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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE SECTION 272 )**  
**BIENNIAL AUDIT AND REPORT FOR QWEST )** **CASE NO. QWE-T-04-16**  
**COMMUNICATIONS INTERNATIONAL, INC. )**  
**)** **COMMENTS OF THE**  
**)** **COMMISSION STAFF**  
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**COMES NOW** the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, in response to the Notice of Filing of Audit and Report and Notice of Comment Deadline in Case No. QWE-T-04-16 issued on July 1, 2004, submits the following comments.

**BACKGROUND**

Pursuant to Section 271 of the Telecommunications Act of 1996, Qwest Corporation, a Bell Operating Company (BOC), was authorized by the Federal Communications Commission to provide interLATA telecommunications services. Section 272 of the Act requires that a BOC providing interLATA services create a separate affiliate to provide the services. 47 U.S.C. § 272(a)(1). Qwest Communications Corporation (QCC) and Qwest LD Corp. (QLDC) are the Section 272 affiliates. QCC and QLDC are wholly owned subsidiaries of Qwest Services Corporation (QSC) as is the Qwest BOC. QSC is a wholly owned subsidiary of Qwest

Communications International, Inc. (QCII). QCII is the parent of all Qwest companies and is the publicly traded entity. Section 272(d) also requires that an audit be conducted every two years to determine whether the BOC and the separate affiliates have complied with the provisions of Section 272 and regulations promulgated by the Federal Communications Commission (FCC).

On June 14, 2004, a Section 272 Biennial Report for Qwest Communications International, Inc. was filed with the Commission by Ernst and Young LLP. The audit specifically addresses the requirements of Section 272 that are intended to keep the activities of the long distance carrier separate from the operations of the BOC. Thus, the Biennial Report addresses Section 272 objectives that the auditors specifically reviewed, including whether the separate affiliate has operated independently of the BOC, whether the separate affiliate has maintained books, records and accounts in the manner prescribed by the FCC that are separate from the books, records and accounts maintained by the BOC, and whether the BOC has discriminated between the separate affiliate and any other entity in the provision or procurement of goods, services, facilities and information or in the establishment of standards.

Staff reviewed the Report of Independent Accountants on Applying Agreed Upon Procedures and finds that it generally supports a conclusion that Qwest is not substantially out of compliance with the requirements of Section 272. The audit was able to verify that systems and procedures had been implemented to ensure compliance and the audit failed to find significant evidence of widespread or systematic discriminatory treatment of affiliated entities.

It is important to clarify that this was an audit for specific limited purposes. 47 CFR § 53.209(b) lists the specified compliance requirements of the Section 272(d) Biennial Audit. The independent accountants conducted an examination using agreed upon procedures as elected by the Joint Federal/State Oversight Team. Staff believes the Report is adequate to support this limited purpose.

Staff does find that a few of the specific findings identified in the report merit additional attention and continued review.

**1. Objective I, Procedure 5.**

“As a result of the QCII financial statement restatements for 2001 and 2002, QCC recorded a total credit to fixed assets for restatements and asset impairment of \$6,549,000,000. This adjustment was reflected in the Trial Balance but has not yet been recorded in the fixed asset listings.” In its comments, the Company indicated that it continues to update the fixed asset listings

and expected to complete this process during the third quarter. Staff believes the sheer size of the restatement merits continued Commission attention and review.

## **2. Objective V/VI: Procedure 5.**

Agreements for services provided to affiliated entities are to be posted on the Qwest website within 10 days of their effective date. A sample of 80 agreements was selected for this audit, and 33 of the 80 agreements tested were posted to the Qwest Internet site more than 10 days after their effective date. In its response, the Company indicates that it had already found and disclosed some of the late postings, and that it “has further strengthened its controls related to the posting requirement”. The Company also claimed that the procedures resulted in some agreements being double counted, and that the Report overstates the extent of the problem.

Regardless of whether the Company had discovered and disclosed the late postings, more than 40% of the tested agreements were filed late. Some of the agreements were posted more than a year late.

## **3. Objective VII: Procedure 6.**

Persons who call a Qwest call center to order new service or move an existing service are to be informed that they have a choice of long distance service providers in addition to Qwest Long Distance. A total of 114 of the calls monitored by Ernst and Young involved new or moved service. In 19 of the 114 calls, the customer service representative did not inform the caller of his or her right to choose a long distance provider. In its comments, Qwest identified the procedures it has established and the training and supervision that are provided to its customer service representatives. The Company stated it had implemented additional training and supervision and that its own monitoring indicated 83 - 97% compliance in the business call centers and 91 - 100% compliance in the residential call centers.

The finding indicates that the Qwest procedures to ensure customer service representatives provide non-discriminatory service is inadequate. Nearly 17% of the callers failed to receive the proper information, which is a high enough percentage to suggest a systemic problem. Qwest had the procedures in place and provided extensive training and supervision prior to the audit. While the additional supervision and training the Company implemented may improve performance, as claimed by the Company, Staff believes any improvement may not last. The incentives that Qwest uses to affect the earnings of customer service representatives encourage non-compliance. A customer service representative logically will believe he or she will sign up more long distance

customers, and therefore make a larger commission, if he or she does not inform customers of the right to choose a long distance provider other than Qwest.

This finding by the auditors is consistent with numerous complaints received by Staff indicating customer service representatives failed to follow Qwest's established procedures when it may jeopardize commissions. Additional training and monitoring may not be sufficient. The results identified in the Report demonstrate that Qwest has created incentives that result in unsatisfactory performance by customer service representatives.

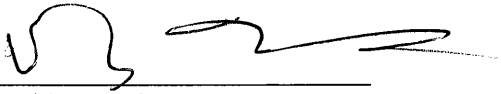
#### **4. Objective IX: Procedure 3.**

The Report indicates that the amount paid by the affiliate differed from the amount billed by the BOC in 16 of the 45 invoices tested. The explanation for the discrepancy was that the affiliate disputed portions of the bill and/or there were billing adjustments. This is not necessarily evidence of discriminatory treatment, but of inadequate service. The audit result supports claims by CLECs that Qwest's bills contain excessive errors and that they must devote considerable manpower to reviewing and disputing Qwest's bills. Billing system performance was one of the areas that needed attention during the ROC third party test of Qwest's OSS, and it is also one of the areas in which Qwest's performance has resulted in significant payments to CLECs in accordance with Qwest's Performance Assurance Plan (QPAP). The results of this Report is just further evidence that Qwest's billing systems need attention.

#### **STAFF RECOMMENDATION**

Staff recommends the Commission continue to monitor Qwest's performance in these four areas.

**DATED** at Boise, Idaho, this 16<sup>th</sup> day of August 2004.

  
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Weldon B. Stutzman  
Deputy Attorney General

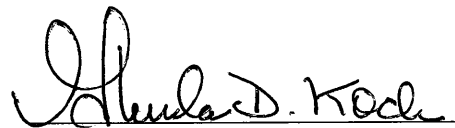
Technical Staff: Wayne Hart  
Patricia Harms

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 16TH DAY OF AUGUST 2004, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. QWE-T-04-16, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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