



Department of Justice

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**JUSTICE DEPARTMENT RECOMMENDS APPROVAL OF QWEST'S APPLICATION
TO PROVIDE LONG DISTANCE SERVICES IN MONTANA, UTAH,
WASHINGTON, AND WYOMING**

Department Notes Concerns with Regard to OSS and Pricing

WASHINGTON, D.C. - The Department of Justice today recommended that the Federal Communications Commission (FCC) approve Qwest's application to provide long distance services in Montana, Utah, Washington, and Wyoming. At the same time, the Department expressed concerns regarding certain operations support systems (OSS) relied upon by competitive local exchange carriers (CLECs) and the pricing of unbundled network elements (UNEs). The Department voiced these concerns in its evaluation of Qwest's first application for long distance authority in five other states (Colorado, Idaho, Iowa, Nebraska and North Dakota), as to which the FCC has yet to issue its assessment.

"The available evidence suggests that generally, Qwest has succeeded in opening local telecommunications markets in Montana, Utah, Washington, and Wyoming to competition," said Charles A. James, Assistant Attorney General in charge of the Department's Antitrust Division. "In particular, competitors have made progress in penetrating the business markets in those states. Questions remain, however, about aspects of Qwest's OSS and pricing that merit further examination by the FCC."

The Department's evaluation reiterates concerns about Qwest's provision of electronically auditable wholesale bills for the UNE-platform and the adequacy of its manual

order processing, concluding that the FCC could approve the application if it finds the additional evidence submitted by Qwest after its application was filed to be reliable. The evaluation also acknowledges issues pertaining to processes for testing OSS, endorsing further monitoring by the FCC and state commissions to ensure their continued adequacy, as well as concerns about the availability of certain testing for line-sharing orders. In addition, the Department urges the FCC to determine whether UNE rates recently adjusted in Montana and Wyoming are appropriately cost-based.

The Department provided its competitive analysis in an evaluation of Qwest's application to provide long distance services in Montana, Utah, Washington, and Wyoming under Section 271 of the Telecommunications Act of 1996.

Since the break-up of the integrated Bell system as part of the AT&T divestiture, the independent Bell Operating Companies, or BOCs, have been barred from providing long distance services in their respective regions, first as part of the divestiture decree, and now under the terms of the Telecommunications Act. Under Section 271 of the Act, a BOC, such as Qwest, may not provide in-region long distance services until it demonstrates to the FCC that it has met a variety of legal requirements designed to open the local telecommunications markets in a particular state to competition.

In considering whether to approve a BOC's application for long distance authority in a particular state, the FCC must consult with the Department of Justice and give "substantial weight" to its assessment of competitive conditions and whether the BOC should be allowed to provide in-region long distance services.

Qwest filed its application with the FCC on July 12, 2002. Under the terms of the Act,

the FCC must approve or deny the application within 90 days. A copy of the Department's evaluation will be available at:

<http://www.usdoj.gov/atr/public/comments/sec271/sec271.htm>.

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