

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

In the Matter of the Petition of)	DOCKET NO. UT-033016
)	
TEL WEST COMMUNICATIONS,)	ORDER NO. 01
LLC,)	
)	
)	ORDER GRANTING
)	DESIGNATION AS AN ELIGIBLE
For Designation as an Eligible)	TELECOMMUNICATIONS
Telecommunication Carrier)	CARRIER
.....)	

BACKGROUND

- 1 On April 24, 2003, Tel West Communications, LLC (Tel West), filed a petition with the Commission requesting designation as an eligible telecommunications carrier (ETC) in exchange areas served by Qwest Corporation (Qwest), United Telephone Company of the Northwest (Sprint), and Verizon Northwest Inc. (Verizon). Tel West is registered as a competitive local exchange carrier in Washington. Tel West uses resale and unbundled network element platforms (UNE-P) leased from Qwest to provide service in Qwest exchanges, and uses resale to provide service in several Sprint and Verizon exchanges and plans to use UNE-P to provide service in all Sprint and Verizon exchanges.

- 2 Tel West provides significantly discounted local telephone service to over 6,900 low-income consumers in Washington through the Washington Telephone Assistance Program. *Amended Petition at 5.* Designation as an ETC will allow Tel West to provide additional discounts supported by the universal service fund. *47 U.S.C. § 54.400, et seq., (Subpart E—Universal Service Support for Low-Income Consumers).*

- 3 The Federal Telecommunications Act of 1996 (Act) significantly changed national telecommunications policy, including universal service. Under the Act, state public utility commissions implement national telecommunications policy by conducting various proceedings set forth in the Act, one of which is to designate telecommunications companies as ETCs. Federal universal service policy

coincides, to a great extent, with Washington's preexisting telecommunications policies, as set forth in Title 80 RCW.

- 4 Federal and state law embrace the policy that certain telecommunications services should be universally available. Congress articulated the basics of what should be included as part of "universal service," in 47 U.S.C. §254(b), and established a Federal-State Joint Board on Universal Service to recommend to the Federal Communications Commission (FCC) the details of what should be included in universal service. These services are to be supported for low-income customers by money from a fund that is supported by carrier contributions. *47 U.S.C. §254(d); Recommended Decision, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (November 8, 1996), and First Report and Order, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (May 8, 1997) (Universal Service Order).*
- 5 The Act provides that ETCs may draw from the universal service fund in order to provide the described services to low-income consumers. The following services must be provided by an ETC in order to be eligible for federal universal service report: single-party service; voice-grade access to the public switched network; dual-tone multi-frequency signaling or its functional equivalent; access to emergency services, including, in some circumstances, access to 911 and E911; access to operator services; access to interexchange services; access to directory assistance; and lifeline and link-up programs, including free toll-limitation services for qualifying low-income consumers.
- 6 Congress left to the state public utility commissions the task of designating ETCs. *47 U.S.C. § 214 (e)(2)*. Section 214 (e)(1) sets forth the criteria for ETC designation, which are: (1) the carrier must offer the "services" that are supported by the federal fund, and (2) the carrier must advertise the availability of those services. The carrier must fulfill these criteria "throughout the service area for which the designation is received." *47 U.S.C. § 214 (e)(1)*.
- 7 The Commission is authorized to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the Federal Telecommunications Act of 1996. *RCW 80.36.610*.

