

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE CONTRACT )  
FILING OF QWEST CORPORATION )  
FOR PETITION FOR ARBITRATION OF AN ) DOCKET NO. 70000-TK-04-967  
INTERCONNECTION AGREEMENT WITH ) DOCKET NO. 70008-TK-04-41  
UNION TELEPHONE COMPANY D/B/A ) (RECORD NO. 8939)  
UNION CELLULAR )

ORDER APPROVING INTERCONNECTION AGREEMENT  
(Issued June 23, 2004)

This matter is before the Commission upon Qwest Corporation's ("Qwest") Petition for Arbitration and Qwest's Motion for Entry of Order Approving Interconnection Agreement. Qwest filed its Petition for Arbitration initiating this proceeding on February 26, 2004.

The Commission having considered the arguments of the parties, the Petition and Qwest's Motion, its files regarding Qwest and Union Telephone Company d/b/a Union Cellular ("Union"), applicable Wyoming utility law, and otherwise being fully advised in the premises, FINDS and CONCLUDES:

1. Qwest and Union are telecommunications companies as defined by W.S. § 37-15-103(a)(xi) and, as such, subject to the Commission's jurisdiction pursuant to the provisions of W.S. § 37-15-401. Union provides regulated local exchange telecommunications services, as defined by W.S. § 37-15-103(a)(viii), and unregulated wireless services as defined by W.S. § 37-15-104(a)(vi).

2. Qwest's Petition was filed pursuant to Section 252(b) of the Telecommunications Act of 1996, 47 U.S.C. § 151 et seq. (the "Act"). By its Petition, Qwest asked the Commission to arbitrate an interconnection agreement between

Qwest and Union. Qwest asked that the Commission require Union to enter into Qwest's template wireless interconnection agreement, a copy of which was submitted with the Petition.

3. Qwest served the Petition by mail to both Union's President, Mr. James Woody, and to Union's attorney, Mr. Bruce Asay. Union filed no responsive pleading and made no other filing with the Commission in response to Qwest's Petition.

4. Upon Union's failure to oppose the Petition for Arbitration Qwest filed its motion requesting that the Commission enter an order granting the relief requested in its Petition. Like the Petition, Qwest's motion was served upon Union's President and its attorney. Union did not file a response to this motion.

5. Following notice to Qwest and to Union, the Commission heard arguments of the parties on Qwest's motion at its regularly scheduled open meeting on June 22, 2004.

6. Qwest stated that it made its first request to Union for interconnection, under § 252 of the federal Telecommunications Act of 1996, 47 U.S.C. § 151, et seq., by certified letter to Mr. Howard Woody dated September 23, 2003. A copy of that letter was submitted with Qwest's Petition. Qwest further stated that Union subsequently refused to negotiate for the voluntary adoption of an interconnection agreement, and a second letter was sent on November 24, 2003. A copy of the second letter was also submitted with Qwest's Petition.

7. Following Union's repeated refusal to negotiate, Qwest filed its Petition for Arbitration as provided by 47 U.S.C. § 252, initiating this proceeding on February 26, 2004. Pursuant to 47 U.S.C. § 252(b)(3), "A non-petitioning party to a negotiation

under this section [Union] may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State commission receives the petition." As noted above, Union did not respond to Qwest's petition and the time within which Union is allowed to respond has passed.

8. Pursuant to 47 U.S.C. § 252(b)(4)(A), "The State commission shall limit its consideration of any petition under paragraph (1) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (3) [47 U.S.C. § 252(b)(3)]." In addition, action taken by the Commission under 47 U.S.C. § 252 is to be based upon information provided by the petitioner (Qwest) and the "responding party." Because Union has waived its opportunity to respond, the only issues to be decided are those set forth in Qwest's Petition. Since no information was provided by Union, the Commission may enter its decision on Qwest's Petition based upon the information provided by Qwest. 47 U.S.C. § 252(b)(4)(B).

9. The wireless interconnection agreement template submitted by Qwest contains terms, conditions and rates consistent with those previously approved by the Commission for inclusion in Qwest's Wyoming Statement of Generally Available Terms ("SGAT") and in 16 Commission-approved interconnection agreements between Qwest and other wireless carriers in Wyoming. As such, Qwest's Petition and exhibits establish that Commission approval of the form of interconnection agreement submitted as Exhibit C to the Petition will meet the requirements of 47 U.S.C. § 251 and the regulations of the Federal Communications Commission prescribed pursuant to 47 U.S.C. § 251 and that the rates for interconnection, services and network elements contained in Exhibit C are in accordance with 47 U.S.C. § 252(d). Approval of the

agreement submitted by Qwest therefore meets the requirements of 47 U.S.C. § 252(c)(1) and (2).

10. Union is currently using Qwest's traffic exchange facilities for its wireless traffic without a proper interconnection agreement. Qwest states that it has permitted this use of its network because it wishes to avoid the inconvenience to the public, including its own end user customers, that would occur in the event Qwest refused to interconnect with Union's wireless network.

11. The Commission finds and concludes that Union has failed to negotiate in good faith pursuant to 47 U.S.C. § 252(b)(5). The Commission further finds and concludes that Union has waived its opportunity to respond to Qwest's Petition for Arbitration and bring issues to the Commission for resolution in this proceeding.

12. The Commission finds and concludes that approval of the interconnection agreement submitted by Qwest will meet the requirements of the Act and is in the public interest. The Commission notes that Union may seek to amend the interconnection agreement or utilize the dispute resolution provisions contained in it should it feel that such action is necessary.

IT IS THEREFORE ORDERED THAT:

1. Pursuant to open meeting action taken on June 22, 2004, Qwest Corporation's Motion for Entry of Order Approving Interconnection Agreement with Union Telephone Company d/b/a Union Cellular as described herein, should be and hereby is, approved effective June 22, 2004.

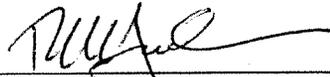
2. The template Type 2 Wireless Interconnection Agreement between Qwest and Union, in the form submitted by Qwest as Exhibit C, is hereby approved.

3. The approved agreement shall be implemented and binding upon Qwest and Union effective July 1, 2004.

4. This Order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, this 23<sup>rd</sup> day of June 2004.

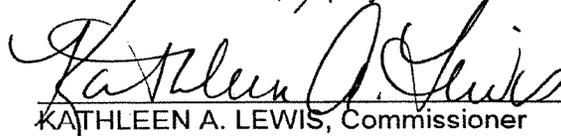
PUBLIC SERVICE COMMISSION OF WYOMING



ROB HURLESS, Chairman



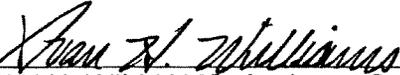
STEVE FURTNEY, Deputy Chairman



KATHLEEN A. LEWIS, Commissioner



ATTEST:



IVAN H. WILLIAMS, Assistant Secretary