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February 28, 2001

Ms. Carole Washburn
Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S. W.
P. O. Box 47250
Olympia, Washington 98504-7250

Re: Docket No. UT-991627 - Possible Surcharge for State Interim Number Pooling

Attention: Glenn Blackmon and Dave Dittemore

Dear Ms. Washburn:

On January 30, 2001, the Commission issued a *Notice of Opportunity to File Comments* concerning a Possible Surcharge for the State Interim Number Pooling Trial ordered in the Spokane metropolitan statistical area ("MSA") by July 8, 2001. The notice invited the industry to comment on specific questions concerning the recovery of interim number pooling trial costs.

Attached are Qwest Corporation's responses to the questions raised. In summary, FCC orders require the Commission to establish a competitively neutral surcharge from which carriers will be able to recover the costs they incur for the thousands block number pooling (TBNP) trial ordered by this Commission in the 509 Metropolitan Statistical Area (MSA). Qwest advocates that the cost of TBNP in the 509 area code be recovered through a temporary end user surcharge applied to all Washington customers who benefit from the number resource preservation that TBNP in the 509 area code supports.

These comments have also been filed electronically. If you have any questions or would like further information, I can be reached at 206-345-4726.

Very truly yours,

1. Do you intend to ask for a surcharge to cover state interim pooling costs?

Yes. Qwest will ask the Commission to establish a competitively neutral surcharge from which carriers will be able to recover the costs they incur for thousands block number pooling (TBNP) in the 509 Area Code.

2. How should the costs of interim pooling in area code 509 be recovered?

The cost of TBNP in the 509 area code should be recovered through a temporary end user surcharge applied to all Washington customers who benefit from the number resource preservation that TBNP in the 509 area code supports.

3. What FCC requirements do you believe apply regarding the type of allowable costs to be recovered for interim pooling?

Three FCC orders address requirements for cost recovery of TBNP trials:

1. FCC 00-104, *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (rel. Mar. 31, 2000) [*Numbering Resource Optimization Order* or *First Report and Order*] paragraphs 195 through 226;
2. *Numbering Resource Optimization*, Order, CC Docket No. 96-98, 99-200, DA 00-1616 (rel. July 20, 2000) (addressing petitions for additional delegated authority to implement numbering resource optimization strategies filed by the following state commissions: Arizona, Colorado, Georgia, Indiana, Iowa, Kentucky, Missouri, Nebraska, North Carolina, Oregon, Pennsylvania, Tennessee, Utah, Virginia, and Washington). [*State Delegation Order*] paragraphs 19 through 22; and
3. FCC 00-429, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, Released December 29, 2000 in CC Docket No. 99-200, Numbering Resource Optimization [*Second Report and Order*] paragraphs 179 through 182.

In the *First Report and Order* the FCC adopted three categories of thousands-block numbering pooling (TBNP) costs:

1. Shared industry costs, costs incurred by the industry as a whole (including NANP

administrator costs, and enhancements to the number portability regional database);
2. Carrier-specific costs directly related to thousands-block number pooling implementation (such as enhancements to carriers' SCP, LSMS, SOA, and OSS systems); and
3. Carrier-specific costs not directly related to thousands-block number pooling administration. [*First Report and Order* ¶¶ 201-203]

The FCC ruled that the first two cost categories would be recoverable and the third category would not. [*First Report and Order* ¶ 205]

Regarding shared industry costs, the FCC concluded that the costs of TBNP should "be allocated to all telecommunications carriers in proportion to each carrier's interstate, intrastate, and international telecommunication end-user revenues." The FCC observed that allocation of TBNP costs according to a carrier's interstate, intrastate, and international telecommunication end-user revenues "is consistent with the established precedent for cost recovery for NANP administration using the NANPA formula, as well as our cost recovery mechanism for number portability." [*First Report and Order* ¶ 207]

Regarding carrier-specific costs directly related to TBNP implementation the FCC concluded: "requiring carriers to bear and recover their own carrier-specific costs is consistent with the competitive neutrality requirements in section 251(e)(2)." [*First Report and Order* ¶ 209] The FCC put off addressing the issue of carrier-specific TBNP cost recovery in detail until subsequent order, but established the basic principles that apply to this category. [*First Report and Order* ¶ 209]

