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January 9, 2014

Mr. Burl Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

RE: **In the Matter of an Investigation into IntraLATA Equal Access and Presubscription for Independent ILECs** **Docket No.______**

Reference: MPUC Docket No. P-999/CI-08-418

Dear Mr. Haar:

Enclosed is a Petition filed on behalf of the Minnesota Independent Coalition for the removal of the specific IntraLATA scripting requirements contained in the Minnesota Public Utilities Commission's Order Establishing Business Practices for IntraLATA Presubscription for Local Exchange Carriers Other than US West in Docket No. P-999/CI-96-482, *In the Matter of an Investigation into Business Office Practices for IntraLATA Presubscription*. The Order was issued on February 7, 1997.

Please call me at 651-621-8631 with any questions.

Very truly yours,

Patrick Holton

Telecommunications Consultant for
Minnesota Independent Coalition

Enclosures

cc: Linda Chavez, Minnesota Department of Commerce

STATE OF MINNESOTABEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	**Chair**
David Boyd	**Commissioner**
Nancy Lange	**Commissioner**
J. Dennis O'Brien	**Commissioner**
Betsey Wergin	**Commissioner**

RE: In the Matter of an Investigation into IntraLATA Equal Access and Presubscription for Independent ILECs **Docket No._____________**

THE MINNESOTA INDEPENDENT COALITION PETITION FOR THE REMOVAL OF THE REQUIREMENT CONTAINED IN THE MINNESOTA PUBLIC UTILITIES COMMISSION'S FERUARY 7, 1997 ORDER TO FOLLOW A COMMISSION APPROVED SCRIPT TO INFORM CUSTOMERS OF AVAILABLE INTRALATA TOLL CARRIERS

The Minnesota Independent Coalition[1] ("MIC") submits this petition for the removal of the specific IntraLATA scripting requirements set forth in MPUC Docket No. P-999/CI-96-482. At a time when long distance competition was nascent, the Minnesota Public Utilities Commission ("Commission") opened docket P-999/CI-96-482 to examine what scripting Local Exchange Carriers other than US West (now Qwest Corporation d/b/a CenturyLink QC) would be required to use to inform its customers of available IntraLATA toll carriers. At that time, there were similar InterLATA scripting requirements. The Federal Communications Commission ("FCC") has now removed its similar scripting requirements and found that such scripting may be harmful to competition. Through this petition, MIC asks that the Commission similarly alter its prior order requirements.

[1] The Minnesota Independent Coalition is a group of approximately 75 local exchange carriers providing service in Rural Minnesota

I. Background

The Federal Communications Commission (FCC) regulates the provision of interLATA toll service and state utility commissions regulate IntraLATA toll service. Following divestiture in 1984, the FCC established equal access scripting requirements for the interLATA toll service providers that it regulates. The FCC did so to foster fair competition in the provision of stand-alone long distance service. At the time, competition in the provision of stand alone long distance services was nascent and there was little, if any, competition in the provision of local exchange service.

On January 12, 1996 in Docket No. P-999/CI-87-697, the Commission issued an Order establishing US WEST (now Qwest Corporation d/b/a CenturyLink QC) business practices for IntraLATA presubscription.

Similar to its 97-697 Order issued on January 12, 1996, the Commission also issued an Order Establishing Business Practices for IntraLATA Presubscription for Local Exchange Carriers Other than US West in Docket No. P999/CI-96-482, *In the Matter of an Investigation into Business Office Practices for IntraLATA Presubscription*. The Order, issued on February 7, 1997, stated in part, that all local exchange carriers shall similarly file for review and approval by the Commission or its staff the scripts to be used by customer service representatives in discussing IntraLATA presubscription with customers.

Subsequently all incumbent local exchange carriers (LECs) followed the script language below when service representatives discuss new service, transfers of service or PIC changes:

> "*You now need to choose a company to carry your local long distance calls. Many companies provide this service. I'd be glad to read you a list of the companies available to you.*"

The Commission also required the LECs to provide, upon request, a list of all available IntraLATA toll providers, in an order that is scrambled at least monthly. Additionally, the Commission prohibited carriers from rewarding any member of their customer service staff based on a customer's selection of a particular IntraLATA toll carrier and required that no choice be made for the customer if said customer declined to make a choice.

