

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

)	DOCKET NO. UT-023003
)	
)	
In the Matter of the Review of:)	THIRD SUPPLEMENTAL ORDER;
Unbundled Loop and Switching)	PREHEARING CONFERENCE ORDER;
Rates; the Deaveraged Zone Rate)	GRANTING INTERVENTION OF
Structure; and Unbundled Network)	ALLEGIANCE TELECOM, INC.;
Elements, Transport, and)	IDENTIFYING AND EXPANDING
Termination)	ISSUES
.....)	

Prehearing Conference

1 The Commission convened a Prehearing Conference in this docket concurrently with a prehearing conference in Docket No. UT-003013 – Part E on July 11, 2002, at Olympia, Washington before Administrative Law Judge Lawrence J. Berg pursuant to due and proper notice to all interested persons.¹ The primary purpose of the conference was to address the scope of the proceedings and scheduling issues.

2 **Appearances.** The following parties appeared at the prehearing conference: Qwest Corporation (“Qwest”), by Lisa Anderl and Adam Sherr, attorneys, Seattle; Verizon Northwest Inc. (“Verizon”), by Jennifer McClellan, attorney, Richmond, Virginia; Covad Communications Company (“Covad”), by Megan Doberneck, attorney, Denver, CO; AT&T of the Pacific Northwest, Inc. (“AT&T”), and XO Washington, Inc. (“XO”), by Gregory Kopta, attorney, Seattle; MCI/WorldCom (“WorldCom”) by Michel Singer Nelson, attorney, Denver, Colorado; TRACER, by Arthur Butler, attorney, Seattle; Eschelon Telecom, Inc. (“Eschelon”), by David Frame, Minneapolis, MN; Allegiance Telecom of Washington, Inc. (“Allegiance”), by Morton Posner, attorney, Washington, DC; Public Counsel, by Simon ffitich, Assistant Attorney General, Seattle; and Commission Staff, by Shannon Smith, Assistant Attorney General, Olympia.

3 **Petition for Intervention.** No party objected to Allegiance’s petition for intervention. We grant Allegiance’s petition to intervene.

¹ This proceeding is referred to as the “new generic case.” Docket No. UT-003013 – Part E is referred to as “Part E.”

Scope of the Proceeding

- 4 Parties previously filed comments regarding proposed UNE rates to be addressed in the new generic case. Parties further commented at the prehearing conference. Disputes among parties regarding the review of proposed elements are resolved in this Order.
- 5 Parties also discussed the proposal that certain issues previously assigned to the Part E proceeding be addressed in the new generic case for purposes of administrative efficiency. The Commission approves that proposal as discussed below.
- 6 Attachment A to this Order, lists the proposed UNEs that the Commission agrees to review (discussed, in part, below), and lists the Part E issues that will instead be addressed in the new generic case proceeding. Thus, Attachment A outlines the scope of this proceeding.
- 7 **Proposed review of all UNEs.** Verizon proposes that the Commission address all unbundled network element (“UNE”) rates, excepting DSL-related rates for line sharing, line splitting, and packet switching. According to Verizon, the Commission should not consider Verizon’s common cost factor to be applied to all rates unless the Commission also reviews all direct costs related to UNEs. Verizon also argues that many UNE rates are related and must be considered at the same time in order to for the Commission to make consistent decisions..
- 8 Qwest states that it opposes relitigation of all of its UNE rates, but doesn’t oppose a review of Verizon’s rates. AT&T/XO share concerns that common cost rates have been developed using two different cost models. According to AT&T/XO, the Commission should review all UNEs that share the same facilities in order to ensure consistency. TRACER echoes Verizon’s and AT&T/XO’s concerns for consistency.
- 9 WorldCom also agrees that the Commission should ensure consistency among elements that share facilities, but also is concerned that review of all UNEs will delay the review of specific rates that may be “stale” and that may be inhibiting local competition. Covad acknowledges the benefit of rate consistency, but states that the Commission’s primary focus should be to remain somewhat on track with the schedule that the parties originally agreed to. Covad expressly disagrees with Verizon’s suggestion that the Commission exclude DSL-related issues.
- 10 Public Counsel states that it doesn’t have a position regarding an expanded review of UNEs, but that its interest in appearing is limited to those rates that were initially identified by the Commission (UNE loop and switching rates, and deaveraged zone rates). Public Counsel requests that if the scope of the proceeding expands that the Commission adopt procedures that allow Public Counsel to participate in an efficient fashion. Commission Staff agrees that there is a need to review Verizon’s common

cost rates in the new generic case, but disagrees regarding whether the Commission must apply that rate to all UNEs as suggested. Commission Staff contends that the proper scope of this proceeding is to review those rates that are relatively old and likely need readjustment rather than rates that were set more recently.

