

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

In the Matter of the Petition of)	DOCKET UT-061625
)	
QWEST CORPORATION,)	
)	ORDER 16
For an Alternative Form of Regulation)	
Pursuant to RCW 80.36.135.)	
)	ORDER ACCEPTING
)	WASHINGTON RURAL
)	BROADBAND SERVICE
)	EXPANSION PLAN, ON
)	CONDITION, AND DENYING
)	REQUEST FOR ALTERNATE
)	REPORTING
.....)	

1 *Synopsis: The Commission accepts Qwest’s Washington Rural Broadband Service Expansion Plan subject to the condition that upgrades to wire centers that are below the 75 percent threshold should be afforded the highest priority. The Commission denies Qwest’s request for an alternate reporting format for the annual update to its Digital Subscriber Line (DSL) upgrade goal and confirms that reporting should continue for the duration of the AFOR. The Commission grants Public Counsel’s request that Qwest consider the aggregated DSL penetration percentages as non-confidential data in its annual report.*

BACKGROUND

2 On July 24, 2007, the Washington Utilities and Transportation Commission (Commission) entered Order 06 in this proceeding authorizing Qwest Corporation (Qwest) to implement an alternative form of regulation (AFOR) of telecommunications services, with conditions. One of the conditions required Qwest to file within 90 days of the final order approving the AFOR a plan, subject to Commission approval, to invest \$4 million to facilitate the deployment of advanced telecommunications services to underserved areas or customer classes. The Commission envisioned that initial deployment of advanced services would be

directed to wire centers with little or no DSL¹ capability. The Commission also required Qwest to report annually on its progress toward the goal of making DSL service available to 83 percent of its Washington customers.

3 On September 20, 2007, the Commission entered Order 09 acknowledging Qwest's acceptance of the AFOR described in Orders 06 and 08 entered in this proceeding.

4 On October 24, 2007, Qwest filed a Washington Rural Broadband Service Expansion Plan (Plan). On October 26, 2007, Public Counsel filed a motion requesting leave to file comments on the Plan. On October 31, 2007, Commission Staff (Staff) also filed a motion requesting leave to file comments. On November 8, 2007, the Commission entered Order 11 granting both motions.

5 Qwest met with Staff and Public Counsel to discuss their concerns with Qwest's Plan. Based on those discussions, Qwest submitted a revised Washington Rural Broadband Service Expansion Plan (Revised Plan) on November 26, 2007, and requested review and approval of the Revised Plan.

6 The Revised Plan consists of the following:

- Stand-alone DSL service will remain available to all customers who have access to DSL service;
- Broadband service to certain isolated communities will be made available through investment in DSL Access Modules (DSLAMs), fiber optic cable and electronics, power plant, and Asynchronous Transfer Mode Switch augmentation;
- Initial investment will be directed to wire centers with no DSL capability and to those wire centers with less than 75 percent DSL availability;² and
- Investment in broadband deployment to wire centers will be no less than \$4 million and Qwest may expand or contract the list of wire centers receiving benefit depending on the actual cost of deployment.

¹ Digital Subscriber Line – Broadband or data service provided over the high frequency portion of a loop that allows a customer to access the internet or send and receive information or data.

² Qwest provided a list of wire centers/communities in the order in which they will receive upgrades and included the level of investment associated with each wire center/community. A copy of that list, as modified by the Commission, is attached as an Appendix to this order.

- 7 Qwest asserted that DSL service would become available in all listed exchanges prior to June 30, 2010. When it has completed this proposed deployment, Qwest estimated it will have invested \$4,020,000 and stated that the investment obligation required by Order 06 will have been satisfied.
- 8 Qwest requested approval to alter the format of the annual report to the Commission regarding its progress on the goal of extending DSL service to 83 percent of its customers. Order 06 requires Qwest to file annual updates to its Supplemental Response to Bench Request No. 03³, including service availability statistics for lines “with rearrangement”⁴ and “without rearrangement.” Qwest requested leave to provide one statistic combining both categories, arguing that there is no longer a service delivery interval difference between the two statistics and that the rearrangement statistics have no value.
- 9 On November 29, 2007, Public Counsel filed comments. Public Counsel did not oppose the Revised Plan, but recommended that the proposed upgrade to the Steamboat remote switching module in the Olympia Whitehall wire center be funded only after projects in the other 16 listed wire centers. Public Counsel noted that this wire center is currently at 74 percent DSL penetration and upgrades to the remote switching module to serve Steamboat will cost approximately \$73,000. Public Counsel argued that other wire centers in more remote areas of the state have substantially lower DSL penetration levels and less exposure to competition, and therefore should be afforded a higher priority than Olympia Whitehall.
- 10 Public Counsel strongly opposed Qwest’s request for alternate reporting noting that the Commission found the reporting requirement in the Multi-party Settlement Agreement vague and insufficient and rejected it in favor of annual updates to the data Qwest provided in its Supplemental Response to Bench Request No. 3.⁵ During the hearing, Qwest conceded that its original response to the Bench Request was “a little misleading” because it consolidated both types of data, i.e., DSL penetration with and without line arrangement.⁶ Public Counsel argued that Qwest’s alternate reporting proposal would allow it to submit the type of data Qwest characterized as

³ Bench Request No. 3 required a breakdown of DSL penetration levels according to the number of living units that qualify for DSL with and without line rearrangement.

⁴ “With rearrangement” means that some customers’ lines have encumbrances, such as load coils or bridge taps, so their lines do not qualify for DSL without central office and remote terminal line rearrangement or line conditioning.

⁵ Order 06, ¶42.

⁶ Public Counsel Comments at 5, quoting TR 291:8-11.

“misleading” during the hearing. Public Counsel also requested that Qwest submit the statewide percentage penetration levels to the Commission as non-confidential because these numbers were designated as such during the hearing.

- 11 On December 7, 2007, Staff filed comments supporting the two modifications recommended by Public Counsel. In addition, Staff stated that Qwest has agreed to correct statements in the Revised Plan regarding when it will submit annual filings to the Commission. Qwest has clarified that annual filings will be made through 2011. Staff also identified two inconsistencies between the percentage of broadband availability identified in the Revised Plan and in response to Staff requests for information. Qwest has addressed Staff’s concern and Staff concludes that the inconsistencies did not change wire center eligibility to receive investment.

DISCUSSION

- 12 **Revised Plan.** In Order 06, we required Qwest to file within 90 days of the final order approving the AFOR a plan, for our approval, to invest \$4 million to facilitate the broad deployment of advanced telecommunications services to underserved areas or underserved customer classes in Washington. While we did not require Qwest to include any specific projects, we did envision that initial monies “would be directed to wire centers with no DSL capability and those with less than 75 percent DSL availability.”⁷ Qwest timely filed the Revised Plan that it asserts complies with Order 06.
- 13 As we have noted on numerous occasions, we rely primarily on Staff and other parties to determine if a utility’s filings comply with the requirements of our orders. This case is no exception. Both Public Counsel and Staff urge us to modify the prioritization of wire centers that will receive investment for DSL deployment, arguing that other wire centers are in greater need than the proposed Olympia Whitehall wire center upgrade to serve the Steamboat remote switching module. We concur.
- 14 Order 06 requires Qwest to make a \$4 million commitment level for the deployment of advanced services. Qwest asserted, in its Revised Plan, that it will inform the Commission that it has met its financial obligation under Order 06 when it reaches the \$4 million commitment level. We agree. Thus, the priority of projects not only determines the timing of investments, but whether there will be sufficient funds

⁷ Order 06, ¶40.

remaining to complete the projects lower down the list. Accordingly, we accept Public Counsel and Staff's recommendation to move the Olympia Whitehall project to a lower priority on the wire center list because it is currently at 74 percent availability,⁸ close to the 75 percent DSL penetration level we envisioned in Order 06.⁹

15 We approve Qwest's Revised Plan with this sole modification. A revised list of wire centers in the priority of investment for deployment of advanced services is attached as an Appendix to this Order and, by this reference, incorporated herein. We expect the investment plan to be implemented for those wire centers listed in the Appendix by June 30, 2010, and will review progress on this deployment through the annual reports.

16 **Annual Reporting.** We deny Qwest's request to modify the format and content of its annual reporting. At hearing, we expressed interest in comparing the current percentage of customers who have access to DSL with Qwest's goal to raise that level to 83 percent, and in monitoring whether progress is achieved toward that goal with or without line rearrangement.¹⁰ Absent the data we required in Order 06, the report would be less "useful for our analysis of the effectiveness of the AFOR."¹¹ Therefore, we believe it is necessary to compare the same data both before the AFOR and for each of the four years of the AFOR.

