

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF QWEST
CORPORATION'S SGAT ADVICE
NOTICE NO. 2 AND STATEMENT OF
GENERALLY AVAILABLE TERMS,
TWELFTH REVISION

CASE NO. 04-00__-UT

QWEST'S MOTION FOR LEAVE TO WITHDRAW

On February 27, 2004, Qwest Corporation ("Qwest") filed its SGAT Advice Notice No. 2 accompanied by its New Mexico Statement of Generally Available Terms, Twelfth Revision (the "12th SGAT"). Qwest also filed an additional copy of the 12th SGAT marked to show changes from the currently effective SGAT. On March 1, 2004, Qwest filed SGAT Advice Notice No. 2 (corrected) to correct certain errors in the original filing. For the reasons explained below, Qwest now moves for leave to withdraw SGAT Advice Notice No. 2, SGAT Advice Notice No. 2 (corrected) and the 12th SGAT (collectively, the "12th SGAT Filing"). Staff has informed Qwest that it does not oppose this motion.

In addition to some miscellaneous changes, the 12th SGAT predominantly reflected changes responding to the decision of the Federal Communications Commission in its Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 01-338 et al., FCC 03-227, 18 FCC Rcd 16978 (Aug. 21, 2003) (the "Triennial Review Order" or "TRO").

The Triennial Review Order was appealed by a number of parties, and the case was heard by the United States Court of Appeals for the District of Columbia Circuit (the "DC Circuit"). On March 2, 2004 the DC Circuit decided *United States Telecom Association v. Federal Communications Commission and United States of America*, Case No. 00-1012 ("*USTA II*"), vacating the TRO in part and remanding it in part. The DC Circuit stayed its mandate, however, for the longer of 60 days or until a petition for rehearing is denied.

The DC Circuit's decision affects those parts of the 12th SGAT intended to conform to the vacated portions of the TRO. Accordingly, when the DC Circuit issues its mandate (which may be as early as May 1, 2004) Qwest would then be required to file another SGAT conforming to the TRO as modified by *USTA II*.

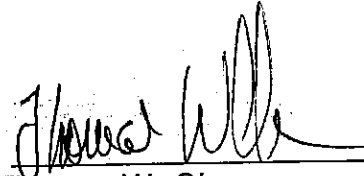
Representatives from several state utility commissions have expressed concern that, in light of the developments described above, they may be required to review two SGATs in quick succession. In deference to these concerns and to conserve its own resources, Qwest now moves to withdraw the 12th SGAT Filing. If the DC Circuit issues its mandate on or soon after May 1, 2004, Qwest will likely file a new 12th SGAT, which (in addition to the aforementioned miscellaneous changes) will be based on those portions of the TRO undisturbed by *USTA II* and will otherwise reflect the state of the law as of that date. Should *USTA II* be stayed for a period beyond May 1,

2004, Qwest reserves the right to resubmit the 12th SGAT Filing.

WHEREFORE, Qwest respectfully asks the Commission to enter its order granting Qwest leave to withdraw the 12th SGAT Filing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

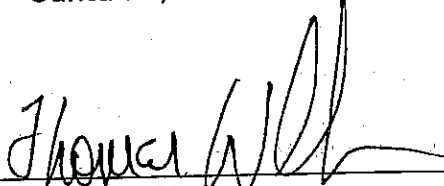
I hereby certify that I caused a true and correct copy of the foregoing **QWEST'S
MOTION FOR LEAVE TO WITHDRAW** to be mailed and/or hand-delivered on March
15, 2004 to the following:

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