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## FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 02-314; FCC 02-332]

### Application by Qwest Communications International Inc., Pursuant to Section 271 of the Telecommunications Act of 1996, For Authorization To Provide In-Region, InterLATA Service in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming

AGENCY: Federal Communications Commission.

ACTION: Notice.

**SUMMARY:** In this document, the Commission grants the section 271 application of Qwest Communications International Inc. for authority to enter the interLATA telecommunications market in the states of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming. The Commission grants Qwest's application based on its conclusion that Qwest has satisfied all of the statutory requirements for entry, and opened its local exchange markets to full competition.

**DATES:** Effective January 2, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Michael Carowitz, Attorney-Advisor, Wireline Competition Bureau, at 202-418-0026 or via the Internet at [mcarowit@fcc.gov](mailto:mcarowit@fcc.gov). The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order (MO&O) in WC Docket No. 02-314, FCC 02-332, adopted December 20, 2002, and released December 23, 2002. This full text may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's Web site at [http://www.fcc.gov/Bureaus/Common\\_Carrier/in-](http://www.fcc.gov/Bureaus/Common_Carrier/in-)

[region\\_applications/verizon\\_vt/welcome.html](#).

### Synopsis of the Order

1. *History of the Application.* On September 30, 2002, Qwest filed an application, pursuant to section 271 of the Telecommunications Act of 1996, with the Commission to provide in-region, interLATA service in the states of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming.

2. *The State Commissions' Evaluations.* The Colorado Public Utilities Commission (Colorado Commission), the Idaho Public Utilities Commission (Idaho Commission), the Iowa Utilities Board (Iowa Board), the Montana Public Service Commission (Montana Commission), the Nebraska Public Service Commission (Nebraska Commission), the North Dakota Public Service Commission (North Dakota Commission), the Public Service Commission of Utah (Utah Commission), the Washington Utilities and Transportation Commission (Washington Commission), and the Wyoming Public Service Commission (Wyoming Commission), (collectively, state commissions), following an extensive review process over a number of years, advised Commission that Qwest met the checklist requirements of section 271 and has taken the statutorily required steps to open its local markets in each state to competition. Consequently, the state commissions recommended that the Commission approve Qwest's in-region, interLATA entry in its evaluations.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation of Qwest's Application on October 22, 2002. It recommended approval of the application subject to Qwest's submission of supplemental evidence addressing certain pricing issues.

### Primary Issues in Dispute

4. *Compliance with section 271(c)(1)(A).* The Commission concludes that Qwest demonstrates that it satisfies the requirements of section 271 (c) (1) (A) based on the number of interconnections agreements it has implemented with competing carriers in all nine states.

5. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that Qwest has provided "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2.

6. *Operating Support Systems (OSS).* The Commission finds that Qwest provides non-discriminatory access to its OSS. The Commission also concludes that Qwest provides nondiscriminatory access to its OSS—the systems, databases, and personnel necessary to support network elements or services. Nondiscriminatory access to OSS ensures that new entrants have the ability to order service for their customers and communicate effectively with Qwest regarding basic activities such as placing orders and providing maintenance and repair services for customers. The Commission finds that, for each of the primary OSS functions (pre-ordering, ordering, provisioning, maintenance and repair, and billing, as well as change management), Qwest provides access to its OSS in a manner that enables competing carriers to perform the functions in substantially the same time and manner as Qwest does or, if no appropriate retail analogue exists within Qwest's systems, in a manner that permits competitors a meaningful opportunity to compete. In particular, the Commission finds that Qwest provides access to loop qualification information consistent with requirements in the *UNE Remand Order*. In addition, regarding specific areas where the Commission identifies issues with Qwest's OSS performance in the nine-state region—order processing notifiers, accuracy of manual processing, flow-through, and billing accuracy—these problems are not sufficient to warrant a finding of checklist noncompliance.

7. *UNE Combinations.* Pursuant to section 271(c)(2)(B)(ii) and BOC must demonstrate that it provides nondiscriminatory access to network elements in a manner that allows requesting carriers to combine such elements and that the BOC does not separate already combined elements, except at the specific request of the competing carrier. The Commission concludes, based on the performance data in the record, that Qwest meets its obligation to provide access to UNE combinations in compliance with the Commission's rules.

8. *Pricing of Unbundled Network Elements.* Checklist item 2 states that a BOC must provide "nondiscriminatory access to network elements in accordance with sections 251(c) (3) and 252(d) (1)" of the Act. Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory." Section 252(d) (1) provides that a state

commission's determination of the just and reasonable rates for network elements, must be nondiscriminatory, based on the cost of providing the network elements, and may include a reasonable profit. Pursuant to this statutory mandate, the Commission has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements. Based on the evidence in the record, the Commission finds that Qwest's UNE rates in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming are just, reasonable, and nondiscriminatory, and are in accordance with section 252(d)(1). Thus, Qwest's UNE rates in these states satisfy checklist item 2. Qwest has taken a different approach to pricing issues compared to other BOCs whose applications we previously have approved under section 271. Qwest made a series of voluntary rate reductions in Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming prior to filing its section 271 applications. Those reductions were specifically calculated to produce rates that would enable those states to pass a benchmark comparison to rates in Colorado. The Commission first evaluated Qwest's UNE rates in Colorado and found them to be TELRIC-compliant. The Commission next conducted a benchmark analysis comparing Qwest's Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming UNE rates to the Colorado UNE rates. This analysis compares the difference between the benchmark state's rates and Colorado's rates to the difference between the benchmark state's and Colorado's costs according to the Synthesis Model. Because the percentage differences between Qwest's Colorado rates and the benchmark state rates do not exceed the percentage differences between Qwest's Colorado costs and the benchmark state's costs according to the Synthesis Model, the Commission found that Qwest's rates in Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming satisfy our benchmark analysis.

#### Other Checklist Items

9. *Checklist Item 1—Interconnection.* Based on the evidence in the record, the Commission concludes that Qwest provides interconnection in accordance with the requirements of section 251(c)(2) and as specified in section 271 and applied in the Commission's prior orders. Based on its review of the record, the Commission concludes, that Qwest complies with the requirements of this checklist item. In reaching this

conclusion, the Commission examined Qwest's performance in providing collocation and interconnection trunks to competing carriers, as it has done in prior section 271 proceedings.

10. *Checklist Item 4—Unbundled Local Loops.* Qwest provides unbundled local loops in accordance with the requirements of section 271 and the Commission's rules. The Commission's conclusion is based on its review of Qwest's performance for all loop types, which include voice grade loops, xDSL-capable loops, and high capacity loops, as well as hot cut provisioning and our review of Qwest's processes for line sharing and line splitting.

11. *Checklist Item 5—Unbundled Local Transport.* Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." Based on our review of the record, the Commission concludes that Qwest complies with the requirements of this checklist item.

12. *Checklist Item 6—Unbundled Local Switching.* Based on the Commission's review of the record, it concludes that Qwest demonstrates that it provides: (1) line-side and trunk-side facilities; (2) basic switching functions; (3) vertical features; (4) customized routing; (5) shared truck ports; (6) unbundled tandem switching; (7) usage information for billing exchange access; and (8) usage information for billing for reciprocal compensation in compliance with checklist item 6.

13. *Checklist Item 7—911/E911 Access and Directory Assistance/Operator Services.* Based on the Commission's review of the record, it finds that Qwest provides nondiscriminatory access to 911 and E911 services and access to directory assistance services to allow the other carrier's customers to obtain telephone numbers and operator call completion services in compliance with checklist item 7.

14. *Checklist Item 10—Databases and Signaling.* Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide nondiscriminatory access to databases and associated signaling necessary for call routing and completion. Qwest states that it provides competitive LECs in each of the five application states with unbundled, nondiscriminatory access to its signaling network, including signaling links and transfer points, and to Qwest's call-related databases and service management systems. Based on the evidence in the record, the Commission finds that

Qwest complies with the requirements of checklist item 10.

15. *Checklist Item 11—Number Portability.* Section 251(b)(2) requires all LECs to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission. Qwest states that it satisfies the requirements of checklist item 11 as it complies with the Commission's (a) long term number portability ("LNP") implementation schedule; (b) performance criteria; (c) technical, operational, architectural and administrative requirements and (d) cost recovery rules for number portability. Based on the evidence in the record, the Commission concludes that Qwest has satisfied the requirements of checklist item 11.

16. *Checklist Item 14—Resale.* Based on the record in this proceeding, the Commission concludes that Qwest demonstrates that it makes telecommunications services available for resale in accordance with the requirements of section 251(c)(4) and section 252(d)(3), and thus satisfies the requirements of checklist item 14.

17. *Remaining Checklist Items.* An applicant for section 271 authority must demonstrate that it complies with checklist item 3 (poles, ducts, and conduits), item 8 (white pages), item 9 (numbering administration), item 12 (local dialing parity), and item 13 (reciprocal compensation). Based on the evidence in this record, the Commission concludes that Qwest complies with the requirements of all of the checklist items: 3, 8, 9, 12, and 13.

