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December 5, 2003

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

**RECEIVED**

DEC 08 2003

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

Re: Filing of Term Amendment to Paging Connection Agreement Between Arch Wireless Operating Company, Inc. and Qwest Corporation in the State of South Dakota  
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 Term Amendment to the Paging Connection Agreement between Qwest Corporation ("Qwest") and Arch Wireless Operating Company, Inc. ("Arch") for approval by the Commission. This is an amendment to the negotiated paging connection agreement between Arch and Qwest approved by the Commission on July 1, 2000 in TC00-108.

The Agreement is amended to state (in Section 11.2) "The Initial Term of the Agreement shall expire on June 30, 2005."

Arch has authorized Qwest to submit this Agreement on Arch's behalf.

Sincerely yours,

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



Thomas J. Welk

TJW/vjj

Enclosures

cc: Dennis Doyle, Arch (w/o enclosure)  
Colleen Sevoid  
John Love (w/o enclosure)

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DEC 08 2003

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

**Amendment To Paging Connection Agreement  
Between  
Arch Wireless Operating Company, Inc.  
f/k/a Mobile Communications Corporation of America  
And  
Qwest Corporation, f/k/a U S WEST Communications, Inc.  
For The State of South Dakota**

This Amendment is entered into by and between Arch Wireless Operating Company, Inc. f/k/a Mobile Communications Corporation of America ("Arch") and Qwest Corporation f/k/a U S WEST Communications, Inc. ("Qwest").

**RECITALS**

Arch and Qwest are parties to a Paging Connection Agreement ("Underlying Agreement") effective July 1, 2000; and

Arch and Qwest hereby amend the Underlying Agreement under the terms and conditions contained herein.

**AGREEMENT**

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

**Amendment Terms**

Section 11.2 of the Underlying Agreement is amended to state as follows:

"The Initial Term of this Agreement shall expire on June 30, 2005."

Sections 1.1 and 1.2 of the Underlying Agreement are amended to read as follows:

- 1.1 The provisions in this Agreement are intended to be in compliance with and based on the existing state of the law, rules, regulations and interpretations thereof, including but not limited to state rules, regulations, and laws, as of April 1, 2003 (the Existing Rules). Nothing in this Agreement shall be deemed an admission by Qwest or Paging Provider concerning the interpretation or effect of the Existing Rules or an admission by Qwest or Paging Provider that the Existing Rules should not be changed, vacated, dismissed, stayed or modified. Nothing in this Agreement shall preclude or estop Qwest or Paging Provider from taking any position in any forum concerning the proper interpretation or effect of the Existing Rules or concerning whether the Existing Rules should be changed, vacated, dismissed, stayed or modified. To the extent that the Existing Rules are vacated, dismissed, stayed or materially changed or modified in a way which renders any provision of this Agreement illegal or unenforceable, then this Agreement shall be amended to reflect such legally binding modification or change of the Existing Rules. Where the Parties fail to agree upon such an amendment within sixty (60) Days after notification from a Party seeking

amendment due to a modification or change of the Existing Rules or if any time during such sixty (60) Day period the Parties shall have ceased to negotiate such new terms for a continuous period of fifteen (15) Days, it shall be resolved in accordance with the Dispute Resolution provision of this Agreement. It is expressly understood that this Agreement will be corrected, or if requested by Paging Provider, amended as set forth in this section, to reflect the outcome of generic proceedings by the Commission for pricing, service standards, or other matters covered by this Agreement. Any amendment shall be deemed effective on the effective date of the legally binding change or modification of the Existing Rules for rates, and to the extent practicable for other terms and conditions, unless otherwise ordered. During the pendency of any negotiation for an amendment pursuant to this Section, the Parties shall continue to perform their obligations in accordance with the terms and conditions of this Agreement. For purposes of this section, "legally binding" means that the legal ruling has not been stayed, no request for a stay is pending, and any deadline for requesting a stay designated by statute or regulation, has passed.

- 1.1.1 In addition to, but not in limitation of, Section 1.1. above, nothing in this Agreement shall be deemed an admission by Qwest or Paging Provider concerning the interpretation or effect of the FCC's decision and rules adopted in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 and 98-147, nor rules, regulations and interpretations thereof, including but not limited to state rules, regulations, and laws as they may be issued or promulgated regarding the same ("Decision(s)"). Nothing in this Agreement shall preclude or estop Qwest or Paging Provider from taking any position in any forum concerning the proper interpretation or effect of Decisions or concerning whether the Decision should be changed, vacated, dismissed, stayed or modified.

### **Effective Date**

This Amendment shall be deemed effective upon approval by the Commission; however, the Parties hereby agree to implement the provisions of this Amendment upon execution.

### **Amendments; Waivers**

The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**Entire Agreement**

This Amendment (including the documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of this Amendment and supersedes any prior understandings, agreements, amendments, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subjects of this Amendment.

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

**Arch Wireless Operating Company, Inc.**

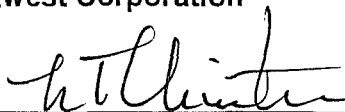
  
\_\_\_\_\_  
Authorized Signature

Paul H. Kuzia  
\_\_\_\_\_  
Printed Name

Executive VP, Technology & Regulatory  
\_\_\_\_\_  
Title Affairs

\_\_\_\_\_  
Date

**Qwest Corporation**

  
\_\_\_\_\_  
Authorized Signature

L.T. Christensen  
\_\_\_\_\_  
Printed Name

Director – Business Policy  
\_\_\_\_\_  
Title

11/20/03  
\_\_\_\_\_  
Date

**South Dakota Public Utilities Commission**  
**WEEKLY FILINGS**

**For the Period of December 4 through December 10, 2003**

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

**CONSUMER COMPLAINTS**

**CT03-158** In the Matter of the Complaint filed by Perry and Candice Hoffman, Bowdle, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainants presented documents indicating that they hold a seven-year prepaid long distance service plan that was signed on April 5, 1999. As service was terminated without notice in early June of 2003, Complainants seek to be reimbursed for the prepaid service not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 12/04/03  
Intervention deadline: N/A

**TELECOMMUNICATIONS**

**TC03-195** In the Matter of the Application of Touchtone Communications, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota.

Touchtone Communications, Inc. filed an application seeking a Certificate of Authority to provide interexchange telecommunications services in South Dakota. The Applicant is a reseller which intends to offer interexchange services, including 1+ and 101XXXX outbound dialing, 800/888 toll-free inbound dialing, directory assistance, data services and travel card services.

Staff Analyst: Keith Senger  
Staff Attorney: Kelly Frazier  
Date Docketed: 12/04/03  
Intervention Deadline: 12/26/03

**TC03-196** In the Matter of the Application of France Telecom Corporate Solutions L.L.C. for a Certificate of Authority to Provide Interexchange Telecommunications Services and Local Exchange Services in South Dakota.

On December 5, 2003, France Telecom Corporate Solutions L.L.C. filed an application for a Certificate of Authority to provide resold local exchange and interexchange telecommunications services in South Dakota. The applicant intends to provide local exchange and interexchange services to business customers throughout South Dakota, except in those areas served by a rural telephone company.

Staff Analyst: Michele Farris  
Staff Attorney: Karen Cremer  
Date Docketed: 12/05/03  
Intervention Deadline: 12/26/03

**TC03-197 In the Matter of the Filing for Approval of an Amendment to a Paging Connection Agreement between Qwest Corporation and Arch Wireless Operating Company, Inc.**

On December 8, 2003, the Commission received a filing for approval of an Amendment to a Paging Connection Agreement between Qwest Corporation (Qwest) and Arch Wireless Operating Company, Inc. (Arch). According to the parties, the Agreement is amended to state (in Section 11.2) that the initial term of the Agreement shall expire on June 30, 2005. The original agreement was approved by the Commission in Docket TC00-108 on September 29, 2000. 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 29, 2003. 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: 12/08/03  
Initial Comments Due: 12/29/03

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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 AN AMENDMENT TO A )	AMENDMENT TO
PAGING CONNECTION AGREEMENT )	AGREEMENT
BETWEEN QWEST CORPORATION AND )	
ARCH WIRELESS OPERATING COMPANY, )	TC03-197
INC. )	

On December 8, 2003, Qwest Corporation (Qwest) filed for approval by the South Dakota Public Utilities Commission (Commission) an amendment to a paging connection agreement between Arch Wireless Operating Company, Inc. (Arch Wireless) and Qwest. The agreement is amended to state (in Section 11.2) "The Initial Term of the Agreement shall expire on June 30, 2005."

On December 11, 2003, 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 29, 2003, to do so. No comments were filed.

At its duly noticed January 20, 2004, meeting, the Commission considered whether to approve the negotiated amendment to the agreement between Qwest and Arch Wireless. 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 28<sup>th</sup> day of January, 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>Melanie Kolles</u>
Date: <u>1/28/04</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Gary Hanson

GARY HANSON, Commissioner