The FCC concluded that carrier-specific costs not directly related to TBNP implementation are not subject to the competitive neutrality requirements in section 251(e)(2) and found that each carrier should bear its own. [*First Report and Order* ¶ 211]

The basic principles of recovery of carrier specific costs directly related to TBNP the FCC adopted was a two-part "but for" test. The FCC ruled that only costs that both would not have been incurred by the carrier "but for" the implementation of TBNP *and* were incurred "for the provision of" TBNP are eligible for recovery and should be identified in the cost studies. [*First Report and Order* ¶ 218] The FCC's "but for" test requires that "only new costs should be identified in the cost studies as carrier-specific costs directly related to" TBNP and bars "recovery of costs incurred by incumbent LECs prior to number pooling implementation." The FCC classified the carrier-specific costs directly related to TBNP into three basic categories:

1. Dedicated number portability costs;
2. Joint costs of number portability; and
3. Incremental overheads. [*First Report and Order* ¶ 219]

Dedicated Costs. Dedicated TBNP costs are the incremental costs of investments or expenses that are dedicated exclusively to the provision of thousands-block number pooling functions. These costs should be clearly identifiable since no allocation among services is necessary. Shared industry costs should be considered dedicated thousands-block number pooling costs and included in eligible thousands-block number pooling costs. [*First Report and Order* ¶ 220]

Joint Costs. Joint costs of thousands-block number pooling are incremental costs associated with new investments or expenses that directly support thousands-block number pooling and also support one or more non-number pooling functions. The FCC adopted the Common Carrier Bureau's definition of joint costs for number portability and its requirement that an incumbent LEC may treat as directly related to number portability only the portion of a carrier's joint costs that is demonstrably an incremental cost incurred in the provision of number portability implementation. [*First Report and Order* ¶ 221] Under this guidance, carriers should recognize only a portion of the joint costs of software generics, hardware, and OSS, SS7, or AIN upgrades as carrier-specific costs directly related to thousands-block number pooling. The FCC requires carriers to "make a special showing in its cost study to establish the eligible thousands-block number pooling costs associated with the upgrade." [*First Report and Order* ¶ 222]

Incremental Overheads. The FCC ruled that only new overhead costs that were incurred specifically in the implementation of TBNP should be included in the calculation of TBNP costs. [*First Report and Order* ¶ 223] Carriers should not include embedded overheads or use general overhead factors as part of the cost study. LECs are not precluded, however, from applying *incremental* overhead allocation factors to identify the incremental portion of overhead costs directly related to TNBP. [*First Report and Order* ¶ 224] However, carriers that apply an incremental overhead allocation factor must include a detailed explanation of the method used to calculate the factor as well as the method used to arrive at the estimated overhead amount. [*First Report and Order* ¶ 225]

The FCC requires LECs' cost studies to include a worksheet for dedicated and joint costs that includes the following information:

(a) Required thousands-block number pooling function and modification;
(b) Part 32 account;
(c) Gross dollar investment; and
(d) The percent assigned to non-number pooling services.

LECs must state the methods used to assign that investment, *e.g.*, direct assignment or engineering studies. The TBNP functions should include (as reported for each type of service):

a. Shared industry costs;
b. Service management system (SMS) signaling link;

c. Signaling control point (SCP);
d. SCP link;
e. Signaling transfer point (STP);
f. STP link;
g. Signaling switching point (SSP);
h. End-office switches;
i. Tandem switches;
j. Operating support system (OSS) modifications for support of the FCC defined number pooling implementation functions; and
k. OSS modifications supporting other functions that the LEC claims are for the implementation and administration of thousands-block number pooling. [*First Report and Order* ¶ 226]

4. Should carriers who participate in interim pooling within the 509 area code recover costs at this time or wait until such time as the Federal Communications Commission (FCC) addresses cost recovery for pooling on a national level?

