Arizona Corporation Commission
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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF US WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

DECISION NO. 64835

ORDER

Open Meeting
May 17, 2002
Phoenix, Arizona

BY THE COMMISSION:

On February 16, 2001, the Arizona Corporation Commission ("Commission") issued Decision No. 63385, conditionally approving Qwest Corporation's ("Qwest") compliance with Section 271 of the Federal Telecommunications Act of 1996 ("1996 Act") Checklist Item No. 7 – 911/E911 Directory Assistance and Operator Services. In Decision No. 63385, the Commission found that all issues raised in the Arizona Workshops were resolved and that Qwest met the requirements of Checklist Item 7, subject to Qwest updating its SGAT to incorporate language agreed upon by the parties in other region Workshops and resolution by the Hearing Division of how to treat issues arising in other jurisdiction after the record in Arizona has closed.

On December 28, 2001, the Commission issued Decision No. 64301, which found that all issues concerning Checklist Item No. 7 have been resolved and that Qwest had complied with the requirements of Checklist Item No. 7, subject to Qwest passing relevant performance measures in the OSS test.

On February 12, 2002, AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T") filed a Motion to Reopen and Supplement the Record on Qwest Corporation's Compliance with Checklist Item Number 7 ("Motion"). AT&T states in its Motion that since the time the Commission entered its two Orders that concluded Qwest has satisfied the requirements of Checklist Item 7, AT&T has experienced a problem updating the E911 database for

certain customers who take advantage of the local number portability ("LNP") option. AT&T states that in 2001 it received reject messages for more than 1,700 Arizona numbers when it tried to update the Automatic Locations Identifier Database ("ALI"). AT&T claims 99 percent of the reject messages were due to Qwest failing to unlock the ported numbers. AT&T states as of January 29, 2002, at least 222 numbers ported to AT&T have remained locked for more than 30 days. AT&T asserts that if Qwest fails to unlock the number to a new carrier, the new carrier (in this case, AT&T) does not have authorization to update information in the database. AT&T argues that until Qwest implements a process that ensures that it unlocks numbers at the time the number is ported, customers will be endangered, AT&T and other CLECs will be at a competitive disadvantage, and Qwest is in violation of Section 271 of the Telecommunications Act of 1996.

On February 20, 2002, Qwest filed a Verified Response to AT&T's Motion. In its Response, Qwest states that AT&T overstates the severity of the problem, as only nine records that have been ported are locked to Qwest, and Qwest has requested Intrado[1] to unlock these records. Qwest's records show that of the total 37 locked AT&T records, 24 are for numbers that are not yet ported and four are locked records of another CLEC and not Qwest. Moreover, Qwest states that the problem of locked records is national in scope and that Qwest is in the process of implementing the December 2001 draft recommendations of the National Emergency Number Association ("NENA") to address locked records.

This industry recommended process is designed to ensure that no E911 record be removed from the E911 database if a customer changes carriers. Under this industry-approved procedure, Intrado "unlocks" a record in the ALI database when it receives a disconnect form Qwest. The new service provider then sends a corresponding connect order to Intrado that "locks" the record and makes the new service provider responsible for the record. Intrado will also revise the error code process. The first time an error code occurs, Intrado will validate that the port has been activated and upon validation, will immediately unlock the record to process the migrate order. Under this new process, only unsuccessful migrates, such as where Intrado finds that the new service provider has not

[1] Qwest contracts with Intrado to manage ALI.

activated the service, will be returned to the new service provider for investigation.

On March 5, 2002, AT&T filed a Reply. AT&T continues to assert that as of February 25, 2002, it has over 250 numbers that Qwest has failed to unlock. AT&T argues that Intrado's solution is manual and delays unlocking CLEC customer data, that the process is untested and that it fails to address the underlying cause of the problem. AT&T claims that the underlying problem is that Qwest is not sending a message to unlock the 911 database when a number is ported. AT&T also notes that Intrado has no legal obligation to perform its function under Qwest's interconnection agreements, the SGAT, FCC provisions or under the Act. AT&T asserts that the Performance Indicator Definitions ("PIDs") designed to measure Qwest's time to update databases and accurate database updates, do not accurately capture Qwest's performance in failing to unlock the 911 database in a timely manner.