DISCUSSION

- 8 Facilities leased as UNE-P satisfy the requirement that a carrier use, at least in part, its own facilities to provide service. 47 C.F.R. § 54.201(f).
- 9 All wireline petitioners that had requested ETC designation prior to Tel West's petition had requested an exemption from the requirement to provide toll control as a prerequisite for obtaining ETC designation. Those petitioners had demonstrated that exceptional circumstances exist justifying an exemption from the requirement to provide toll control, as authorized by 47 C.F.R. § 54.101(c). It is not technically feasible for wireline carriers to provide this service at this time. Although Tel West did not petition for the exemption, it is reasonable to conclude that Tel West cannot provide toll control because it uses the service of a company that cannot provide toll control. Thus, the Commission finds it reasonable to waive the toll control requirement for Tel West, as well. Tel West must, however, provide toll blocking.
- 10 A carrier's obligation to "offer the services that are supported by federal universal service support mechanisms," as required by 47 U.S.C. § 214(e)(1)(A), requires not just willingness to offer the services, but actual provision of the services. However, the FCC permits designation prior to provision of service upon a declaration that a carrier will provide service. *In the Matter of Federal-State Joint Board on Universal Service, Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission, Declaratory Ruling*, CC Docket No. 96-45, 15 FCC Rcd 15,168 (2000); and *In the Matter of Federal State Joint Board on Universal Service, RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket No. 96-45, Memorandum Opinion and Order, November 26, 2002 (Released November 27, 2002). Tel West plans to convert its resold service to UNE-P service in those exchanges where it currently resells service. It plans to begin UNE-P service in exchanges where it does not now provide any service. *Amended Petition at 4; Exhibit A.*¹

¹ The Universal Service Administrative Company determines the number of lines for which support is provided based on reports from carriers. Tel West may qualify for federal high-cost support. 47 C.F.R. § 54.307(a).

- 11 Provision of telecommunications services in Washington implies that the services will be at an adequate service level. As set forth below, whether an ETC actually is providing adequate service could arise in a proceeding to modify, revoke, or suspend ETC designation.
- 12 Requiring adequate service also is consistent with the pro-competitive policies of the 1996 Act. No company should be able to obtain a competitive advantage by avoiding its service-quality responsibilities. All ETCs must comply with applicable Commission rules.
- 13 The Commission may from time to time re-open ETC proceedings in order to modify the geographic area for which companies are designated as ETCs. Such a proceeding may be commenced by an ETC, a petitioner for ETC designation, by the Commission on its own motion, or by another person or entity with standing to do so.
- 14 In addition to geographic area modifications, the Commission has the authority to modify, revoke, or suspend ETC designations, should the prerequisites to the original designation cease to exist. If the Commission at a later date must decide whether Tel West continues to offer such services, the Commission will look not just to whether the services are available as advertised, but will consider the actual and timely delivery of the services, in accordance with currently accepted industry standards, including, but not limited to, the quality of service rules contained in Chapter 480-120 WAC.
- 15 The Commission may modify this Order for other reasons permitted by the Act.

FINDINGS AND CONCLUSIONS

- 16 (1) The Commission has jurisdiction over the subject matter of this proceeding and Tel West Communications, LLC. *47 C.F.R. § 214(e), RCW 80.01.040(3), 80.36.080, 80.36.090, 80.36.140, 80.36.230, 80.36.610.*
- 17 (2) Tel West Communications, LLC, is a telecommunications company authorized to conduct business in the state of Washington.

- 18 (3) After taking into account and considering fully the recommendations of the Federal-State Joint Board, the Commission finds that the appropriate service area for the Petitioner is at the exchange level.
- 19 (4) The Petitioner offers, or will offer, all of the services that are supported by the federal universal service support mechanisms set forth in 47 C.F.R. §54.101(a), with the exception of toll control.
- 20 (5) The Petitioner will advertise the availability of its service using media of general distribution as required by 47 U.S.C. §214(e)(1)(B).
- 21 (6) Granting the relief requested in the petition, except as otherwise modified by this Order, is consistent with the public interest, convenience, and necessity, and is consistent with applicable state and federal law.
- 22 (7) Tel West Communications, LLC, does not have a study area. The Commission may designate companies as ETCs for geographic areas other than their study areas without conducting an adjudicatory proceeding prior to such designation.

