

Agenda Date: November 9, 2005

Item Number: A 2

Docket: UT-051641

Company Name: Ellensburg Telephone Company

Staff: Deborah Reynolds, Telecommunications Regulatory Analyst

Recommendation:

Allow the tariff filing in Docket UT-051641 to go into effect and issue an order instituting an investigation into Ellensburg Telephone Company and its tariff filing in Docket No. UT-051641 and associated dockets UT-051320 and UT-051404.

Background:

This filing is related to a “promotion” filed by Ellensburg Telephone Company (Ellensburg or the company) in Docket No. UT-051320 on August 31, 2005, with an effective date of September 1, 2005.

This filing offered customers who subscribed to the company’s broadband Internet access service a \$17.53 credit for the monthly rate for Exchange Access Line Service including all applicable taxes, charges and surcharges that would otherwise apply to the Exchange Access Line Service. The broadband Internet access service included the company’s digital subscriber line (DSL) service and required its affiliate’s Internet service provider (ISP) service. The offer was limited to customers who were full-time students at Yakima Valley Community College or Central Washington University. Customers who accepted the offer received a modified form of Exchange Access Line Service that allowed no voice services other than outbound calls to 911 and the company business office. (This is often referred to as “soft dial tone.”) When contacted, the Company stated that it intended to offer the discount throughout the school year.

Ellensburg made a second, related tariff filing on September 19, 2005, in Docket No. UT-051404, with an effective date of September 20, 2005. The filing changed the expiration date of the offer to November 29, 2005, which was 90 days after the effective date of the first filing. (RCW 80.36.110(2)(b), which allows promotions to take effect upon filing, defines a “promotion” as a discount that

lasts no longer than 90 days.) Ellensburg made this filing after Staff expressed its concern that the company's first filing had not met the statutory conditions that allow a filing to take effect upon filing. Ellensburg signed up a number¹ of customers under the "school year" description of the promotion before it revised the expiration date.

On October 28, 2005, Ellensburg filed a third tariff revision in Docket No. UT-051641, with an effective date of November 29, 2005. This filing, which is the one now before the Commission, offers the same credit through May 2006 only for those customers already signed up.

Discussion:

Staff appreciates the difficult situation in which the Company finds itself. However, further review and discussion of the filing is required because Staff needs assurance that a cross subsidy does not exist between the affiliated ISP, DSL service and "soft dial tone" service. Under the current proposal, it appears to Staff that the Company would have intrastate expenses for "soft dial tone" services but no revenue. If all revenue from the bundle of ISP, DSL service and "soft dial tone" service is booked as interstate, Staff believes that the investment for providing "soft dial tone" service would not be included in rate base should the Company file a general rate case sometime in the future.

After reviewing procedural options including suspension and hearing, request for delay of effective date, and forbearance from action, Staff feels that a.) there are significant compliance issues arising from Ellensburg's conduct in this matter; b.) insufficient information exists in the record at this time to assure a just and accurate determination of fault, violation or error; and therefore c.) further, formal investigation is needed.

An informal staff investigation has been opened and is ongoing.

Conclusion:

Allow the tariff filing in Docket UT-051641 to go into effect and issue an order instituting an investigation into Ellensburg Telephone Company and its tariff filing in Docket No. UT-051641 and associated dockets UT-051320 and UT-051404.

¹ Confidential number submitted by Ellensburg Telephone Company.