#### Other Statutory Requirements

18. *Section 272 Compliance.* Commission standards for compliance with Section 272 are set forth in the *Accounting Safeguards Order* (61 FR 41208, August 7, 1996) and the *Non-Accounting Safeguards Order* (61 FR 39397, July 29, 1996). Together, these safeguards discourage and facilitate the detection of improper cost allocation and cross-subsidization between the BOC and its section 272 affiliate and ensure that BOCs do not discriminate in favor of these section 272 affiliates. Based on the record, the Commission concludes that Qwest and QLDC, its section 272 affiliate, have demonstrated compliance with the requirements of section 272.

19. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. From the Commission's extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, it finds that barriers to competitive entry

in the application states' local exchange markets have been removed, and that these local exchange markets are open to competition. It further finds that the record confirms the Commission's view that BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist. Notwithstanding its concern about discrimination in interconnection agreements and potential violations of the Act as a result, the Commission finds that Qwest's previous failure to file certain interconnection agreements with the application states does not warrant a denial of this application. The Commission concludes that concerns about any potential ongoing checklist violation (or discrimination) are met by Qwest's submission of agreements to the commissions of the application states pursuant to section 252 and by each state acting on Qwest's submission of those agreements. Based on the limited circumstances established in the record, the Commission does not find that the allegations concerning Qwest's compliance with section 271 relate to openness of the local telecommunications markets to competition. Instead, it defers any enforcement action pending the Enforcement Bureau's investigation of the matter.

20. *Section 271(d) (6) Enforcement Authority.* Working with the state commissions, the Commission intends to closely monitor Qwest's post-approval compliance to ensure that Qwest continues to meet the conditions required for section 271 approval. It stands ready to exercise its various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in each of the states.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The FDIC is soliciting comment concerning its information collection titled, "Privacy of Consumer Financial Information (12 CFR 332)."

**DATES:** You should submit written comments by March 3, 2003.

**ADDRESSES:** You should direct comments and requests for further information to Steven F. Hanfit, (202) 898-3907, Legal Division (Consumer and Compliance Unit), Room MB-3064, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to the OMB control number 3064-0136. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. to 5 p.m.

A copy of the comments should also be sent to the OMB Desk Officer for the FDIC: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or by e-mail to [jlackeyj@omb.eop.gov](mailto:jlackeyj@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** The FDIC is proposing to extend OMB approval of the following information collection:

*Title:* Privacy of Consumer Financial Information (12 CFR 332).

*OMB Control Number:* 3064-0136.

*Description:* This submission covers a collection for an existing regulation.

The Gramm-Leach-Bliley Act (Pub. L. 106-102) requires the information collection, and mandates that the federal banking agencies issue regulations as necessary to implement notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

The information collection requirements in part 332 are as follows:

Section 332.4(a) requires a bank to provide an initial notice to consumers that accurately reflects its privacy policies and practices.

Section 332.5(a) requires a bank to provide a notice annually to customers during the continuation of the customer relationship that accurately reflects the bank's privacy policies and practices.

Section 332.7(a)(1) requires a bank to provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out. The notice must state that the bank discloses or reserves the right to disclose nonpublic personal information to certain categories of nonaffiliated third parties; that the consumer has the right to opt out of that disclosure; and a reasonable means by which the consumer may exercise the opt out right. Section 332.10(c) states that a bank may allow a consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out (partial opt-out).

Section 332.8(a) requires a bank to provide consumers with a revised notice of the bank's policies and procedures and a new opt out notice, if the bank wishes to disclose information in a way that is inconsistent with the notices previously given to a consumer.

Part 332 also contains affirmative actions that consumers must take to exercise their rights. In order for consumers to prevent banks from sharing their information with nonaffiliated parties, they must opt out (§§ 332.7(a)(2)(ii), 332.10(a)(2) and 332.10(c)).

Consumers also have the right at any time during their continued relationship with the bank to change or update their opt out status with the bank (§§ 332.7(f) and (g)).

These information collection requirements ensure bank compliance with applicable Federal law.

The most recently published (65 FR 8783) estimation of the number of the paperwork burden associated with this collection follows:

*Estimated Number of Respondents:* 5,764.

*Estimated Total Annual Responses:* 5,764.

*Estimated Time Per Response:* 43 hours (disclosure burden, includes initial notice).

*Estimated Burden Hours Per Response:* 2 Hours (reporting burden)

*Frequency of Response:* Annually.

*Estimated Total Annual Burden:* 259,380 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;