On March 11, 2002, Qwest filed a Verified Surreply. Qwest states that it has determined that many of the errors AT&T receives are due to AT&T's failure to determine the status of its number port activities before it asks for an unlock. Some of the problems are due to the records being locked to another service provider.

On April 5, 2002, Staff filed a Response to the Motion. Staff believes that AT&T raises an important issue that must be addressed, but also believes that nothing would be gained by reopening the record and conducting further proceedings on Checklist Item 7. Staff notes that the issue is an industry-wide problem that needs to be resolved on a nationwide basis by national standard setting groups. NENA has reached a draft standard recommendation that Qwest has pro-actively adopted. Staff further noted that most of the disagreement between AT&T and Qwest involves "dueling data" and who is ultimately responsible for the problems AT&T experiences with ported numbers and 911 database accuracy. Staff states the problem is not solely of Qwest's doing. Staff asserts that AT&T's concerns about the NENA process would not be productively addressed in a 271 workshop. Staff believes the issue ultimately revolves around whether the new NENA standards and process will be effective. Staff believes that the new process should solve a lot of the current problems and that the industry consensus is the best solution.

Staff recommends that Qwest revise its SGAT to incorporate a provision that details the

process for Intrado to unlock the Qwest numbers when it is determined by Intrado that the service provider (CLEC) has activated the port. Qwest should be required to propose SGAT language within 10 days which details the process to be used by Intrado and which obligates Qwest and the CLECs to follow and implement future NENA standards pertaining to 911. On an on-going basis, Staff recommends that Qwest include such provisions in its interconnection agreements.

Staff notes that part of the problem is caused by numbers being locked to carriers other than Qwest. Intrado has agreed to unlock a CLEC customer's records under the NENA process, for no additional charge, if authorized to do so by the CLEC. Staff states that CLEC authorization should not be a problem with future interconnection agreements where these provisions can be included. However, many CLECs are operating under interconnection agreements with no provisions of this nature. Staff believes that a condition contained in all Certificates of Convenience and Necessity which obligates the carrier to follow NENA guidelines on 911, should be sufficient to allow Intrado to unlock CLEC records. However, Staff requests that Qwest notify Staff if Intrado requires actual CLEC authorization and Staff will initiate a separate process to address the issue. Staff believes that a separate process to address the issue outside the 271 proceeding is appropriate since it involves the obligations of CLECs.

Regarding AT&T's complaints about the adequacy of existing PIDs, Staff notes that PIDs are addressed in the 271 Test Advisory Group ("TAG"), and that AT&T is free to raise this issue in the TAG and propose the adoption of a new PID to measure Qwest's performance relating to 911 database accuracy.

Finally, Staff believes that Intrado's "Unsuccessful Migrate Report" that is furnished to all carriers should also be provided to Staff.

Being able to maintain an accurate E911 database is of critical importance. Because the problems AT&T has encountered are national in scope and involve carriers other than Qwest, we believe the matter should be addressed in a separate docket. The telecommunications industry has recommended a solution to the problem and Qwest has already implemented it. The parties dispute who is at fault for the large number of error messages and for numbers that remain improperly locked. We agree the workshop process will not resolve the dispute, but that in light of Qwest

having implemented the NENA process, a hearing at this time may be premature. The industry recommended process should be given an opportunity to operate to permit the Commission to evaluate its effectiveness. Therefore, we direct Staff to continue to monitor the issue and to file a report with the Commission in six months on the effectiveness of the NENA recommended process. Such report should include any Staff recommendations for further Commission action. We also adopt Staff's recommendation that Qwest revise its SGAT to describe the new process for unlocking numbers in the 911 database.

Although we decline to re-open the record with respect to Checklist Item 7, we believe that CLECs could be competitively disadvantaged if Qwest fails to act expeditiously in unlocking numbers that have been ported to another carrier. Consequently, we believe that the Performance Assurance Plan should contain appropriate and meaningful performance measures and associated financial incentives related to Qwest's obligations relating to the 911 database.