Carriers who participate in interim pooling within the 509 area code should recover costs at this time. With regard to cost recovery requirements for TBNP trials, among other things the FCC's *First Report and Order* provides:

> [¶197] We also adopt our tentative conclusion that the costs of thousands-block number pooling are not subject to separations under the exclusively federal cost recovery mechanism. As a federal cost recovery mechanism, the costs incurred are interstate costs, so there are no intrastate costs to be allocated to the state jurisdiction. Therefore, we will allow incumbent LECs to recover all their qualifying costs for thousands-block number pooling under the federal cost recovery mechanism we establish. We note, however, that the implementation and administration of national thousands-block number pooling will not be effective immediately. Until national thousands-block number pooling is implemented and a federal cost recovery mechanism authorized, states may use their current cost recovery mechanisms to ensure that the carriers recover the costs of thousands-block number pooling implementation and administration in the meanwhile. Costs incurred by carriers to implement state-mandated thousands-block number pooling are intrastate costs and should be attributed solely to the state jurisdiction.

Among other things, the FCC's *State Delegation Order* provides*:*

> [¶21] [B]ecause the FCC's national cost recovery plan will not be in effect until national thousands-block number pooling implementation occurs, <u>states conducting their own pooling</u>

trials must develop their own cost recovery mechanisms for the joint and carrier-specific costs of implementing and administering pooling within their states. The individual state cost-recovery schemes, however, must transition to the national cost-recovery plan when the latter becomes effective. (emphasis added)

[¶22] The state commissions must also determine how carrier-specific and joint costs directly related to pooling administration should be recovered. In the *Numbering Resource Optimization Order*, the FCC concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the FCC to provide the distribution and recovery mechanism for the interstate and intrastate costs of number pooling. In exercising the authority delegated to them, the state commissions must also abide by the same statute, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner. We note that the *Numbering Resource Optimization Order* found that section 251(e)(2) requires all carriers to bear the shared costs of number portability on a competitively neutral basis, and, thus, established a cost recovery mechanism that does not exclude any class of carrier. We encourage the state commissions to consider the *Numbering Resource Optimization Order* and *Telephone Number Portability Order* for guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively neutral:

> First, "a 'competitively neutral' cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber." Second, the cost recovery mechanism "should not have a disparate effect on the ability of competing service providers to earn normal returns on their investments."[49] [footnote 49: *Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, RM 8535, FCC 99-151, at ¶ 32 (rel. July 16, 1999) (citing *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8420-21 (1996)); *see also Numbering Resource Optimization Order*, 15 FCC Rcd at 7665.]

Consistent with the FCC's treatment of cost recovery in the *Telephone Number Portability* proceeding and *Numbering Resource Optimization Order*, we believe that even those carriers that cannot participate in thousands-block number pooling at this time will benefit from the more efficient use of numbering resources that pooling will facilitate. We encourage the state commissions to consider the "road map" provided by the FCC in the *Numbering Resource Optimization Order* regarding cost recovery for thousands-block number pooling. (emphasis added)

Among other things with regard to cost recovery requirements for TBNP trials, the FCC's *Second Report and Order* provides:

> [¶179] In the *First Report and Order*, we adopted a competitively neutral cost recovery framework for thousands-block number pooling similar to the cost recovery mechanism established for number portability.[387] [footnote 387: *First Report and Order*, 15 FCC Rcd at 7662, para. 193.] Specifically, we concluded that the cost recovery mechanism must be competitively neutral in that the costs for thousands-block number pooling should not: (a) give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and (b) have a disparate effect on competing providers' abilities to earn a normal return.[388] [footnote 388: *Id.* at 7664, para. 199.)
>
> [¶180] We…noted that costs associated with state implemented pooling trials should be excluded from the federal cost recovery mechanism. (emphasis added)

It follows that Washington should not wait to address cost recovery until the FCC addresses cost recovery. Carriers must be allowed to recover their TBNP costs when the costs are incurred, not at some future, undefined date.
The commission staff acknowledged the Commission's need to address cost allocation and cost recovery at the November 8, 2000 open meeting. The staff memorandum in Docket No. UT-991627 – Telephone Number Conservation, at page 2, stated the following:

> "Under the terms of the FCC's delegation of authority, the WUTC must address the issues of how shared costs are to be allocated among the telecommunications companies and how those companies are to recover their costs."

5. What portion of these costs should be recovered at the time of the national pooling roll out vs. upon implementation of interim state pooling?

None of the costs associated with the Spokane trial will be recoverable at the time of the national TBNP deployment since Spokane is not one of the top 100 MSAs selected by the FCC. All costs of the interim state pooling in Washington must be recovered upon implementation of interim state pooling through a state recovery mechanism. None of the interim state pooling costs will be recoverable through the federal recovery mechanism. See the response to question four.

