

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET UT-061625
)	
QWEST CORPORATION)	ORDER 09
)	
For an Alternative Form of Regulation)	ORDER ACKNOWLEDGING
Pursuant to RCW 80.36.135)	QWEST’S ACCEPTANCE OF THE
)	AFOR DESCRIBED IN ORDERS 06
)	AND 08
.....)	

Synopsis: The Commission acknowledges Qwest’s “Acceptance of the AFOR Described in Orders 06 and 08,” dated September 14, 2007, and rejects Qwest’s interpretive commentary.

MEMORANDUM

I. Background and Procedural History

1 On July 24, 2007, the Washington Utilities and Transportation Commission (Commission) entered Order 06, Order Accepting Settlement and Approving Alternative Form of Regulation (“AFOR”), On Conditions. That Order, among other things, required Qwest Corporation (Qwest) to file an acceptable carrier-to-carrier service quality plan in accordance with RCW 80.36.135(3). On September 6, 2007, the Commission entered Order 08, Order Accepting, Subject to Conditions, AFOR Carrier-to-Carrier Service Quality Plan. On September 14, 2007, Qwest filed its Acceptance of the AFOR Described in Orders 06 and 08 (Acceptance).

II. Discussion and Decision

2 In its Acceptance, Qwest apparently unconditionally accepts the AFOR “. . . with the modifications imposed by the Commission in Orders 06 and 08 in this docket.”¹

¹ Acceptance at l: ¶1.

However, Qwest then interprets Order 08, implying that its acceptance is in fact conditioned upon its interpretation of Order 08's meaning.

- 3 In Order 06, we accepted the multiparty settlement and approved the AFOR, on certain conditions, including requiring Qwest to comply with the statutory mandate of submitting an acceptable plan for “ensur[ing] adequate carrier-to-carrier service quality”² during the term of the AFOR. In Order 08, we accepted, subject to conditions, the AFOR carrier-to-carrier service quality plan subsequently submitted.
- 4 The conditions imposed in Orders 06 and 08 are straightforward. Among other things, it states that “the QPAP terms and conditions must apply to *all* wholesale services provided by Qwest as a substitute for unbundled network elements during the term of the AFOR, unless the affected parties agree otherwise.”³
- 5 If Qwest's commentary is intended to condition acceptance of the AFOR on its interpretation of Order 08, then we reject the commentary and Qwest's conditional acceptance of our Order. While we understand Qwest's interest in bringing to our attention circumstances it may believe we have overlooked, we find that Qwest's commentary offers no compelling reason(s) to modify Order 08. Indeed, we have previously considered and rejected the argument that federal law limits the conditions we can require in a carrier-to-carrier service quality plan implemented as part of a voluntary AFOR which Qwest remains free to reject.⁴
- 6 In conclusion, we acknowledge Qwest's acceptance of the conditions imposed in Orders 06 and 08. However, if Qwest does not accept Orders 06 and 08 unconditionally, we will allow the Company 10 days to file an election to not proceed with the AFOR authorized by the Commission.⁵

²RCW 80.36.135(3).

³ Order 08; ¶23 (emphasis added)

⁴ See, Order 08, ¶ 24.

⁵ RCW 80.36.135(4).

FINDINGS OF FACT

7 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings of fact and conclusions upon issues and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the detailed findings:

8 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies.

9 (2) Qwest Corporation (Qwest) is engaged in the business of furnishing telecommunications service within the state of Washington as a public service company.

10 (3) In Order 08 in this proceeding, the Commission accepted, subject to conditions, the alternative form of regulation carrier-to-carrier service quality plan filed by Qwest.

11 (4) On September 14, 2007, Qwest filed an Acceptance of the AFOR Described in Orders 06 and 08.

12 (5) Qwest's Acceptance provides extensive commentary interpreting Order 08, implying its acceptance is conditional upon its interpretation.

CONCLUSIONS OF LAW

13 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 14 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, this proceeding. *RCW Title 80.*
- 15 (2) Qwest Corporation (Qwest) accepted the alternative form of regulation described in Orders 06 and 08.
- 16 (3) The Commission acknowledges Qwest's acceptance of the alternative form of regulation described in Orders 06 and 08.
- 17 (4) The Commission rejects the commentary submitted with Qwest's Acceptance as inconsistent with Order 08.
- 18 (5) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *RCW Title 80.*

ORDER

THE COMMISSION ORDERS:

- 19 (1) The Acceptance of the Alternative Form of Regulation Described in Orders 06 and 08 filed by Qwest Corporation (Qwest) is acknowledged.
- 20 (2) Qwest's Acceptance is held to be unconditional.
- 21 (3) If Qwest elects not to proceed with the alternative form of regulation described in Orders 06 and 08, it must notify the Commission of its election within 10 days of the date of this Order.

- 22 (4) The Commission retains jurisdiction over the subject matter and parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective September 19, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner