MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

4008

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SCR 4008

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4008

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 24, 2001

Tape Number	Side A	Side B	Meter #
2	x		19.4 to end
		x	0 to 3.3
		x	8.1 to 12.6
1/29/01 1	X	x	16.1 to 19.3
Committee Clerk Signature	Dawn Bay		

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SCR4008 urging the Federal Communications Commission to proceed as quickly as possible with the process of allowing Qwest Corporation to provide interstate telecommunications service.

MEL KAMBEITZ, Qwest Corp. Urge do pass.

JULIE LIFFRIG FEDORCHAK, North Dakotans for Telecommunications Choices. Supports this bill. Written testimony attached.

TONY CLARK, ND Public Service Commission. Neutral. Informational purpose. Written testimony attached.

DAVID CROTHERS, ND Association of Telephone cooperatives. Oppose this resolution. Does not support expedited review of a petition no one has seen. Written testimony attached.

THOMAS F. KELSCH, on behalf of AT&T Corp. Oppose this resolution. Written testimony attached.

Hearing closed.

Committee reconvened. Tape 2, side b, meter 8.1 to 12.6 .

Discussion held.

SENATOR TOLLEFSON: Motion: Do Pass. SENATOR ESPEGARD: Second

Roll call vote: 7 yes; 0 no; 0 absent. Carrier: SENATOR TOLLEFSON.

January 29, 2001. Committee reconvened. All members present.

SENATOR KLEIN: Motion to reconsider. SENATOR KREBSBACH: Second.

Voice vote : 7 yes; 0 no; 0 absent or not voting.

SENATOR KLEIN: Move to accept amendment . SENATOR ESPEGARD: Second.

Roll call vote: 7 yes; 0 no; 0 absent or not voting.

SENATOR KLEIN: Motion: Do pass as amended. SENATOR D. MATHERN: Second.

Roll call vote: 7 yes; 0 no; 0 absent or not voting. Carrier: SENATOR TOLLEFSON.

Date: 1/24/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4008

Senate Senate Industry, Business and Labor Committee

☐ Subcommittee on .....
or
☐ Conference Committee

Legislative Council Amendment Number .....

Action Taken Do Pass

Motion Made By S. Tollefson Seconded By S Espegard

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Tollefson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 25, 2001 8:57 a.m.

Module No: SR-13-1575
Carrier: Tollefson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4008: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4008 was placed on the Eleventh order on the calendar.

CONT

NEXT FICHE

18281.0101
Title.

Prepared by the Legislative Council staff for
Senator Klein
January 26, 2001

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4008

Page 1, remove lines 17 and 18

Page 1, line 24, remove "In order to prevent North Dakota from lagging behind the other states in the opened"

Page 1, line 25, remove "local and long-distance telecommunications markets"

Page 2, line 3, remove "by December 31, 2001"

Page 2, line 6, remove "to allow North Dakotans to enjoy the benefits of competition in the long-distance"

Page 2, line 7, remove "market"

Renumber accordingly

Date: 1/29/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4008

Senate Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment accepted

Motion Made By Sen. Klein Seconded By Sen Espegaard

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1/29/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4008

Senate Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DPA

Motion Made By Sen Klein Seconded By Sen Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Tollefson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SCR 4008: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4008 was placed on the Sixth order on the calendar.

Page 1, remove lines 17 and 18

Page 1, line 24, remove "In order to prevent North Dakota from lagging behind the other states in the opened"

Page 1, line 25, remove "local and long-distance telecommunications markets"

Page 2, line 3, remove "by December 31, 2001"

Page 2, line 6, remove "to allow North Dakotans to enjoy the benefits of competition in the long-distance"

Page 2, line 7, remove "market"

Renumber accordingly

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

SCR 4008

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4008

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb. 14, 2001

Tape Number	Side A	Side B	Meter #
1	X		28.0-48.3
Committee Clerk Signature			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Sen. Jerry Klein: Sponsor to allow agencies to work quickly to provide telecommunications services.

Mel Kambeitz: *Qwest* We support this bill to keep things moving quickly . This will provide more competition and that will be to the benefit of the consumer.

Julie Liffrig Fredorchak: *ND for Telecommunications Choices* Written testimony in support.

Dale Anderson: (39.5) *GNDA* We support this bill fully and enthusiastically.

Tony Clark: *ND Public Service Commission* Written testimony, neutral.

Rep Ekstrom: Is this stitching back together the Baby Bells?

Clark: There are two sides but essentially yes.

Chairman Berg: We'll close the hearing on SCR 4008.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4008(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb, 14, 2001

Tape Number	Side A	Side B	Meter #
1	X		59.8
		X	-1.54

Committee Clerk Signature

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Jensen: I move a do pass.

Rep Kasper: I second.

14 yea, 0 nay, 1 absent Carrier Rep Jensen

Date: 2-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4008

House Industry, Business and Labor Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Jensen Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg			Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Jensen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 14, 2001 1:16 p.m.

Module No: HR-27-3345
Carrier: Jensen
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4008: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4008 was placed on the Tenth order on the calendar.

2001 TESTIMONY

SCR 4008

Julie Liffrig Fedorchak
Testimony to Senate Industry Business and Labor Committee
Representing North Dakotans for Telecommunications Choices
Jan. 24, 2000

Mr. Chairman, members of the committee,

My name is Julie Liffrig Fedorchak, and I'm speaking today on behalf of a group called North Dakotans for Telecommunications Choices. This organization has 150 plus members who represent both businesses and individuals throughout the state.

Our members include opinion leaders like former Governor Ed Schafer and Tax Commissioner Rick Clayburgh, large businesses such as Cass Clay Creameries and St. Alexius Medical Center, organizations such as the McKenzie County Economic Development Association and the Grand Forks Economic Development Association, and dozens of individual North Dakotans from urban and rural areas.

Members of North Dakotans for Telecommunications Choices are consumers -- consumers united behind one simple belief: that competition is good and necessary and we should do everything we can to support more competition in North Dakota's telecommunications industry.

High quality, affordable telecommunications are essential to industry, commerce, education, and every day life in North Dakota. For some of our members, telecommunications are one of the largest and fastest growing areas of expense and opportunity.

Advances in technology have eliminated or reduced the seemingly impossible barriers of distance and geography in our state. Coalition members like St. Alexius Medical Center rely on high-speed Internet to serve clients through telemedicine.

Other members such as Pump Systems in Dickinson use extensive web-based marketing tools to sell products and manage business operations throughout the world. Pump Systems doesn't sound like a high-tech company, but high-speed telecommunications have opened up a world of opportunities for this western North Dakota-based business.

Legislators and state officials often say that North Dakota's future economic growth depends on our ability to maximize information technology to improve our business climate.

To this end, North Dakota must create and support a fair regulatory climate that encourages competition and investment by telecommunication companies. More competition between telecommunications providers will help improve services, lower costs and stimulate innovation.

For these reasons, North Dakotans for Telecommunications Choices supports Qwest's desire to enter the long distance market. We urge passage of Concurrent Resolution 4008.

The process of allowing the Baby Bell companies to sell long distance is taking place all over the nation. This was a central part of the 1996 Telecommunications Act intended to open local telephone and cable TV to competition. It is a complicated process, made even more so by lawyers on all sides of the issue – no offense to any of the lawyers in the room.

However, regardless of the squabbling between companies, there are many good reasons to support this effort for consumers. As of yesterday, four states have allowed their regional bell company to sell long distance. Those states are Kansas, Oklahoma, Texas and New York.

Let me tell you about the benefits to consumers in one of those states. In New York, Verizon won federal approval to offer long distance to its in-state customers in December of 1999. According to the non-profit Telecommunications Research and Action Center, consumers there have saved $217 million a year since this change.

New Yorkers who switched to Verizon are saving up to $120 a year, and those who get their local service from AT&T, MCI/WorldCom or another competitor are saving up to $97 a year. So prices across the board went down.

It's interesting to note where those savings were realized. About one-half of the savings went to long-distance customers, as you would expect.

However, local phone customers realized a full 50 percent of the savings. In other words, the addition of another large seller of long distance encouraged more companies to begin selling local service so they could offer customers both local and long distance in one bill with one provider.

Competition in the local market increased as well as in long distance.

As a consumer who struggles every month to decipher my phone bill, the option of simplifying these services into one bill is very attractive to me. And I venture to guess many of you would agree.

The non-profit organization called "Citizens for a Sound Economy" produced this brochure called "Breaking Down the Barrier to Competition: A Brighter Future for Telecommunications." I like to refer to it as "Telephone Deregulation for Dummies," and I count myself in that group!

It describes the importance of competition for this industry, and I'd like to close with a passage from this publication.

"Competition will develop fastest in a market that is not overwhelmed by regulation. The last three years has seen progress in the local telephone markets of several states. But in order for competition to take off, regulatory barriers must come down across the nation."

Eliminating the regulatory restrictions that prevent Qwest from selling long distance is a step in the right direction for full and fair competition. And I urge you to support this effort by recommending a do pass on Concurrent Resolution 4008.

S.C.R. 4008

Presented by: **Tony Clark**
North Dakota Public Service Commission

Before: **Senate Industry, Business & Labor Committee**
Senator Duane Mutch, Chairman

Date: **January 24, 2001**

TESTIMONY

Mr. Chairman and members of the Senate IBL Committee, my name is Tony Clark, I am one of North Dakota's three Public Service Commissioners. The Commission is neutral on this resolution as we believe it would be inappropriate for us to take a formal position on an issue that we may eventually have to sit in judgment over.

My purpose for being here is informational. We wanted to take this opportunity to describe for you the current status of the Commission's 271 work.

In the Telecommunications Act of 1996, Qwest (formerly U S WEST) is given opportunity to enter the interLATA long distance market after meeting certain requirements. These requirements have come to be known as the 271 Checklist (after the section number in which they are found).

The FCC will determine whether Qwest meets the 271 Checklist, but the Act requires that the FCC consult with the state commission before making any determination. The FCC has provided guidelines and expects each state commission to develop a record showing the extent of Qwest's compliance with the 271 Checklist.

Qwest has urged the states within its service region to work jointly to develop the Section 271 record. Qwest and the state commissions recognize procedural efficiencies and expense and other resource savings in such collaboratives.

To date, the commission has joined three such efforts:

1. A thirteen-state collaborative to assess the readiness of Qwest's Operation Support System (OSS) which provides mechanized interfaces for pre-ordering, ordering, provisioning, maintenance and repair and billing capabilities necessary for competitive local exchange carriers to provide local service in Qwest's serving areas (OSS Collaborative);

2. A seven-state collaborative to develop the record showing Qwest's compliance with the Act's 271 Checklist (271 Collaborative); and

3. An eleven-state collaborative to develop a plan to ensure continued Section 271 compliance by Qwest following its entry into the interLATA toll market (Post 271 Collaborative).

The OSS Collaborative began in September 1999, the 271 Collaborative began in approximately May/June, 2000, and the Post 271 Collaborative began in August 2000.

We believe this is an efficient and effective way of working with other states on this particular issue. The FCC is encouraging states to build off the work of other states so that the 271 process does not need to be reinvented in each and every jurisdiction, thereby allowing the process to move as quickly as possible.

As a point of general information, the Committee may be interested to know that to date, Bell Operating Companies have been granted 271 approval in four states – New York, Texas, Kansas and Oklahoma. Kansas and Oklahoma just received approval in an opinion and order issued by the FCC on Monday. Qwest does not operate in any of the states that have thus far been approved.

That concludes my testimony Mr. Chairman. I would be happy to answer any questions you may have. Also here today is Mr. Pat Fahn of the Commission Staff. Mr. Fahn has been involved with the 271 collaboratives and he may be able to answer some of the more technical questions you have.

NORTH DAKOTA ASSOCIATION OF TELEPHONE COOPERATIVES

Box 1144 · Mandan, ND 58554
Phone 701-663-1099 · FAX 701-663-0707

SCR 4008

SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE

JANUARY 24, 2001

DAVID CROTHERS
NORTH DAKOTA ASSOCIATION OF
TELEPHONE COOPERATIVES

My name is David Crothers from the North Dakota Association of Telephone Cooperatives. The Association represents all of the cooperative and independent telephone companies in the State. Those companies serve over 160,000 homes and small businesses and 90 percent of the geographic territory of North Dakota.

Members of the Association do not believe it is an appropriate time to support Senate Concurrent Resolution 4008.

The resolution expresses the Senate's belief that Qwest Corporation should have an expedited review of a petition for relief that does not yet exist. The Association also strongly disagrees with a number of the premises and conclusions of the resolution.

We believe the process for receiving Federal Communications Commission approval is well-established in the Federal Telecommunications Act of 1996 and subsequent FCC rules. We believe it is bad public policy for this body to intervene in the Public Service Commission's quasi-judicial hearings when the impact will favor one telecommunications company over another.