6. Should the interim pooling charge continue once national pooling is implemented and cost recovery is addressed by the FCC?

Yes. The FCC's orders are clear that:

1. Interim number pooling costs are solely intrastate costs [*First Report and Order* ¶197];
2. States must provide a cost recovery mechanism for these costs [*State Delegation Order* ¶21];
3. The cost recovery mechanism must "transition" to the national cost recovery plan when it

becomes effective [*State Delegation Order* ¶21]; and

4. The FCC will exclude costs of interim number pooling from the federal cost recovery mechanism. [*Second Report and Order* ¶180]

See the response to question four. Qwest understands the Common Carrier Bureau's use of the term "transition" to mean that the FCC will require individual state cost-recovery schemes to conform to the cost recovery scheme the FCC ultimately adopts. However, the FCC's orders are clear that no federal recovery for "solely intrastate costs" of interim number pooling will be allowed. Interim number polling costs will be excluded from the federal cost recovery mechanism.

Consequently, recovery of interim pooling costs will need to continue at the state level after the FCC implements national TBNP and provides for its cost recovery. It is possible the form of state recovery may need to be modified to conform to the federal recovery mechanism. This conformance would apply to the Spokane trial, even though Spokane is not slated to be included in the federal number pooling implementation roll out.

7. What are the specific incremental costs related to interim number pooling?

An estimate of the Qwest specific incremental costs related to the interim number pooling trial ordered by this Commission in the Spokane MSA is provided in Attachment A. Only shared industry costs and carrier-specific costs directly related to thousands-block number pooling implementation [see response to question 4] are included in Attachment A. Qwest's estimate of TBNP costs conforms to the standards for recoverable costs discussed in response to question four.

8. How is the allocation factor determined for the software upgrade that enables number pooling?

The FCC addressed the allocation factor determination for the software upgrade that enables number pooling in the *First Report and Order*. A Pooling Administrator, an independent third-party entity, coordinates the allocation of numbers to a particular service provider with the Number Portability Administration Center (NPAC) Service Management Systems. [*First Report and Order*, ¶118] NPAC Release 3.0 is Local Number Portability software that includes efficient data representation (EDR) for number pooling. [FCC *Second Report and Order*, ¶51] Hence, NPAC Release 3.0 is a cost incurred by the Pooling Administrator to build, operate and administer the database for thousands-block number pooling. With regard to such costs, the FCC's *First Report and Order* provides:

[204] [T]he costs resulting from the administration of thousands-block number pooling,

> specifically the costs incurred by the third party thousands-block number Pooling Administrator to build, operate and administer the database for thousands-block number pooling are shared industry costs.
>
> [¶207] We conclude that the allocation of shared industry costs only among the carriers that participate in thousands-block number pooling or through a per-number charge, based on the quantity of numbers held by a carrier, would not comply with the section 251(e)(2) requirement that all telecommunications carriers bear the cost of numbering administration on a competitively neutral basis. [footnote omitted] In particular, we believe that such a mechanism would penalize new CLECs and other carriers, such as CMRS and paging carriers, that require large quantities of numbers to provide their services. [footnote omitted] We further conclude that the costs of thousands-block number pooling be allocated to all telecommunications carriers in proportion to each carrier's interstate, intrastate, and international telecommunication end-user revenues. Allocation of thousands-block number pooling costs according to a carrier's interstate, intrastate, and international telecommunication end-user revenues is consistent with the established precedent for cost recovery for NANP administration using the NANPA formula, as well as our cost recovery mechanism for number portability.

Hence, the cost of NPAC Release 3.0 will be allocated to carriers in proportion to each carrier's interstate, intrastate, and international telecommunication end-user revenues.

9. Is the software used for number pooling capable of providing other service offerings?

No. The NPAC Release 3.0 software is unique to number pooling and supports only number pooling. NPAC software resides in the NPAC data base that is owned and operated by NeuStar. Today NPAC contains the routing instructions for "ported" numbers and in the future NPAC will also contain the routing instructions for "pooled" thousand-blocks. NPAC does not perform call processing functions and does not connect to the telephone network. It has no switching functionality.

10. If a percentage of the software is recovered through a number pooling surcharge, how will you assure that this cost is not collected again through regulated rates (i.e. as a result of being included in rate base)?

