

Agenda Date: September 8, 2004
Item Numbers: Items A1 thru A7

Dockets: UT-980390; UT-990310; UT-990343; UT-990384; UT-003000;
UT-003094; UT-043028

Company Names: Qwest Corporation, f/k/a US WEST Communications, Inc.
Advanced Telecom Group, Inc.
Fox Communications Corp.
FairPoint Communications Corporation
Allegiance Telecom of Washington, Inc.
Computers 5*, Inc. d/b/a Local Tel
Rainier Connect, Inc.
Winstar Wireless of Washington, Inc.

Staff: Deborah Reynolds, Telecommunications Regulatory Analyst

Recommendations:

Direct the Secretary to sign orders approving amended interconnection agreements Qwest Corporation entered into with: Advanced Telecom Group, Inc., in Docket No. UT-980390, Fox Communications Corp. in Docket No. UT-990310, FairPoint Communications Corporation in Docket No. UT-990343, Allegiance Telecom of Washington, Inc., in Docket No. UT-990384, Computers 5*, Inc., d/b/a Local Tel in Docket No. UT-003000, Rainier Connect, Inc., in Docket No. UT-003094, and Winstar Wireless of Washington, Inc., in Docket No. UT-043028 (the Companies).

Background:

On June 29, 2004, Qwest Corporation (Qwest or the Company) filed twelve interconnection agreement amendments in eight different dockets. The amendments included rates, terms and conditions for operator services (OS) and directory assistance (DA). Staff found that three of these agreements had been previously filed and approved. Staff asked Qwest to withdraw them. Staff has treated the nine remaining



amendments as new interconnection agreements pursuant to Commission policy,¹ and reviewed them accordingly.

Discussion:

Staff believes that these amended agreements are late-filed. Based on their signature dates between February 1999 and March 2002, the agreements were late-filed a total of 13,566 days (over 37 years) late. This calculation is based on the 30-day filing requirement in rule (WAC 480-07-640) that became effective July 1, 2003.

<u>Docket #</u>	<u>Company</u>	<u>Amendment</u>	<u>Effect. date</u>	<u>Due date</u>	<u>Filing date</u>	<u># days</u>
UT-980390	Advanced	13th OS	5/18/1999	6/18/1999	6/29/2004	1838
UT-990310	Fox	3rd OS	6/7/1999	7/8/1999	6/29/2004	1818
UT-990310	Fox	4th DA	6/7/1999	7/8/1999	6/29/2004	1818
UT-990343	FairPoint	8th OS	11/17/1999	12/20/1999	6/29/2004	1653
UT-990384	Allegiance	13th DA	6/29/2000	7/31/2000	6/29/2004	1429
UT-003000	Computers5*	5th OS	4/9/2001	5/10/2001	6/29/2004	1146
UT-003000	Computers5*	6th DA	4/9/2001	5/10/2001	6/29/2004	1146
UT-003094	Rainier	4th OS	3/20/2002	4/22/2002	6/29/2004	799
UT-043028	Winstar	1st OS	2/26/1999	3/29/1999	6/29/2004	1919
Total:						13,566

Qwest's June 29, 2004 cover letter accompanying each agreement states:

"Qwest does not agree with the [Federal Communication Commission's (FCC) March 2004 *Notice of Apparent Liability*] regarding the Arizona agreements and it certainly does not agree that the circumstances warrant penalties, particularly due to the ambiguities regarding standardized agreements, particularly [directory assistance] and [operator services]. In order to place these issues behind it and to move forward with more current issues, however, Qwest determined not to contest the [Notice of Apparent Liability] and thus paid the recommended penalty. ...[Because] Qwest has decided not to contest this

¹ Utilities and Transportation Commission Docket No. UT-990355 Interpretive and Policy Statement First Revision, Par. 3.

finding, Qwest is hereby making remedial filings of all [directory assistance] and [operator services] agreements in each of its other 13 in-region states.”

The agreements for operator services and directory assistance are interconnection agreements that are subject to the filing requirements under the Telecommunications Act and our rule. All local exchange companies, both incumbent and competitive, have the duty to permit nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listings under 47 USC § 251(b)(3). Incumbent local exchange companies are required by 47 USC § 251(c)(1) to negotiate in good faith agreements to fulfill their duties described in Section 251(b). Because incumbent local exchange companies must negotiate agreements for operator services and directory assistance under Section 251(c)(1), and because 47 USC § 252(a); (e)(1) states that all agreements negotiated under Section 251 must be filed with the state commission, Staff believes the operator services and directory assistance agreements filed by Qwest are interconnection agreements subject to the Commission’s approval.

Staff also reviewed Qwest’s actions to date regarding OS and DA interconnection agreements. During the same period Qwest did not file the above agreements, the Company filed, and the Commission approved, other OS and/or DA interconnection agreement amendments with Rainier Cable, Inc., in Docket No. UT-960359 on June 30, 1997; Global Crossing Local Services, Inc., f/k/a Frontier Local Services, Inc., in Docket No. UT-970368 on August 28, 1998; Allegiance Telecom of Washington, Inc., in Docket No. UT-990384 on August 19, 2002; and Focal Communications Corporation of Washington, Inc., in Docket No. UT-990313 on September 9, 2002.

In the cover letter filed on June 29, 2004 with the interconnection agreements in Docket No. UT-980390 et al., Qwest refers to an investigation by the Arizona Corporation Commission regarding OS and DA agreements. Staff notes that Qwest filed eight OS and DA agreements with Arizona on May 21, 2003, yet did not file the agreements with this Commission until June 29, 2004.

Qwest also refers to the Minnesota Department of Commerce investigation into competitive local exchange carrier agreements in the fall of 2001. This is the first instance mentioned by the Company in its letter as an action that clouded its understanding of its filing obligation. However, only one of the agreements considered here was actually executed after the fall of 2001.

Each of these amended interconnection agreements has been in effect for at least two years. They should have been filed with the Commission for approval at the time of execution. Although the Company has filed these agreements now, that is not a mitigating factor. Staff is investigating the possibility of recommending the Commission issue a complaint against the Companies for failure to timely file the interconnection agreements for approval.

Conclusion:

Staff recommends that the Commission direct the Secretary to sign orders approving the amended interconnection agreements.