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Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On February 16, 2001, the Commission issued Decision No. 63385, conditionally approving Qwest's compliance with Section 271 of the 1996 Act Checklist Item No. 7 – 911/E911 Directory Assistance and Operator Services. In Decision No. 63385, the Commission found that all issues raised in the Arizona Workshops were resolved and that Qwest met the requirements of Checklist Item 7, subject to Qwest updating its SGAT to incorporate language agreed upon by the parties in other region Workshops and resolution by the Hearing Division of how to treat issues arising in other jurisdiction after the record in Arizona has closed.

2. On December 28, 2001, the Commission issued Decision No. 64301, which found that all issues concerning Checklist Item No. 7 have been resolved and that Qwest has complied with the requirements of Checklist Item No. 7, subject to Qwest passing relevant performance measures in the OSS test.

3. On February 12, 2002, AT&T filed a Motion to Reopen and Supplement the Record

on Qwest Corporation's Compliance with Checklist Item Number 7.

4. On February 20, 2002, Qwest filed a Verified Response to AT&T's Motion.

5. On March 5, 2002, AT&T filed a Reply

6. On March 11, 2002, Qwest filed a Verified Surreply.

7. On April 5, 2002, Staff filed a Response to the Motion.

8. AT&T alleges that since the time the Commission entered its two Orders that concluded Qwest has satisfied the requirements of Checklist Item 7, AT&T has experienced a problem updating the E911 database for certain customers who take advantage of the LNP option. In 2001, it received reject messages for more than 1,700 Arizona numbers when it tried to update the ALI database. AT&T claims 99 percent of the reject messages were due to Qwest failing to unlock the ported numbers. AT&T states as of January 29, 2002, at least 222 numbers ported to AT&T have remained locked for more than 30 days.

9. Qwest's records showed that of the total 37 locked AT&T records, 24 are for numbers that are not yet ported and four are locked records of another CLEC and not Qwest. Qwest states that only nine records that have been ported are locked to Qwest and that Qwest has requested Intrado unlock these records.

10. The problem of locked records is national in scope.

11. In December 2001, NENA issued draft recommendations to address locked records.

12. In February 2002, Qwest implemented the NENA recommended process for addressing the issue. Pursuant to the industry-recommended procedure, Intrado "unlocks" a record in the ALI database when it receives a disconnect from Qwest. The new service provider then sends a corresponding connect order to Intrado that "locks" the record and makes the new service provider responsible for the record. The first time an error code occurs, Intrado will validate that the port has been activated and upon validation, will immediately unlock the record to process the migrate order. Under this new process, only unsuccessful migrates, such as where Intrado finds that the new service provider has not activated the service, will be returned to the new service provider for investigation.

13. AT&T asserts that the NENA recommended process is manual and delays unlocking CLEC customer data, that the process is untested and that it fails to address the underlying cause of

the problem. AT&T claims that the underlying problem is that Qwest is not sending a message to unlock the 911 database when a number is ported. Furthermore, AT&T notes that Intrado has no legal obligation to perform its function under Qwest's interconnection agreements, the SGAT, FCC provisions or under the Act.

14. AT&T asserts that the PIDs that are designed to measure Qwest's time to update databases and accurate database updates, do not accurately capture Qwest's performance in failing to unlock the 911 database in a timely manner.

15. Staff recommends that:

(a) Qwest revise its SGAT to incorporate a provision that details the process for Intrado to unlock the Qwest numbers when it is determined by Intrado that the service provider (CLEC) has activated the port;

(b) Qwest should be required to propose SGAT language within 10 days which details the process to be used by Intrado and which obligates Qwest and the CLECs to follow and implement future NENA standards pertaining to 911;

(c) On an on-going basis, Staff recommends that Qwest include such provisions in its interconnection agreements;

(d) Intrado's "Unsuccessful Migrate Report" that is furnished to all carriers should also be provided to Staff.