ORDER

THE COMMISSION ORDERS:

- 23 (1) The petition of Tel West Communications, LLC, for designation as an eligible telecommunications carrier is granted.
- 24 (2) The geographic area for which the designation is granted consists of the exchanges served by Qwest Corporation (Qwest), United Telephone Company of the Northwest (Sprint), and Verizon Northwest Inc. (Verizon) (See Exhibit A).
- 25 (3) The requirement to provide toll control is waived until it is economically and technically feasible to provide it.

- 26 (4) The Commission has authority to modify, suspend or revoke this designation, including the service areas accompanying this designation, at a future date.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 28th day of May, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary

Qwest Exchanges

Exchange Name	Service Status
Aberdeen-Hoquiam	UNE-P
Auburn	UNE-P
Bainbridge Island	UNE-P
Battleground	UNE-P
Belfair	UNE-P
Bellevue	UNE-P
Bellingham	UNE-P
Black Diamond	UNE-P
Bremerton	UNE-P
Buckley	UNE-P
Castle Rock	UNE-P
Centralia	UNE-P
Chehalis	UNE-P
Clarkston	UNE-P
Cle Elum	UNE-P
Colfax	None / UNE-P Planned
Colville	UNE-P
Copalis	UNE-P
Coulee Dam	None / UNE-P Planned
Crystal Mountain	None / UNE-P Planned
Dayton	UNE-P
Deer Park	UNE-P
Des Moines	UNE-P
Easton	UNE-P
Elk	UNE-P
Enumclaw	UNE-P
Ephrata	UNE-P
Graham	UNE-P
Green Bluff	None / UNE-P Planned
Hoodspport	UNE-P
Issaquah	UNE-P
Kent	UNE-P
Liberty Lake	None / UNE-P Planned
Longview-Kelso	UNE-P
Loon Lake	UNE-P
Maple Valley	UNE-P

Exchange Name	Service Status
Moses Lake	UNE-P
Newman Lake	UNE-P
Northport	None / UNE-P Planned
Olympia	UNE-P
Omak-Okanogan	UNE-P
Oroville	UNE-P
Othello	UNE-P
Pasco	UNE-P
Pateros	UNE-P
Pomeroy	None / UNE-P Planned
Port Angeles	UNE-P
Port Ludlow	UNE-P
Port Orchard	UNE-P
Port Townsend	UNE-P
Puyallup	UNE-P
Renton	UNE-P
Ridgefield	UNE-P
Rochester	UNE-P
Roy	UNE-P
Seattle	UNE-P
Sequim	UNE-P
Shelton	UNE-P
Silverdale	UNE-P
Spokane	UNE-P
Springdale	None / UNE-P Planned
Sumner	UNE-P
Tacoma	UNE-P
Tacoma-Waverly	UNE-P
Touchet	None / UNE-P Planned
Vancouver	UNE-P
Waitsburg	None / UNE-P Planned
Walla Walla	UNE-P
Warden	None / UNE-P Planned
Winlock	UNE-P
Yakima	UNE-P

Sprint Exchanges

Exchange Name	Service Status
Bickleton	None / UNE-P Planned
Brinnon	None / UNE-P Planned
Chimacum	None / UNE-P Planned
Columbia	None / UNE-P Planned
Dallesport	None / UNE-P Planned
Gardiner	None / UNE-P Planned
Glenwood	None / UNE-P Planned
Goldendale	Resale / UNE-P Planned
Grandview	Resale / UNE-P Planned
Granger	Resale / UNE-P Planned
Harrah	None / UNE-P Planned
Klickitat	None / UNE-P Planned
Lyle	Resale / UNE-P Planned
Mabton	Resale / UNE-P Planned
Mattawa	None / UNE-P Planned
Paterson	None / UNE-P Planned
Poulsbo	Resale / UNE-P Planned
Prosser	Resale / UNE-P Planned
Quilcene	Resale / UNE-P Planned
Roosevelt	None / UNE-P Planned
Stevenson	Resale / UNE-P Planned
Sunnyside	Resale / UNE-P Planned
Toppenish	Resale / UNE-P Planned
Trout Lake	None / UNE-P Planned
Wapato	Resale / UNE-P Planned
White Salmon	Resale / UNE-P Planned
White Swan	Resale / UNE-P Planned
Whitstran	None / UNE-P Planned
Willard	None / UNE-P Planned
Wishram	None / UNE-P Planned
Zillah	Resale / UNE-P Planned