On August 30, 2007, the FCC released an order removing its equal access interLATA scripting requirements for the RBOCs. The FCC found that the stand-alone long distance competition that the Equal Access Scripting Requirement was designed to protect has largely given way to competition between service bundles that include both local exchange and long distance service or "any distance" minutes that can be used for both local exchange and long distance calling. The FCC stated:

> **"We ... forbear from application of the Equal Access Scripting Requirement (EA Scripting Requirement) to the BOCs. We find this requirement, under which incumbent LECs must provide customers seeking new telephone exchange service with certain information regarding their long distance options, no longer justified as applied to AT&T, Qwest, and Verizon, given the marketplace changes that have occurred since the requirement's adoption and the requirement's relative costs and benefits. We also find good cause to waive the EA Scripting Requirement for the BOCs independent incumbent LEC affiliates."**

The FCC declined to broaden its grant of forbearance to all local exchange carriers, noting the potential for significant differences in competitive circumstances and the lack of record with regard to non-BOC independent incumbent LECs. The FCC noted that it is currently considering whether there is a continued need for EA Scripting Requirements for independent incumbent LECs in a separate proceeding.

On January 10, 2008, Qwest (formerly US WEST) filed a petition with the Commission stating that the Federal Communications Commission (FCC) has now removed its similar scripting requirements for interLATA calls. Qwest asked the Commission to lift the IntraLATA scripting requirements as well. Qwest's petition was assigned to Docket No. P- 421/M-08-20.

On April 1, 2008, the Minnesota Department of Commerce (the Department) filed comments recommending that the Commission close this docket and open a generic docket to address the appropriateness of continuing to enforce the Commission's intrastate toll scripting requirements for all carriers, including Qwest.

On April 3, 2008, the Commission issued a Notice requesting comments on the Department's recommendation that the Commission close this docket regarding Qwest's scripting requirements and open a generic docket to consider the appropriateness of continuing to enforce the Commission's intrastate toll scripting requirements for all carriers, including Qwest.

On April 10, 2008, Qwest filed comments arguing that the Commission need not make a decision for the entire industry, but should proceed to grant the relief requested for Qwest since it now has all the information required to make that decision. The Company added that if the Commission decides to open a generic docket, it should do so within an abbreviated timeframe.

Following the Department’s initial recommendation in Docket 08-20 for the Commission to consider the appropriateness of continuing to enforce the Commission's intrastate toll scripting requirements for all carriers, including Qwest; the Commission issued an April 11, 2008 Notice in a new Docket No. P-999/CI-08-418, soliciting comments from all interested parties, to address the issue for all carriers.

On May 2, 2008, in comments to Commission in Docket No. P-999/CI-08-418 the Minnesota Independent Coalition (MIC) encouraged the Commission to eliminate intrastate toll scripting requirements for all LECs in Minnesota. According to MIC, the factors cited by Qwest as reasons for supporting the removal of the scripting requirements also apply to them. According to the MIC, there have been sweeping changes in the communications market in the past eleven years since the LEC Order that remove the justifications for the scripting requirements. MIC stated that customers now have many different methods and ways to access information about long distance service providers, their service offerings, and the service offerings of non-wireline telephone and traditional long distance service

In comments in Docket No. P-999/CI-08-418 the Department argued that the scripting requirements for interLATA and IntraLATA toll are inextricably linked and that customers will be more confused if the scripting requirements for interLATA and intraLATA calls are different. The Department therefore argued that the Commission's action should be consistent with the FCC's in this regard. Accordingly, the Department recommended that the Commission grant Qwest's petition for relief but not eliminate the scripting requirements for the other LECs.

On July 24, 2008 the Commission issued an order in Docket No. P- 421/M-08-20 and No. P-999/CI-08-418 Granting Qwest's petition for relief from the specific scripting requirements contained in the Commission's January 12, 1996 Order regarding IntraLATA presubscription. The Order, as issued, did not specifically address the relief sought by Local Exchange Carriers other than Qwest.

On May 17, 2013, the FCC issued an order[2] granting forbearance from FCC Equal Access Scripting requirements for Independent (non BOC) ILECs that had not previously been granted forbearance.

