

and (III) require a BOC to provide nondiscriminatory access to "911 and E911 services," "directory assistance services to allow the other carrier's customers to obtain telephone numbers" and "operator call completion services," respectively. Additionally, section 251(b)(3) of the 1996 Act imposes on each LEC "the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to \* \* \* operator services, directory assistance, and directory listing with no unreasonable dialing delays." Based on the evidence in the record, the Commission concludes that Qwest offers nondiscriminatory access to its 911-E911 databases, operator services (OS), and directory assistance (DA).

17. *Checklist Items 3, 6, 8, 9, 10, 11, 12, 13 and 14.* An applicant under section 271 must demonstrate that it complies with item 3 (poles, ducts, and conduits), item 6 (unbundled local switching), item 8 (white pages), item 9 (numbering administration), item 10 (data bases and signaling), item 11 (number portability), item 12 (local dialing parity), item 13 (reciprocal compensation), and item 14 (resale). Based on the evidence in the record, and in accordance with Commission rules and orders concerning compliance with section 271 of the Act, the Commission concludes that Qwest demonstrates that it is in compliance with checklist items 3, 6, 8, 9, 10, 11, 12, 13 and 14 in New Mexico, Oregon and South Dakota. The State Commissions also concluded that Qwest complies with the requirements of each of these checklist items.

#### Other Statutory Requirements

18. *Section 272 Compliance.* Qwest provides evidence that it maintains the same structural separation and nondiscrimination safeguards in New Mexico, Oregon and South Dakota as it does in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming where Qwest has already received section 271 authority. Based on the record before us, we conclude that Qwest has demonstrated that it will comply with the requirements of section 272.

19. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. It views the public interest requirement as an opportunity to review the circumstances presented by the applications to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the

competitive checklist, and that entry will therefore serve the public interest as Congress expected. While no one factor is dispositive in this analysis, the Commission's overriding goal is to ensure that nothing undermines its conclusion that markets are open to competition.

20. The Commission finds that, consistent with its extensive review of the competitive checklist, barriers to competitive entry in the local market have been removed and the local exchange market today is open to competition. The Commission concludes that Qwest's entry into the long distance market will benefit consumers and competition.

21. The Commission also finds that the performance monitoring and enforcement mechanisms developed in New Mexico, Oregon and South Dakota, in combination with other factors, provide meaningful assurance that Qwest continue to satisfy the requirements of section 271 after entering the long distance market.

22. Notwithstanding its concern about discrimination with respect to 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.

23. The Commission concludes that approval of this application is consistent with the public interest. From our extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, we find that barriers to competitive entry in New Mexico, Oregon and South Dakota's local exchange market have been removed, and that the local exchange market is open to competition.

24. *Section 271(d)(6) Enforcement Authority.* The Commission concludes that, working with the State

Commissions, we will closely monitor Qwest's post-approval compliance to ensure that Qwest does not "cease[] to meet the conditions required for [section 271] approval." We stand ready to exercise our various statutory enforcement powers quickly and decisively if there is evidence that market opening conditions have not been sustained.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 011776-123.

*Title:* Asia North American Eastbound Rate Agreement.

*Parties:* American President Lines, Ltd., and APL Co. Pte Ltd. (as one party).

Hapag-Lloyd Container Linie GmbH.  
Kawasaki Kisen Kaisha, Ltd.  
AP Moller-Maersk Sea-Land.  
Mitsui O.S.K. Lines, Ltd.  
Nippon Yusen Kaisha.  
Orient Overseas Container Line Limited.

P&O Nedlloyd B.V.

P&O Nedlloyd Limited.

*Synopsis:* The modification extends the suspension of the agreement for an additional six months through November 1, 2003, and is effective upon filing.

*Agreement No.:* 011591-003.

*Title:* EUKOR/WWL Space Charter Agreement.

*Parties:* EUKOR Car Carriers, Inc., Wallenius Wilhelmsen Lines AS.

*Synopsis:* The modification adds the westbound trade from U.S. Atlantic, Gulf and Pacific Coast ports and inland and coastal points to all ports in Japan and Korea and inland and coastal points, and removes the annual limitation on tonnage to be chartered to either party.

By Order of the Federal Maritime Commission.