Verizon Exchanges

Exchange Name	Service Status
Acme	Resale / UNE-P Planned
Alger	None / UNE-P Planned
Anacortes	Resale / UNE-P Planned
Arlington	Resale / UNE-P Planned
Benton City	Resale / UNE-P Planned
Big Lake	None / UNE-P Planned
Blaine	Resale / UNE-P Planned
Bothell	Resale / UNE-P Planned
Brewster	Resale / UNE-P Planned
Bridgeport	None / UNE-P Planned
Burlington	Resale / UNE-P Planned
Camas-Washougal	Resale / UNE-P Planned
Cashmere	Resale / UNE-P Planned
Chelan	Resale / UNE-P Planned
Concrete	Resale / UNE-P Planned
Conway	None / UNE-P Planned
Coupeville	Resale / UNE-P Planned
Curlew	None / UNE-P Planned
Custer	None / UNE-P Planned
Darrington	Resale / UNE-P Planned
Deming	Resale / UNE-P Planned
Edison	None / UNE-P Planned
Entiat	None / UNE-P Planned
Everett	Resale / UNE-P Planned
Everson	Resale / UNE-P Planned
Fairfield	None / UNE-P Planned
Farmington	None / UNE-P Planned
Ferndale	Resale / UNE-P Planned
Garfield	None / UNE-P Planned
George	None / UNE-P Planned
Granite Falls	Resale / UNE-P Planned
Grayland	Resale / UNE-P Planned
Halls Lake	Resale / UNE-P Planned
Kennewick	Resale / UNE-P Planned
Kirkland	Resale / UNE-P Planned
La Conner	Resale / UNE-P Planned
Latah	None / UNE-P Planned
Laurel	None / UNE-P Planned
Leavenworth	Resale / UNE-P Planned

Exchange Name	Service Status
Loomis	None / UNE-P Planned
Lyman-Hamilton	Resale / UNE-P Planned
Lynden	Resale / UNE-P Planned
Mansfield	Resale / UNE-P Planned
Maple Falls	Resale / UNE-P Planned
Marblemount	None / UNE-P Planned
Marysville	Resale / UNE-P Planned
Molson-Chesaw	None / UNE-P Planned
Monroe	Resale / UNE-P Planned
Mount Vernon	Resale / UNE-P Planned
Naches	Resale / UNE-P Planned
Newport	Resale / UNE-P Planned
Nile	None / UNE-P Planned
Oak Harbor	Resale / UNE-P Planned
Oakesdale	None / UNE-P Planned
Palouse	None / UNE-P Planned
Priest River	None / UNE-P Planned
Pullman	Resale / UNE-P Planned
Quincy	Resale / UNE-P Planned
Republic	None / UNE-P Planned
Richland	Resale / UNE-P Planned
Richmond Beach	None / UNE-P Planned
Rockford	Resale / UNE-P Planned
Rosalia	None / UNE-P Planned
Sedro Wolley	None / UNE-P Planned
Silver Lake	None / UNE-P Planned
Skykomish	None / UNE-P Planned
Snohomish	Resale / UNE-P Planned
Soap Lake	Resale / UNE-P Planned
Stanwood	Resale / UNE-P Planned
Stevens Pass	None / UNE-P Planned
Sultan	Resale / UNE-P Planned
Sumas	Resale / UNE-P Planned
Tekoa	None / UNE-P Planned
Tonasket	None / UNE-P Planned
Waterville	None / UNE-P Planned
Wenatchee	Resale / UNE-P Planned
Westport	Resale / UNE-P Planned
Woodland	Resale / UNE-P Planned