17 Lastly, we grant Public Counsel and Staff's request for Qwest to report statewide penetration levels as "non-confidential" data. We recognize that presentation of data by individual wire center could place Qwest at a competitive disadvantage. However, Qwest presented the aggregated statewide information as non-confidential during the hearing in this proceeding and we believe the annual reports for this aggregated data should be afforded the same designation.

⁸ Qwest Revised Plan at 2. Moreover, we are persuaded by Public Counsel's argument that Qwest is more likely to invest capital resources in areas where it faces competition. In the Revised Plan, all wire centers except Olympia Whitehall are in more remote locations where Qwest is less likely to encounter broadband competition. (Public Counsel Comments at 3).

⁹ Qwest recently reported a \$300 million initiative to enhance its broadband network across its 14 state service area. (Public Counsel Comments at 3 and Attachment B). We encourage Qwest to utilize a portion of Washington's share of those funds to complete all projects listed in its Revised Plan.

¹⁰ TR 570:21-572:2.

¹¹ Order 06, ¶42.

FINDINGS AND CONCLUSIONS

- 18 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, and transfers of public service companies, including telecommunications companies. *RCW 80.01.040, RCW 80.04, RCW 80.08, RCW 80.12, and RCW 80.28.*
- 19 (2) Qwest Corporation is engaged in the business of furnishing telecommunications service for hire, sale, or resale to the general public for compensation within the state of Washington.
- 20 (3) Order 06 in this proceeding accepted, subject to conditions, the multi-party Settlement Agreement and a modified alternative form of regulation for Qwest. Among other conditions, the Commission required Qwest to file a plan, subject to Commission approval, for a \$4 million investment to facilitate the deployment of advanced telecommunications services to underserved areas or underserved customer classes favoring initial investment in wire centers that had 75 percent or less DSL availability.
- 21 (4) Qwest filed a Revised Washington Broadband Service Expansion Plan on November 26, 2007.
- 22 (5) Qwest's Revised Plan should be approved subject to the condition that investment for broadband expansion to the Olympia Whitehall wire center should be funded only after all other proposed broadband expansion projects identified in the Appendix to this Order are completed.
- 23 (6) Qwest's proposed modification to the annual reporting requirement regarding progress toward its DSL deployment goal would diminish the quantity and quality of information available for the Commission to assess the effectiveness of the AFOR.

ORDER

THE COMMISSION ORDERS:

- 24 (1) The Revised Washington Broadband Expansion Plan submitted by Qwest Corporation on November 26, 2007, is approved, subject to the condition set forth in this Order.
- 25 (2) Qwest's request to modify the form and content of the annual report regarding Digital Subscriber Line deployment required by Order 06 is denied. Annual reports must be filed through 2011.
- 26 (3) Public Counsel's request that Qwest file the annual statewide percentage of Digital Subscriber Line penetration levels as "non-confidential" information is granted.
- 27 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective January 10 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP JONES, Commissioner

APPENDIX

WIRE CENTER DSL DEPLOYMENT PLAN

Wire Center / Community	Central Office DSLAM	Remote Terminal DSLAM	Availability Before	Availability After	Investment
Roy	1	4	0%	65%	\$125,000
NorthPort	1	1	0%	33%	\$268,000
Pateros	1	2	0%	70%	\$1,134,000
Springdale	1	2	0%	32%	\$312,000
Elk	0	8	0%	35%	\$396,000
Easton	0	3	0%	65%	\$222,000
Waitsburg	1	0	0%	79%	\$270,000
Joyce	1	0	22%	54%	\$57,000
Hoodsport	1	1	33%	59%	\$198,000
Napavine	0	3	49%	68%	\$75,000
Omak	0	2	48%	55%	\$250,000
Shelton	0	10	56%	68%	\$330,000
Rochester	0	3	46%	55%	\$75,000
Deer Park	0	1	34%	42%	\$145,000
Winlock	0	1	58%	66%	\$25,000
Belfair	0	2	62%	68%	\$65,000
Steamboat ¹²	1	0	0%	50%	\$73,000
					\$4,020,000

¹² Steamboat is not itself a wire center, but is instead an isolated portion of the Olympia Whitehall wire center that is served by a remote switching module in a building. The Olympia Whitehall wire center is currently at 74 percent availability and the Steamboat construction will create 76 percent availability across the whole of the Olympia Whitehall wire center.