- 11 The Commission's purpose in the new generic case is to review UNE rates that may be set either too high or too low based on their direct costs. The parties have identified and proposed review of numerous specific rates consistent with the purpose stated above. Where parties make convincing arguments in support of review of specific rates in the new generic case, the Commission will include those rates within the scope of this proceeding, consistent with principles of fairness and due process. However, the Commission does not approve the proposed review of all UNE rates, and will continue to define the scope of this proceeding on an element-by-element basis.
- 12 **Hi-capacity loops and dark fiber transport/loops.** AT&T/XO proposes review of high capacity loop and dark fiber transport/loop rates. AT&T/XO has also requested that the Commission reconsider its decisions regarding these elements in the UT-003013 – Part B proceeding (“Part B”), or to reopen the record to receive new evidence. WorldCom, Covad, and TRACER support AT&T/XO's proposal.
- 13 Commission Staff states a preference that the Commission receive any additional evidence on high capacity loop and dark fiber transport/loop rates in the Part B proceeding, and that the Commission not expand the scope of the new generic case to include elements that have been recently litigated.
- 14 Because of the interrelationship between DS-0 loop rates and high capacity loop rates, including dark fiber transport/loop rates, we agree to review these rates together.
- 15 **Deaveraged zone rate structure and rates for switching costs.** The Commission previously deaveraged loop rates into geographic zones reflecting cost differences as mandated by the FCC. Commission Staff now proposes that the Commission consider a similar rate structure for geographic differences in switching costs. Staff proposes to file opening direct evidence stating rates supported by a cost model.
- 16 Verizon disputes the premise that there are switching cost variances in different parts of the state of Washington, and suggests that the Commission initiate a process to determine whether variances exist before receiving other evidence. Verizon's other concerns are addressed by Staff's representation that it is prepared to file opening direct evidence supported by a cost model. Qwest agrees with Verizon that there is not a geographically significant variance in switching costs, but agrees that it is an appropriate issue to be addressed in the new generic cost case if Staff files opening direct evidence.

- 17 Deaveraged switching rates were proposed but then withdrawn in Docket No. UT-960369. The Commission finds that Staff's proposal for a deaveraged zone rate structure and rates for switching costs should not be precluded merely because it was not considered in previous cost cases. The consideration of switching costs is central to the generic cost case, and the most efficient process for determining the validity of Staff's proposal is to provide an opportunity for Commission Staff to file opening direct evidence in this proceeding. In general, the Commission appreciates Commission Staff's initiative, but also wants to make clear that our consideration of Staff's proposal does not represent a commitment to any particular outcome.
- 18 **Nonrecurring charges for UNE combinations.** WorldCom proposes that the Commission establish permanent nonrecurring rates for UNE combinations in the generic case to supplant interim rates that are established in UT-003013, Part B or Part D.
- 19 Any permanent rates for elements that are not set in part B, and thusly would be assigned to Part E, will be addressed in this proceeding. However, it is premature to discuss how the commission will address the possibility that permanent rates will not be established for elements that were reviewed in the Part D proceeding.
- 20 Staff's suggests that nonrecurring cost issues in UT-003013 – Part D also be deferred to the new generic case. The parties in Part D filed opening briefs on July 23, 2002, and reply briefs are due on August 13, 2002. After entry of an initial order in Part D parties will have an opportunity to petition for administrative review. Thereafter, parties may petition for reconsideration after entry of a final order. Any administrative benefit that might be achieved by deferring Part D nonrecurring cost issues to the new generic cost case is offset by the requirement that parties re-litigate these issues.
- 21 **Part E issues.** The Commission on July 29, 2002, notified parties in Part E that overlapping schedules in Part E and the new generic cost case would be burdensome and raise case management issues.² The Commission decided that updated OSS cost recovery issues would be separately addressed from other issues in Part E. We affirm that we will consider Part E issues, other than updated OSS cost recovery, in this proceeding for purposes of administrative efficiency. *See Attachment A.*

Procedural Schedule

- 22 The procedural schedule remains in suspension pending the resolution of related matters that may affect the new generic case proceeding. The Commission will establish a revised procedural schedule at the earliest feasible date. Parties should

² See Docket No. UT-003013, 35th Supplemental Order (July 29, 2002).

continue preparing direct opening evidence related to the issues identified in this Order.

Dated at Olympia, Washington and effective this 13th day of August, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

LAWRENCE J. BERG
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this document, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.