16. Part of the problem is caused by numbers being locked to carriers other than Qwest. Qwest asserts that Intrado has agreed to unlock a CLEC customer's records under the NENA process, for no additional charge, if authorized to do so by the CLEC.

17. Staff believes that CLEC authorization should not be a problem with future interconnection agreements where these provisions can be included. However, many CLECs are operating under interconnection agreements with no provisions of this nature. Staff believes that a condition contained in all Certificates of Convenience and Necessity that obligates the carrier to follow NENA guidelines on 911, should be sufficient to allow Intrado to unlock CLEC records. However, Staff requests that Qwest notify Staff if Intrado requires actual CLEC authorization and Staff will initiate a separate process to address the issue. Staff believes that a separate process to

address the issue outside the 271 proceeding is appropriate since it involves the obligations of CLECs.

18. Staff further recommends that AT&T raise its concerns about the adequacy of existing PIDS to measure Qwest's performance relating to 911 database accuracy in the TAG.

19. Because the problems AT&T has encountered are national in scope and involve carriers other than Qwest, we believe the matter should be addressed in a separate docket. Ultimate resolution of the issue depends on whether the new NENA standards and process will be effective.

20. The industry recommended process should be given an opportunity to operate to permit the Commission to evaluate its effectiveness. Therefore, we direct Staff to continue to monitor the issue and to file a report with the Commission in six months on the effectiveness of the NENA recommended process. Such report should include any Staff recommendations for further Commission action.

21. Staff's recommendation that Qwest revise its SGAT to describe the new process for unlocking numbers in the 911 database is reasonable and should be adopted.

22. Although we decline to re-open the record with respect to Checklist Item 7, we believe that CLECs could be competitively disadvantaged if Qwest fails to act expeditiously in unlocking numbers that have been ported to another carrier. Consequently, the Performance Assurance Plan should contain appropriate and meaningful performance measures and associated financial incentives related to Qwest's obligations relating to the 911 database.

CONCLUSIONS OF LAW

1. Qwest is a public service corporation within the meaning of Article XV of the Arizona Constitution, A.R.S. Sections 40-281 and 40-282 and the Telecommunications Act of 1996 the Commission has jurisdiction over Qwest and the issues raised in AT&T's Motion.

2. Staff's recommendations contained in Findings of Fact Nos. 15, 17 and 18 are reasonable.

3. The issues raised in AT&T's Motion are national in scope and involve carriers other than Qwest and are appropriately addressed in a docket other than the Section 271 proceedings.

ORDER

IT IS THEREFORE ORDERED that AT&T's Motion to re-open the record on Checklist Item 7 is denied.

IT IS FURTHER ORDERED that Staff shall cause to be opened a separate docket that will address the Commission's investigation of this issue and establishment of an industry-wide 100 percent standard for locking and unlocking of all 911 database records.

IT IS FURTHER ORDERED that six months from the Effective Date of this Order, Staff shall file a report with the Commission describing the effectiveness of the NENA-recommended process and containing any recommendations for further Commission action on this issue.

IT IS FURTHER ORDERED that by May 31, 2002, Qwest shall file revised SGAT language that describes the NENA-recommended process and which obligates Qwest and the CLECs to implement further NENA standards pertaining to 911.

IT IS FURTHER ORDERED that Qwest shall include a provision concerning Intrado's obligation to the CLECs in all future interconnection agreements and amendments.

IT IS FURTHER ORDERED that Qwest shall notify Staff within ten days of the Effective Date of this Order, whether Intrado will rely on generic Certificate of Convenience and Necessity language or will require actual CLEC authorization to unlock numbers ported to service providers other than Qwest.

IT IS FURTHER ORDERED that Qwest shall ensure that Staff receives all relevant Intrado Reports.

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IT IS FURTHER ORDERED that issues concerning the adequacy of PIDs to measure Qwest 911 database accuracy shall be addressed by the TAG and considered for inclusion in the Performance Assurance Plan during the six month review of that Plan.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 21st day of MAY, 2002.

for BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
JR:dap

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DOCKET NO.: T-00000A-97-0238

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