debi Hartl at 7800 East Orchard Road, Suite 250, Englewood, CO 80111 by November 24, 2000. After November 24, 2000, Qwest may rescind its willingness to consider the Agreement's terms and conditions, and will consider that you have withdrawn from good faith negotiations.

Please note that Qwest will file this letter with the appropriate state commission for approval; however, some state commissions will not approve the letter until the CMRS is certified by the state commission. You may want to contact the appropriate state commission to determine the requisite filing guidelines.

Sincerely,


Qwest Corporation
Elizabeth J. Stamp
Director - Interconnect
1801 California, Room 2410
Denver, CO 80202

I agree to all terms and conditions contained in this letter as indicated by my signature below:

New-Cell, Inc.

CMRS Name

Signature

Jim Lienau

Name

Vice President of Corporate Technical Services

Title

Date

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of November 23, 2000 through November 29, 2000

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 filing.
Phone: 605-773-3705 Fax: 605-773-3809

CONSUMER COMPLAINTS

CT00-109 In the Matter of the Complaint filed by David Hersrud on behalf of The Hersrud Company, Sturgis, South Dakota, against AT&T Communications of the Midwest, Inc. Regarding Billing issues.

The Complainant states that Hersrud's of Sturgis entered into a two-year contract in which rates would be frozen but could be renegotiated if lower rates were available. The Complainant claims he tried to renegotiate the contract several times without success. For relief, the Complainant is requesting credit for the difference in lower toll charges and various fees.

Staff Analyst: Leni Healy
Staff Attorney: Kelly Frazier
Date Docketed: 11/28/00
Intervention Deadline: N/A

CT00-110 In the Matter of the Complaint filed by Gerald and Evelyn Holdhusen, Aberdeen, South Dakota, against Talk.Com Holding Corp. d/b/a The Phone Company Regarding Unauthorized Switching of Services.

The complainants allege that their long distance phone services were switched after they received a telemarketing call. During the telemarketing call they did not agree to switch services. Talk.Com d/b/a The Phone Co., has not been able to provide proof of verification authorizing the switch in providers. The complainants have received a switching fee and a phone bill from Talk.Com d/b/a The Phone Co. The complainants request that the company be punished to the full extent of the law.

Staff Analyst: Charlene Lund
Staff Attorney: Kelly Frazier
Date Docketed: 11/29/00
Intervention Deadline: N/A

TELECOMMUNICATIONS

TC00-192 In the Matter of the Filing for Approval of an Opt-In Interconnection Agreement between Qwest Corporation and New-Cell, Inc.

An Opt-In Interconnection Agreement between Qwest Corporation (Qwest) and New-Cell, Inc. (New-Cell) was filed with the Commission for approval. The agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide services for resale to New-Cell 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 18, 2000. 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: Kelly Frazier
Date Docketed: 11/27/00
Initial Comments Due: 12/18/00

TC00-193 **In the Matter of the Filing for Approval of a Resale Agreement between Qwest Corporation and New Access Communications, LLC.**

A Resale Interconnection Agreement between Qwest Corporation (Qwest) and New Access Communications, LLC. (New Access) was filed with the Commission for approval. The agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide services for resale to New Access 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 18, 2000. 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: Kelly Frazier
Date Docketed: 11/27/00
Initial Comments Due: 12/18/00

TC00-194 **In the Matter of the Filing for Approval of a Resale Agreement between Qwest Corporation and 1-800-Reconex, Inc.**

A Resale Agreement between Qwest Corporation (Qwest) and 1-800-Reconex, Inc. (Reconex) was filed with the Commission for approval. The agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide services for resale to Reconex 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 18, 2000. 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: Kelly Frazier
Date Docketed: 11/27/00
Initial Comments Due: 12/18/00

TC00-195 **In the Matter of the Filing for Approval of an Interconnection Agreement between Qwest Corporation and USA Digital, Inc.**

An Agreement for Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunications Services between Qwest Corporation (Qwest) and USA Digital, Inc. (USA) was filed with the Commission for approval. The agreement sets forth the terms, conditions and prices under which Qwest will provide (a) services for resale and (b) certain unbundled network elements, ancillary functions and additional features for USA's offering and provisioning of telecommunications services, to Reconex for the provision of local exchange services. The agreement also sets forth the terms, conditions and prices under which the parties agree to interconnect and pay reciprocal compensation for the exchange of local traffic. 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 19, 2000. 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: Kelly Frazier
Date Docketed: 11/28/00
Initial Comments Due: 12/19/00

TC00-196

In the Matter of the Application of Z-Tel Communications, Inc. for a Certificate of Authority to Provide Local Exchange Services in South Dakota.

Z-Tel Communications, Inc. has filed a request for a Certificate of Authority to provide facilities based local exchange service using an unbundled network element platform of the incumbent local exchange company. Z-Tel intends to provide local exchange service, custom calling and CLASS features, local operator assisted services and other services basic to local exchange service. Z-Tel intends to offer its services initially in the territory now served by Qwest Corporation.

Staff Analyst: Michele Farris
Staff Attorney: Kelly Frazier
Date Docketed: 11/29/00
Intervention Date: 12/15/00

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You may subscribe or unsubscribe to the PUC mailing lists at <http://www.sdsos.state.sd.us/puc/>

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING FOR)
APPROVAL OF AN OPT-IN)
INTERCONNECTION AGREEMENT BETWEEN)
QWEST CORPORATION AND NEW-CELL, INC.)

ORDER APPROVING
AGREEMENT

TC00-192

On November 27, 2000, Qwest Corporation (Qwest) filed for approval by the South Dakota Public Utilities Commission (Commission) an opt-in interconnection agreement between New-Cell, Inc. (New-Cell) and Qwest.

On November 30, 2000, 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 December 18, 2000, to do so. No comments were filed.

At its duly noticed January 4, 2001, meeting, the Commission considered whether to approve the agreement between Qwest and New-Cell. 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 10th day of January, 2001.

CERTIFICATE OF SERVICE

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: Dilaine Kalke

Date: 1/12/01

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner