

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of	)	
	)	
MOUNT ST. HELENS TOURS, INC.	)	DOCKET NO. UT-991930
	)	
for Designation of a Telecommunications	)	
Common Carrier to Serve an Unserved	)	
Community, or Portion Thereof.	)	
.....)	)	
In the Matter of the Petition of	)	DOCKET NO. UT-991931
	)	
BARBARA BRADY	)	FOURTH SUPPLEMENTAL ORDER
	)	APPROVING AND ADOPTING
for an Exchange Area Boundary Change.	)	SETTLEMENT AGREEMENT;
.....)	)	APPROVING TARIFF REVISIONS AND
In the Matter of Designation of a	)	DISMISSING PETITION WITH
Telecommunications Common Carrier to	)	PREJUDICE
Serve WILDERNESS LAKE COMMUNITY,	)	
or Portion Thereof, on the Commission's Own	)	
Motion	)	
	)	DOCKET NO. UT-993000
U S WEST COMMUNICATIONS, INC.	)	
	)	
GTE NORTHWEST INCORPORATED	)	
.....)	)	

**SYNOPSIS**

1 This Order resolves one of three consolidated dockets by approving the Settlement Agreement entered into by Barbara Brady (Petitioner), Staff of the Washington Utilities and Transportation Commission (Staff) and GTE Northwest Incorporated (GTE).

**PROCEDURAL SUMMARY**

2 **Settlement Agreement:** On June 9, 2000, Petitioner, GTE and Staff filed a Settlement Agreement resolving the matters in dispute among the parties in In the Matter of the Petition of Barbara Brady for an Exchange Area Boundary Change, Docket UT-991931. The parties reached agreement prior to formal evidentiary hearings before the Commissioners.

3 **Parties:** Oline H. Husemoen, attorney, Longview, Washington, represents Mount St. Helens Tours, Inc. (Mount St. Helens). Shannon Smith and Jonathan Thompson, Assistant Attorneys General, Olympia, Washington, represent Commission Staff. Robert Cromwell, Assistant Attorney General, Seattle, Washington, represents Public

Counsel. Douglas N. Owens, attorney, Seattle, Washington, and Steven R. Beck, attorney, Denver, Colorado, represent U S WEST Communications, Inc. (U S WEST). Judith A. Endejan, attorney, Seattle Washington, represents GTE Northwest Incorporated (GTE). Calvin K. Simshaw, attorney, Vancouver, Washington, represents CenturyTel of Washington, Inc. (CenturyTel). Glenn Harris, Hood River, Oregon, Docket Manager, appearing pro se, represents Sprint PCS (Sprint). Richard A. Finnegan, attorney, Olympia, Washington, represents Washington Independent Telephone Association (WITA) and Toledo Telephone Company (Toledo). Reed E. Gardner, Deputy Monument Manager, appearing pro se, represents the U.S. Forest Service.

4       **Nature of the Proceeding:** This is a petition brought by Barbara Brady under RCW 80.36.230, entitled "Exchange areas for telecommunications companies." The petition requests that the exchange area boundaries of GTE be changed to include the community of 29 families on or near SR 97 in Section 13 of Township 28 N, Range 23 E, W.M., near Chelan, Washington.

5       **Commission decision:** The Commission approves the Settlement Agreement as a full and final resolution of the issues in In the Matter of the Petition of Barbara Brady for an Exchange Area Boundary Change, Docket UT-991931. The Commission adopts the Settlement Agreement and makes it part of this Order. The Commission approves the tariff revisions filed by GTE on June 16, 2000, which incorporate the terms and conditions consistent with the Settlement Agreement.

6       Finally, the Commission dismisses the Petition with prejudice.

#### MEMORANDUM

7       **Background.** On December 8, 1999, Barbara Brady filed with the Commission a petition on behalf of 29 families requesting that the exchange area boundaries of GTE be changed to include unserved territory on or near SR 97 in Section 13 of Township 28 N, Range 23 E, W.M., near Chelan, Washington. The residents in this area have spent 25 years trying to get telephone service. Barbara Brady has been involved for 17 of those years. GTE is the closest carrier to serve the area. GTE has lines within 100 yards of Ms. Brady's house.

8       For the past eleven years, Ms. Brady has used a radio frequency unit which accesses a GTE line 2 1/4 miles away. The unit is unreliable, is dependent on electric power, and cannot be accessed for 911 calls. Because of the cost (\$1500 per unit), only four people in the area purchased the units. Two of those four units are still in use.

9       On January 14, 2000, the Commission consolidated this proceeding with Docket Nos. UT-991930 and UT-993000, matters involving related principles of law. Administrative Law Judge Karen M. Caillé conducted a prehearing conference on March 24, 2000. The parties in all three proceedings requested an opportunity to engage in settlement discussions.

10       On May 2, 2000, the Commission convened another prehearing conference to learn

the status of the April 13, 2000, settlement discussions. GTE reported that settlement discussions regarding the Brady petition were ongoing, and the parties hoped the matter would be resolved by the end of June. GTE, Staff, and Barbara Brady reached resolution of their issues and filed a Settlement Agreement on June 9, 2000.

11 On June 16, 2000, GTE submitted tariff revisions to the GTE NW General and Local Exchange Tariff, WN U-17; the Facilities for Intrastate Access Tariff, WN U-16; and the Schedule of Exchange Maps, WN U-7, consistent with the terms and conditions of the Settlement Agreement.

12 **Settlement Agreement.** GTE, Staff, and Barbara Brady ask the Commission to approve and adopt their Settlement Agreement by which they would resolve all contested issues in this proceeding. The parties agree that the Settlement Agreement will not become effective unless and until the Commission enters an Order approving this Agreement. Upon approval of the Agreement, and the revised tariffs, the parties agree that the petition filed by Barbara Brady may be dismissed by the Commission with prejudice. The Settlement Agreement, which is attached as Appendix "A" is the subject of our discussion below.

13 GTE agrees to provide service to the Subject Area to be known as the new Chelan Supplemental Service Area (SSA) upon the terms and conditions set forth in the Settlement Agreement. The key elements of the Settlement Agreement are as follows:

**Customer Obligations:**

14 Customers who reside in the SSA, and who wish to order telephone service must submit a Customer Service Order Request to GTE within 30 days of the effective date of the Agreement;

15 Customers must provide at no charge to GTE a non-exclusive permanent easement to allow GTE to locate necessary telecom equipment;

16 Customers residing east of the railroad tracks must obtain and maintain all necessary crossing permits to allow GTE to place its facilities across the tracks;

17 Customers must agree to pay the basic monthly residential rate charged to GTE customers in GTE's Chelan exchange, which will be the SSA R1 rate for flat-rated local service;

18 Each customer must agree to pay a non-recurring special construction charge of \$600 at the time of submitting a Customer Service Order Request. Payment can be made by an initial payment of \$400 at the time of the submittal of the Request with the balance due by October 1, 2000;

19 Any new customer moving into the SSA during the period when the tariff is in effect which increases the access charge rate for GTE to recover immediate and

ongoing costs, must pay the nonrecurring special construction charge of \$600. After this period, tariffed Chelan exchange non-recurring charges will apply to new customer orders.

### **GTE's Obligations**

- 20 GTE will charge customers in the SSA the same R-1 rate as charged customers in the Chelan exchange;
- 21 GTE will provide basic telecommunications service to customers in the SSA as defined as of the date of this Agreement in RCW 80.36.600(b)(6), and will file a map to identify the SSA outside its Chelan local exchange serving area.
- 22 GTE will file a tariff promptly after the Commission's approval of this Agreement authorizing GTE to recover all identified costs associated with providing the facilities to the SSA. The tariff will increase GTE's interim terminating access rate for up to two years, by an amount sufficient to allow GTE to recover all immediate and ongoing costs associated with providing services to the SSA under the Agreement, offset by the special construction charge recovered from customers placing orders;
- 23 GTE will construct the facilities in year 2000 required to provide service to the SSA so long as GTE is able to obtain necessary power and equipment, and so long as the Agreement and filed tariff are approved by the Commission by the end of June 2000;
- 24 GTE will not be obligated to commence construction or expend money associated with providing telecommunications service to the SSA until all tariffs required by the Agreement have been approved by this Commission;
- 25 GTE will file new exchange boundary maps identifying the SSA which shall remain outside of GTE's Chelan exchange and shall not be considered a part thereof. GTE will be obligated only to provide service pursuant to the terms of this Agreement within the SSA as delineated on this map.
- 26 **Cost Recovery.** The cost of the extension of service, after customer contributions of \$600.00 per premises, is \$256,448.98. This amount includes the extension and reinforcement costs, as well as engineering and administration costs associated with the project. Reinforcement costs are included because the area to be served is outside the boundaries of the present Chelan exchange.
- 27 The cost will be recovered over 24 months through an increase of \$0.0001541 to GTE's Interim Terminating Access Charge-Per End Office Switching Terminating Minute. After 24 months, GTE will reduce its Interim Terminating Access Charge by \$0.0001541. Because the cost of the project will be completely recovered in two

years, it will not be added to the company's rate base for purposes related to ratemaking.

28 **Tariff Revisions.** On June 16, 2000, consistent with the terms and conditions of the Settlement Agreement, GTE filed with the Commission under its Advice No. 931 revisions to its currently effective tariffs as follows:

29 GTE NW General and Local Exchange Tariff, WN U-17, designated as Section 1, 2<sup>nd</sup> Revised Sheet 7, Section 2, 2<sup>nd</sup> Revised Sheet 10, and Section 4, Table of Contents 2<sup>nd</sup> Revised Sheet 1, Original Sheet 5.3;

30 Facilities for Intrastate Access Tariff, WN U-16, designated as 8<sup>th</sup> Revised Sheet 346; and

31 Schedule of Exchange Maps, WN U-7, designated as 26<sup>th</sup> Revised Sheet 1400, and 7<sup>th</sup> Revision Sheet 1500.

32 The tariff sheets bear an inserted effective date of July 1, 2000. GTE requests the Commission's approval on less than statutory notice with an effective date of July 1, 2000, in order to fulfill the terms and conditions of the Settlement Agreement. The Settlement Agreement requires GTE to file a tariff promptly, and the Commission's approval of the tariff by the end of June 2000.

33 **Commission Discussion and Decision.** Based on the record developed in Docket No. UT-991931, we find the issues pending in the Barbara Brady petition for an exchange boundary change are adequately addressed and resolved by the terms of the Settlement Agreement. The parties diligent work to resolve the issues presented by the Brady petition produced a Settlement Agreement that satisfied all parties in that proceeding. Under the circumstances we are satisfied that the Settlement Agreement is in the public interest, and should be approved and adopted as a full and final resolution of all issues pending in Docket UT-991931.

34 The Commission finds that the tariff revisions filed herein are fair, just and reasonable, and consistent with the terms and conditions of the Settlement Agreement. Waiver of the statutory notice is not inconsistent with the public interest. The waiver is necessary to afford GTE the time to construct the facilities required to provide service to the SSA this year. The Commission determines that it is appropriate that GTE be granted the waiver it is requesting with an effective date of July 1, 2000.

### FINDINGS OF FACT

35 Having discussed above in detail all matters material to our decision, the Commission now makes the following summary findings of fact. Those portions of the preceding

detailed findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.

- 36 1) The Washington Utilities and Transportation Commission is an agency of the State of Washington authorized to regulate telecommunications companies in the State of Washington and to resolve the issues contained in the Petition.
- 37 2) GTE Northwest Incorporated is a telecommunications company and is engaged in the business of providing telecommunications service in the State of Washington.
- 38 3) On December 8, 1999, Petitioner, Barbara Brady, filed a petition with the Commission requesting that the exchange area boundaries of GTE be changed to include unserved territory near Chelan, Washington.
- 39 4) On June 9, 2000, Barbara Brady, GTE and Commission Staff executed a Settlement Agreement resolving the issues set forth in the Petition.
- 40 5) On June 16, 2000, GTE filed tariff revisions consistent with the terms and conditions of the Settlement Agreement with a request for waiver of statutory notice.

#### **CONCLUSIONS OF LAW**

- 41 1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and all parties to, this proceeding. Title 80 RCW.
- 42 2) The Settlement Agreement, which is attached to this Order as Appendix "A" and adopted by reference into the body of this Order fully and fairly resolves the issues in Docket UT-991931, and is in the public interest.
- 43 3) The tariff revisions filed on June 16, 2000, and described in the body of this Order are fair, just and reasonable, the request for waiver of statutory notice should be granted, and the tariff revisions should become effective on July 1, 2000.
- 44 4) The tariff revisions provide that the cost associated with providing the facilities to the SSA will be recovered over 24 months through an increase of \$0.0001541 to its Interim Terminating Access Charge-Per End Office Switching Terminating Minute.
- 45 5) The method of cost recovery agreed to by the Parties, and accepted by this Order, shall not be construed as precedent for any purpose.
- 46 6) Since the cost of the project will be completely recovered in two years, it will not be added to GTE's rate base for purposes related to ratemaking.
- 47 7) The Commission retains jurisdiction over the subject matter and the parties to effectuate the provisions of this Order.

**ORDER**

48 THE COMMISSION ORDERS That the Settlement Agreement attached to this Order as Appendix "A" is approved and adopted as part of this Order as if set forth fully in the body of this Order.

49 THE COMMISSION ORDERS FURTHER That the requested waiver of statutory notice in connection with GTE's tariff revisions discussed herein, is granted, and said tariff revisions shall become effective July 1, 2000.

50 THE COMMISSION ORDERS FURTHER That effective July 1, 2002, GTE will reduce its Interim Terminating Access Charge by \$0.0001541.

51 THE COMMISSION ORDERS FURTHER That GTE must account for the plant and equipment associated with providing the facilities to the SSA in a manner that excludes the amount from the rate base.

52 THE COMMISSION ORDERS FURTHER That the Petition is dismissed with prejudice.

DATED at Olympia, Washington, and effective this day of June, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

**NOTICE TO ALL PARTIES:**

**This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).**