The total cost of the software must be recovered through a number pooling surcharge. To the extent intrastate software costs recovered through an intrastate surcharge are incurred in a test period that is used to establish a company's revenue requirement, such costs would be removed through an adjustment to the test period. Therefore, there is no risk that the cost will be collected more than once. The adjustment should be reflected on the financial results filed regularly with

the Commission.

11. Should cost be recovered from a company's own customers or pooled and recovered from all customers in the 509 area code?

The costs should be pooled and recovered from all Washington customers who benefit, not just a company's own customers. TBNP helps to preserve numbering resources, which helps delay the need for new Area Codes (NPAs). The benefits of avoiding new NPAs are not limited to the customers of the company or companies that deploy TBNP but extend to all customers in the NPA where TBNP is deployed. All customers in the 509 area code benefit from code conservation measures taken by any carrier in the area code.

The FCC *State Delegation Order* provides:

> [¶22] In the *Numbering Resource Optimization Order*, the FCC concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the FCC to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling. [footnote omitted] In exercising the authority delegated to them, the state commissions must also abide by the same statute, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner.

In order to ensure that the costs of number pooling are recovered in a competitively neutral manner, the cost of TBNP in the 509 area code must be recovered through a temporary end user surcharge applied to all Washington customers who benefit from the number resource preservation that TBNP in the 509 area code supports. Recovery of costs from only a company's own customers would not be competitively neutral because some carriers will not participate in the trial. If costs were recovered only from companies that participate in the trial, carriers that do not participate in the trial would gain a competitive advantage by avoiding the costs of the trial. See responses to questions three and four.

12. How should the costs of the interim pooling administrator be recovered?

In order to ensure that the costs of number pooling are recovered in a competitively neutral manner, the cost of the interim pooling administrator and the cost of TBNP in the 509 area code should be pooled and recovered through a temporary end user surcharge applied to all Washington customers who benefit from the number resource preservation that TBNP in the 509 area code supports.

13. Should the current number portability charge be modified to include cost recovery for interim pooling, should the number portability charge be extended for a longer period of

time or should a separate interim pooling charge apply?

A separate interim number pooling charge should apply. The current Qwest number portability end user surcharge is a federal recovery mechanism, not a state recovery mechanism. It was determined based on the costs associated with implementing number portability and will not expire until March 14, 2004. This is too late for recovery of costs that will be incurred in 2001. If the Commission decides to proceed with its current plan to implement number pooling in the Spokane MSA in June, 2001, the *State Delegation Order* requires the Commission to provide a state recovery mechanism separate from the federal number portability recovery mechanism. Specifically, the *State Delegation Order* provides:

> [¶21] [S]tates conducting their own pooling trials must develop their own cost recovery mechanisms for the joint and carrier-specific costs of implementing and administering pooling within their states.

14. What is the name of each central office and/or rate center owned by your company located in the 509 NPA that has local number portability capability?

Every Qwest central office located in the 509 NPA has local number portability capability. See Attachment B.

15. If local number portability is not currently provided, is the call processing equipment capable of being upgraded to provide LNP?

Each provider must address whether its call processing equipment is capable of being upgraded to provide Local Number Portability (LNP). Qwest currently provides LNP throughout the entire state of Washington.

16. What is the name of each exchange and/or rate center in the 509 NPA in which your company has received requests for number portability and when will LNP be available?

All Qwest 509 NPA exchanges are LNP capable.

17. Please provide detail of your company's costs associated with providing local number portability.

See Attachment C.

18. Does your company currently charge a set up and query charge for local number portability?

Yes. Qwest charges carriers $0.002581 per default tandem query, $0.029972 per end office default query and $0.000747 per SS7 Network LNP database query per Qwest's FCC tariff. The Qwest FCC end-user surcharge rate in Washington is currently $0.43 per basic line/port, $2.15 per ISDN-PRI facility or $3.87 per PBX trunk.

19. If you charge for local number portability, what is the rate and how long will it be in effect?

If this question is specific to an end user surcharge, the Qwest rate in Washington is currently $0.43 per basic line/port, $2.15 per ISDN-PRI facility or $3.87 per PBX trunk. The end user surcharge rates will be in effect until March 14, 2004. Qwest expects the query charge to carriers to continue indefinitely.