II. **In support of its petition**, the MIC concurs in the Discussion in the May 17, 2013 FCC order:[3]

14. While the EA Scripting Requirement originally served an important purpose in making consumers aware of new competitive options and fostering the development of nascent competition in the provision of pre-subscribed stand-alone long distance service, we find that it is no longer necessary. First, the market has changed dramatically in the more than 25 years since the requirement was established. When the Commission granted forbearance from the EA Scripting Requirement for the BOCs in 2007, it stated that stand-alone long distance service was becoming a fringe market, adding that stand-alone long distance competition had largely given way to competition between service bundles that included both local and long distance calling. These trends appear to have continued in the intervening years. Thus, we can see minimal if any public interest benefit in requiring ILECs to inform customers about options for stand-alone long distance service. Second, consumers today can obtain information on options for satisfying their voice communications needs, including long distance calling needs, in ways that did not exist when the Commission imposed the EA Scripting Requirement. In particular, such information is available on the Internet. Third, the EA Scripting Requirement provides consumers with information about only one competitive alternative—stand-alone long distance service. It does not reflect options involving bundled offerings, nor does it remind consumers of the availability of over-the-top VoIP services, dial-around long distance services, and calling cards. By focusing on stand-alone long distance service options, the EA Scripting Requirement is likely to distort, rather than illuminate, competitive choices.

16. For the reasons discussed above, we conclude that continued application of the EA Scripting Requirement is not necessary to ensure that the charges, practices, and

[2] FCC 13-69 Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further notice of Proposed Rulemaking released May 17, 2013, WC Docket No's 12-61, 09-206, 08-225,………………

[3] Reference paragraphs 14, 16 ,17; FCC 13-69 Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further notice of Proposed Rulemaking released May 17, 2013, WC Docket No's 12-61, 09-206, 08-225,………………

classifications, or regulations by, for, or in connection with independent ILECs' mass market long distance calling services are just and reasonable and are not unjustly or unreasonably discriminatory pursuant to section 10(a)(1) of the Act. In today's telecommunications marketplace, the EA Scripting Requirement does little to foster competition, as it only addresses the availability of stand-alone long distance service, which has become a fringe market. Thus, advising customers of the availability of stand-alone long distance service is unlikely to ensure that independent ILEC rates, terms and conditions for long distance service are just and reasonable and not unjustly or unreasonably discriminatory. For the same reasons, we conclude that retention of the EA Scripting Requirement is not "necessary for the protection of consumers" pursuant to Section 10(a)(2) of the Act.

17. *We also conclude, pursuant to section 10(a)(3) of the Act, that forbearance from enforcement of the EA Scripting Requirement "is consistent with the public interest" because the costs associated with this requirement exceed the benefits. For the reasons described above, we conclude that the EA Scripting Requirement provides de minimis, if any, benefits. At the same time, it imposes costs on independent ILECs. Their customer service representatives must spend time advising customers that they can obtain stand-alone long distance service and be prepared to read lists of carriers that can provide such service if customers request this. Given the lack of benefits generated by this requirement, we also conclude that its removal would foster competition by removing regulatory requirements and the resulting costs that affect only ILECs subject to the rule and not their competitors. We therefore forbear from the requirement for all ILECs that have not previously been granted forbearance. In reaching this decision, we emphasize that customers will retain the right to select a presubscribed long distance carrier other than the ILEC or a provider affiliated with the ILEC, and that the ILECs must ensure that their customer service representatives accurately answer any questions in this regard.*

CONCLUSION

The FCC in its May 17, 2013 Order recognized that the scripting requirement was no longer necessary in an evolved long distance market place and determined that the equal access scripting requirement negatively affected consumers. On that basis, the FCC removed the InterLATA equal access scripting requirement for Independent ILECs. The MIC requests that the Commission similarly remove the scripting requirements contained in its February 7, 1997 Order in MPUC Docket No. P-999/CI-96-482 for Local Exchange Carriers Other than Qwest Corporation d/b/a CenturyLink QC (formerly US West)

Dated: January 9, 2014.

Respectfully submitted

Olsen Thielen & Co. Ltd.

Consultants on behalf of the Minnesota Independent Coalition