Qwest and its predecessors have never been able to offer the interstate long distance services that they seek now to provide. The break-up of AT&T over 15 years ago prevented it. It was only with the passage of the Telecommunications Act of 1996 that the Congress and FCC laid out a demanding and specific set of conditions for Qwest to meet before being allowed to carry those calls. Congress said the trade-off was simple: Bell companies like Qwest must open their lines for local competition. Once they opened their local markets, they could offer interstate long distance, but they must first satisfy a 14-point competitive checklist.

The standard is very high and the body of evidence Qwest must offer is massive. Since the Telecommunications Act passed five years ago the FCC has granted permission to Bell companies in only four States. None of them in the 14 States served by Qwest.

The role of public utility commissions, such as our State's Public Service Commission, is the foundation for the Federal Communications Commission decision. In fact, we believe there may be a fundamental misunderstanding of what the PSC will be asked to do in their proceeding. As previously noted, the FCC has only approved four applications throughout the nation and in two of those specifically addressed the role of public utility commissions.

In the Texas case, the FCC said, "We applaud the efforts of the Texas Commission, which has expended significant time and effort overseeing SWBT's implementation of the requirements of Section 271. For more than two years, the Texas Commission has worked with SWBT and competing carriers to identify and resolve a number of key issues related to SWBT's compliance with the Act."

A industry newsletter commenting on the approved New York application, said, "The New York Public Service Commission (PSC) worked extensively with Bell Atlantic in preparing the Section 271 application. The PSC's active role was instrumental in ensuring that local markets are open to competition. The FCC said that the process in New York exemplifies the importance of state proceedings in the success of an application. Key factors included full and open participation by all interested parties, extensive third-party testing, clearly defined performance standards and substantial financial penalties for non-compliance."

One of the reasons State review is so time consuming and comprehensive is that by Federal law the Federal Communications Commission can only review the petition for 90 days before making a determination. As a result, the burden of fact-finding, analysis and compliance falls upon the State agency. It is a time consuming, intensive undertaking for the Public Service Commission.

In light of these facts, the Association would suggest that it is inappropriate for this body to make any recommendation that would inevitably affect the quality or thoroughness of the Commission's decision.

Qwest comes to you today to ask your assistance in advancing their business interests, but it comes at the expense of other carriers who are serving North Dakotans today. Qwest has not filed an application for permission to offer these services in the five years they have had that option available to them, but

now they come and ask you to urge expeditious review by State and Federal agencies.

The Association also notes that it disagrees with a number of both the premises and conclusions of the resolution, including the presumption that North Dakota is lagging behind other States in the capacity and quality of the telecommunications services it receives. There is no lack of capacity for either voice or data in this State today. To the contrary, North Dakota enjoys a state-of-the-art backbone network that connects virtually every community, as well as several other fiber networks that cross the State. In addition, there are over 400 long distance companies authorized to provide service to North Dakotans today.

The North Dakota Association of Telephone Cooperatives supports the Telecommunications Act of 1996 and supports the right of Qwest to file a Section 271 petition for relief from the Federal law barring them from offering interstate long distance. In fact, one day we may stand before the Public Service Commission and support their petition. We will not, however, and suggest that you do not, support the expedited review of a petition that none of us have seen. Qwest knows better than any of us the standards they must meet, evidence they must present and timetable for receiving the relief they seek. We believe that any intervention by this body in that process would be misguided.

The Association recommends a Do Not Pass recommendation.

SCR 4008

Testimony of Thomas F. Kelsch
On Behalf of AT&T Corp.

Before the Senate Industry, Business, and Labor Committee

North Dakota Legislature
January 24, 2001

Good morning Mr. Chairman, and members of the Committee.

My name is Thomas F. Kelsch, and I represent AT&T Corp. Thank you for this opportunity to express AT&T's concerns relating to SCR 4008.

Senate Concurrent Resolution 4008 is a curious document. On the one hand, it seems to recognize that there must be competition in the *local* market before Qwest is to be allowed into the interLATA *long distance* market. In other words, SCR 4008 seems to acknowledge that under the federal Telecommunications Act of 1996, Qwest must first demonstrate that its local market is open to competition before it can compete in the already heavily competitive long distance market. Step A, insist that Qwest open its local market. Step B, allow Qwest into the long distance market.

But on the other hand, SCR 4008 seems to insist on rushing the process of determining whether the local market is genuinely open. The resolution itself urges three things:

- That the PSC move the 271 process forward as quickly as possible;
- That Qwest take all possible action to meet the requirements of 271 prior to December 31, 2001; and
- That the FCC move the 271 process forward as quickly as possible.

Let's take each of these items separately.

First, the PSC cannot proceed without a petition having been filed by Qwest, together with appropriate evidence demonstrating that the local markets have been opened to competition. So the first of these items is fully within the control of Qwest, and not the PSC.

Second, Qwest can certainly take action to meet the 271 requirements without the urging of this Legislature. The federal Telecommunications Act of 1996 provides Qwest with plenty of incentive to open its local market to competition. Are they likely to hurry that process because of the passage of this resolution? With all due respect, I think not.

Third, just as the PSC cannot proceed without a proper petition having been filed by Qwest, so the FCC cannot proceed without a proper showing by Qwest that the 271 checklist has been fulfilled. So, once again, the control of this third item is in the hands of Qwest, and not of the FCC.

The fact of the matter is that all three of these items are in the control of Qwest. Not the PSC, and not the FCC. And perhaps most importantly of all, not this Legislature.

Perhaps you can see now why AT&T regards SCR 4008 as a curious document. It urges everyone to hurry, with respect to the 271 process, when only one party has any genuine control over the pace of that process. And that party is Qwest.

The more cynical among us might interpret SCR 4008 as saying that Qwest should be granted 271 authority irrespective of whether the local market is in fact open, and regardless of whether Qwest has truly fulfilled the Section 271 checklist. Perhaps that is reading too much into the resolution. But it does beg the question, "Precisely what is the point of SCR 4008?"

Mr. Chairman, members of this Committee, I must say I don't see the point of SCR 4008. To my way of thinking, there are perhaps two good reasons to pass a resolution: either to praise someone for doing something good and noble, or to chastise someone for doing something bad or wrong. Simply put, SCR 4008 attempts to chastise the wrong people. Neither the PSC nor the FCC has done anything wrong. Nor has either of them failed to do what they should do. Yet SCR 4008 seems to chastise both the PSC and the FCC, for no good reason. Why? To what end?

Furthermore, if I may be so bold, let me suggest to you that SCR 4008 is not likely to have any effect on the pace of Qwest's efforts to open its local markets to competition. Qwest's management will not read this resolution and suddenly decide to accelerate its efforts to open its local markets. They will open those markets when it suits their best economic interests to do so. And not before.

Perhaps it is appropriate for us now to ask ourselves, How many of us have any real choice in the selection of our local exchange provider? We all seem to have our choice among long distance carriers, but not with respect to our local service. Under the circumstances, it simply doesn't make sense to blame the FCC or the PSC—or for that matter anyone else, other than Qwest—for this lack of competition.

For these reasons, AT&T urges you to vote "no" on SCR 4008.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or the other members of the Committee may have in this regard. Thank you.

###

S.C.R. 4008

Presented by: **Tony Clark**
North Dakota Public Service Commission

Before: **House Industry, Business & Labor Committee**
Representative Rick Berg, Chairman

Date: **February 14, 2001**

TESTIMONY

Mr. Chairman and members of the House Industry, Business & Labor Committee, my name is Tony Clark, I am one of North Dakota's three Public Service Commissioners. The Commission is neutral on this resolution, as we believe it would be inappropriate for us to take a formal position on an issue that we may eventually have to sit in judgment over.

My purpose for being here is informational. We wanted to take this opportunity to describe for you the current status of the Commission's 271 work.

In the Telecommunications Act of 1996, Qwest (formerly U S WEST) is given opportunity to enter the interLATA long distance market after meeting certain requirements. These requirements have come to be known as the 271 Checklist (after the section number in which they are found).

The FCC will determine whether Qwest meets the 271 Checklist, but the Act requires that the FCC consult with the state commission before making any determination. The FCC has provided guidelines and expects each state commission to develop a record showing the extent of Qwest's compliance with the 271 Checklist.

Qwest has urged the states within its service region to work jointly to develop the Section 271 record. Qwest and the state commissions recognize procedural efficiencies and expense and other resource savings in such collaboratives.

