

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Review of:	)	DOCKET NO. UT-023003
Unbundled Loop and Switching	)	
Rates; the Deaveraged Zone Rate	)	
Structure; and Unbundled Network	)	FOURTH SUPPLEMENTAL ORDER;
Elements, Transport, and	)	PREHEARING CONFERENCE ORDER;
Termination	)	IDENTIFYING ISSUES;
	)	ESTABLISHING FILING AND
	)	HEARING DATES
.....	)	

1 Docket No. UT-023003 is a generic proceeding to review unbundled network element (“UNE”) loop and switch rates, including the deaveraged loop zone rate structure, previously established by the Commission in other proceedings. The Commission has also decided to consider numerous other related issues.

2 **Prehearing Conference.** The Commission convened a prehearing conference in this docket concurrently with a prehearing conference in Docket No. UT-003013 – Part E on October 16, 2002, at Olympia, Washington before Administrative Law Judges Lawrence J. Berg and Theodora M. Mace pursuant to due and proper notice to all interested persons.<sup>1</sup> The primary purpose of the conference was to address the scope of the proceedings and scheduling issues.

3 **Appearances.** The following parties appeared at the prehearing conference: Qwest Corporation (“Qwest”), by Lisa Anderl and Adam Sherr, attorneys, Seattle; Verizon Northwest Inc. (“Verizon”), by Jeff Edwards and Meredith Miles, attorneys, Richmond, Virginia; Covad Communications Company (“Covad”), by Megan Doberneck, attorney, Denver, CO; AT&T of the Pacific Northwest, Inc. (“AT&T”), Pac-West, Inc. (“Pac-West”), and XO Washington, Inc. (“XO”), by Gregory Kopta, attorney, Seattle; MCI/WorldCom (“WorldCom”) by Michel Singer-Nelson, attorney, Denver, Colorado; TRACER, by Lisa Rackner, attorney, Portland, Oregon; Eschelon Telecom, Inc. (“Eschelon”), by Dennis D. Ahlers, Minneapolis, MN; Allegiance Telecom of Washington, Inc. (“Allegiance”), by Dale Dixon, attorney, Portland,

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<sup>1</sup> This proceeding is referred to as the “new generic case.” Docket No. UT-003013 is referred to as “UT-003013” and Docket No. UT-003013 – Part E is referred to as “Part E.”

Oregon; and Commission Staff, by Shannon Smith, Assistant Attorney General, Olympia.

4 **Background.** On March 15, 2002, the Commission convened a prehearing conference in Docket No. UT-023003, a new generic cost case. The purpose of the case was to review UNE loop and switch rates which had previously been adopted by the Commission. The proceedings in the new generic case commenced while other parts of UT-003013 were ongoing.

5 On June 21, 2002, the Commission entered the Thirty-Second Supplemental Order in UT-003013 – Part B (“Part B Order”).<sup>2</sup> The Part B Order required Qwest and Verizon to file updated nonrecurring costs studies (“NRC”) supported by time and motion studies as the companies updated their operations supports systems (“OSS”) transition costs in Part E.<sup>3</sup> On July 29, 2002, the Commission entered its Thirty-Fifth Supplemental Order narrowing the issues in Part E and moving all issues, except for OSS transition costs, to the new generic case.

6 On September 5, 2002, Qwest and Verizon filed direct evidence in Part E regarding OSS transition costs. Neither company filed nonrecurring cost studies as discussed in the Part B Order. Both Verizon and Qwest asserted confusion about the Part B Order’s requirement that the companies file time and motion studies in conjunction with their Part E OSS transition cost filing.

7 On September 26, 2002, the Commission entered its Thirty-Eighth Supplemental Order – Part B (“Part B Reconsideration Order”). The Part B Reconsideration Order did not clarify the Commission’s intent that Qwest and Verizon file nonrecurring cost studies supported by time and motion studies in Part E. The Commission subsequently suspended the Part E schedule in order to determine how to coordinate and efficiently address issues in Part E and the new generic case.

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<sup>2</sup> The Commission entered an Order in Part A of Docket No. UT-003013 on January 31, 2001. That Order addressed line sharing, OSS, collocation and certain nonrecurring charges.

<sup>3</sup> Part C of UT-003013 was resolved without hearing. An Initial Order was entered in Part D on October 11, 2002 (“Part D Initial Order”). Hearings in Part E were scheduled to begin on December 9, 2002.

8 On November 1, 2002, the Commission entered its Forty-Third Supplemental Order in UT-003013 addressing several issues raised at the October 16, 2002 prehearing conference. The Commission affirmed that OSS transition costs and NRCs should be considered together and decided that all NRCs should be considered at the same time. Further, the Commission found that neither Qwest nor Verizon is prejudiced by a delay of OSS transition cost recovery issues until NRCs are addressed in the new generic case, and the Commission closed the Part E proceeding.

9 The Commission posed several other questions to the parties at the Part E/new generic joint prehearing conference on October 16, 2002, in an effort to further define the issues for the two cases.

**Should the Commission address OSS and nonrecurring cost issues separately from all other issues, or should the Commission consider all recurring cost, nonrecurring cost, OSS and other issues at the same time?**

**Should the Commission hold separate proceedings to consider Qwest's costs and Verizon's costs?**

10 **Discussion.** The parties state that four major cost studies will be presented in the new generic case regarding recurring costs and other issues. Furthermore, Qwest and Verizon would each present their OSS/NRC studies in addition to their recurring cost studies. These NRC studies would be accompanied by, or incorporate, time and motion studies. In addition, AT&T will present a modified Hatfield study, and Commission Staff will present a study supporting geographically deaveraged switching rates.

11 Qwest is concerned that the volume of issues to be addressed in the new generic case will make it unmanageable. Qwest argues that certain issues should not be addressed because they were just recently decided in the Part B proceeding or are being addressed in the administrative review of the Part D Initial Order. Qwest also argues that the Commission should not review the company's newly implemented reduced loop rate, which originated as the result of a Colorado proceeding, and that other TELRIC rates included in its 271 application should be allowed to be effective for a reasonable period of time before review.

- 12 Verizon agrees that the scope of the new generic proceeding is very large, and getting larger, as Verizon proposes two additional elements to be addressed, enhanced extended loops (“EELs”) and adjustments to the per-minute of use (“MOU”) reciprocal compensation rate (see discussion below). Verizon also states that it is in a very different position than Qwest, because of the focus on Qwest’s operations in the Part D proceeding, and because Verizon’s loop rates have not been adjusted since being established in UT-960369. Verizon’s main concern is to be allowed sufficient time to prepare and present its case.
- 13 AT&T argues that the better approach would be to review all rates at the same time, including OSS, nonrecurring, recurring and others, in order to achieve consistent rates among related elements. AT&T acknowledges the magnitude of the issues to be addressed, but contends that similar proceedings have been conducted in Colorado, Arizona, and Minnesota. However, AT&T suggested that it would also be possible to separately consider nonrecurring costs and OSS transition costs, in response to Qwest’s concerns about the size of the proceeding.
- 14 WorldCom and TRACER agree with AT&T, although WorldCom states that consideration of recurring costs should be given priority if the costs are considered separately. WorldCom also suggests that if Qwest is prepared to proceed with its cost studies sooner than Verizon, the Commission should hear Qwest’s cost case first and wait until Verizon is able to go forward with its own cost case.
- 15 Commission Staff opposes Qwest’s proposals to limit the scope of the new generic case, and opposes separating Qwest’s and Verizon’s issues. Staff does not take a position as to whether OSS and nonrecurring costs should be addressed apart from recurring costs and other issues. Staff does argue that OSS and nonrecurring costs themselves should be considered in the same proceeding.
- 16 **Decision.** We are persuaded that the best course of action is to hear all the issues related to all of Verizon’s and Qwest’s costs, as well as Staff’s proposal to deaverage switching costs, in one proceeding. We acknowledge the number of issues to be considered will be large. However, including everything in one proceeding, scheduled at a time that takes into account the need for the parties to adequately prepare, will lead to greater consistency among rates and avoid problems caused by overlapping schedules that occurred in UT-003013.

- 17 We reject Qwest's suggestion that certain issues should be excluded from the new generic case because they were either recently decided in Part B or are being addressed in the administrative review of the Part D Initial Order. We have previously considered and rejected these arguments regarding the scope of the new generic case in the Third Supplemental Order entered on August 13, 2002.
- 18 We reject the proposal to hear Qwest's cost case before we hear Verizon's. Hearing the cost cases of both Verizon and Qwest together is beneficial because, just as in past cost proceedings, we rely on comparisons of their costs to evaluate the reasonableness of each company's proposed costs.
- 19 We acknowledge that Qwest and Verizon have recently filed direct evidence regarding OSS transition costs according to the schedule established for Part E. In light of the fact that these costs will now be considered in the new generic case instead, Qwest and Verizon should refile direct evidence regarding updated OSS transition costs in this proceeding.
- 20 Qwest and Verizon represent that OSS-related NRCs are incurred at the outset of the ordering process and flow through all other NRCs. Accordingly, Qwest and Verizon must present time and motion studies to support those OSS-related NRCs that are incurred at the outset of the ordering process, and demonstrate how those costs flow through all other NRCs.<sup>4</sup> Commission orders flowing from the Part D proceeding will give the parties further guidance as to whether time and motion studies must be prepared in support of other nonrecurring costs at issue in this proceeding. To the extent that any of Qwest's and Verizon's cost studies may still rely on estimates from subject matter experts, those experts and the cost factors that they develop must be identified in relevant work papers.

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<sup>4</sup> We note that it appears that no party in UT-003013 has petitioned for review of the decision in the Part D Initial Order requiring that time and motion studies be prepared in support of proposed NRCs. Further, we note that Qwest states that it is discussing the parameters of a statistically valid time and motion study with other parties. The Commission encourages such discussions, and agrees that a stipulation among parties regarding time and motion study methodology will expedite proceedings.

**Should the Commission consider EELs and adjustments to the per-MOU reciprocal compensation rate in the new generic case?**

21 **Discussion.** Verizon proposes that the scope of the new generic case include EELs – a combination of a loop and transport – and adjustments to the per-MOU reciprocal compensation rate approved by the Commission in the Part B proceeding.

22 AT&T agrees that EELs should be considered to the extent that loops and transport are being considered. Likewise, AT&T acknowledges that per-MOU reciprocal compensation – consisting of unbundled switching and transport rates – should be considered to the extent that switching and transport rates are revised.

23 Commission Staff acknowledges that transport rates are at issue in the new generic case, but opposes reconsideration of reciprocal compensation unless there is a connection between the scope of the new generic case and the Commission’s decisions in Part B.

24 **Decision.** Both EELs and per-MOU reciprocal compensation rates are aggregates of other UNE rates. We are persuaded that since those UNE rates are at issue in the new generic case, we must consider adjusting rates for EELs and per-MOU reciprocal compensation if the UNE rates are adjusted.

**What Is the Most Appropriate Schedule for the New Generic Proceeding?**

25 **Discussion.** During the joint prehearing conference, the parties provided time estimates for a proceeding that would consider only recurring costs and other issues, excluding OSS and nonrecurring costs. Qwest states that it could file recurring cost studies by February 2003. Qwest also states it could file nonrecurring cost studies with time and motion studies in four to five months. Given the date of the prehearing conference, it appears then that Qwest would be able to file nonrecurring costs and time and motion studies in approximately February 2003.

26 Verizon states that it expects to file its revised recurring cost study in other jurisdictions in April/May, but that the Washington version of that study most likely will not be ready until midsummer. Verizon also states that it expects preparation of nonrecurring cost studies with time and motion studies would not be complete until midsummer.

- 27 For a hearing only on recurring cost and other issues, the parties estimate that following the filing of direct testimony, they would require approximately 10-12 weeks to file response testimony, and that rebuttal testimony would follow response testimony by approximately 4-6 weeks. The parties estimate that they would need about 30 days to prepare for the hearing after all testimony is prefiled.
- 28 The parties agree that ten complete days of hearing are necessary in order to present all issues other than OSS/nonrecurring costs.
- 29 **Decision.** As stated above, we have determined that the best approach to hearing cost issues at this point is to combine all issues into one proceeding. We have taken into account the amount of time the parties might need to prepare for a recurring cost hearing and the amount of time required to prepare cost studies supporting both nonrecurring costs (with time and motion studies) and recurring costs. Extrapolating from those discussions, we believe it is reasonable to require the parties to file their direct cases on June 2, 2003.
- 30 We also believe it is reasonable to allow for ten days of hearing for recurring costs and other issues, and ten days of hearing for OSS/nonrecurring costs. In order to allow ten complete days of hearing for each, we have reserved hearing facilities from December 2-19, 2003, and from January 5-23, 2004. We would be available all or part of the days during those time periods to the extent of the 20 full days of hearing required. We propose to hear recurring cost and other remaining issues during the December hearings and OSS/nonrecurring costs during the January time slot. These time frames for evidentiary hearing are established to accommodate the Commission's overall work and hearing schedule and are relatively inflexible.
- 31 We further advise the parties that even if a given witness will be addressing both sets of costs, the witness must file separate testimony addressing nonrecurring and recurring cost issues. Based on the parties' comments during the prehearing conference, the issues to be addressed during the new generic case are listed on Attachment A to this Order.
- 32 We decline at this time to schedule other aspects of the proceeding. We will schedule another prehearing conference in the new generic case in early 2003 to discuss the schedule for responsive and rebuttal filings, as well as for other hearing milestones

that will need to occur between the June 2, 2003, filing date for direct evidence and the commencement of evidentiary hearings on December 2, 2003. We will also further refine the list of issues to be addressed, if necessary.

Dated at Olympia, Washington and effective this \_\_\_\_ th day of November, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE  
Administrative Law Judge

LARRY J. BERG  
Administrative Law Judge

**NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this document, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.**