To date, the commission has joined three such efforts:

1. A thirteen-state collaborative to assess the readiness of Qwest's Operation Support System (OSS) which provides mechanized interfaces for pre-ordering, ordering, provisioning, maintenance and repair and billing capabilities necessary for competitive local exchange carriers to provide local service in Qwest's serving areas (OSS Collaborative);

2. A seven-state collaborative to develop the record showing Qwest's compliance with the Act's 271 Checklist (271 Collaborative); and

3. An eleven-state collaborative to develop a plan to ensure continued Section 271 compliance by Qwest following its entry into the interLATA toll market (Post 271 Collaborative).

The OSS Collaborative began in September 1999, the 271 Collaborative began in approximately May/June, 2000, and the Post 271 Collaborative began in August 2000.

We believe this is an efficient and effective way of working with other states on this particular issue. The FCC is encouraging states to build off the work of other states so that the 271 process does not need to be reinvented in each and every jurisdiction, thereby allowing the process to move as quickly as possible.

As a point of general information, the Committee may be interested to know that to date, Bell Operating Companies have been granted 271 approval in four states – New York, Texas, Kansas and Oklahoma. Kansas and Oklahoma just received approval in an opinion and order issued by the FCC on Monday. Qwest does not operate in any of the states that have thus far been approved.

That concludes my testimony Mr. Chairman. I would be happy to answer any questions you may have. Also here today is Mr. Pat Fahn of the Commission Staff. Mr. Fahn has been involved with the 271 collaboratives and he may be able to answer some of the more technical questions you have.

Julie Liffrig Fedorchak
Testimony to House Industry Business and Labor Committee
Supporting Concurrent Resolution 4008
Representing North Dakotans for Telecommunications Choices
Feb. 14, 2001

Mr. Chairman, members of the committee,

My name is Julie Liffrig Fedorchak, and I'm speaking today in favor of CR 4008. I'm here on behalf of a group called North Dakotans for Telecommunications Choices.

This organization has 150 plus members who represent both businesses and individuals throughout the state. Our members include opinion leaders like former Governor Ed Schafer and Tax Commissioner Rick Clayburgh; large and small businesses such as Cass Clay Creameries, St. Alexius Medical Center and TechLink in Ashley; organizations like the McKenzie County and Grand Forks Economic Development Association; and dozens of individual North Dakotans from urban and rural areas.

All the members of North Dakotans for Telecommunications Choices have one thing in common: they are consumers -- consumers who are united behind the belief that competition is good and necessary and we should support a fair and competitive regulatory climate in North Dakota.

We support this resolution because we believe that if Qwest meets the 14- point competitive checklist for entry into long distance, they should be allowed to compete.

This make sense from a philosophical standpoint. If we are serious about economic development, North Dakota should willingly provide regulatory relief to a business that meets the qualifications for it.

But from a more pragmatic standpoint, North Dakota consumers stand to benefit from the competition offered by another large player in the telecommunications industry.

The process of allowing the Baby Bell companies like Qwest to sell long distance is taking place all over the nation. This was a central part of the 1996 Telecommunications Act.

Four states have allowed their regional bell company to sell long distance: Kansas, Oklahoma, Texas and New York.

In New York, Verizon won federal approval to offer long distance to its in-state customers in December of 1999. Consumers there have saved $217 million a year since this change – that's according to the non-profit Telecommunications Research and Action Center.

New Yorkers who switched to Verizon are saving up to $120 a year. But, those who get their service from AT&T, MCI/WorldCom or another competitor are also saving nearly $100/year.

What's even more encouraging is where those savings occurred. About one-half of the savings went to long-distance customers. But, local phone customers realized a full 50 percent of the savings.

The addition of another large seller of long distance encouraged more companies to begin selling local service. The reason for this is that Verizon offered consumers a total package of services – local and long distance. So, in order to compete, the other big providers had to get competitive in local service as well.

Ultimately, customers are benefiting because they are receiving lower rates AND the option of choosing one provider and one bill.

High-quality, affordable telecommunications are essential to industry, commerce, education, and every day life in North Dakota.

Telecommunications are one of the largest and fastest growing areas of expense and opportunity for business people. This fact is a big reason why many business people support this coalition.

Telecommunications are essential. The cost of telecomm as a percent of business is rising. And we ought to welcome and encourage competition like Qwest wants to provide in this important industry.

I urge you to support this effort by recommending a do pass on Concurrent Resolution 4008.