

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of  
  
QWEST CORPORATION  
  
for an Alternative Form of Regulation  
Pursuant to RCW 80.36.135.

DOCKET NO. UT-061625  
  
COMMISSION STAFF'S  
COMMENTS REGARDING  
QWEST'S COMPLIANCE FILING  
OF DECEMBER 31, 2007

1           In Order 15, *Order Establishing Procedural Schedule for Compliance Filing*, the Commission required that Qwest make a complete compliance filing in this AFOR docket by December 31, 2007. Staff has reviewed Qwest's submission, together with the two accompanying letters filed with the Commission on the same date. Staff believes that Qwest's submission is not compliant with the Commission's Order 06 in two respects, as described below.

1.       **Qwest's proposal to detariff its Directory Listing Services and Custom Number Service for Business Customers (Sections 5.7.1 and 5.7.7 of Qwest's tariff).**

2           Qwest proposes to detariff several services and move them to its Exchange and Network Services Catalog, the result of which is to treat these services as competitively classified services. For the majority of these services, Staff does not object to Qwest's proposal. The Commission's order specifically contemplates that construction charges, call management services, central office alarm services, and miscellaneous services will be removed from the tariff. *Order 06*, ¶ 82. However, the Commission's order does not

specifically state that Qwest may detariff its listing services or custom number services for business customers.

3 Qwest now contends that it may detariff (*i.e.*, treat as competitively classified) any service that is not specifically set forth in Section 3 of the Modified AFOR. *Order 06, pp. 46-47.* But this is not what Qwest represented to the Commission in its petition for an AFOR, nor is it what Qwest explicitly told the Commission that it was seeking, either in its prefiled testimony, or in response to questions directly on this point during cross-examination before the Commissioners during the AFOR hearings. When Qwest submitted its AFOR petition to the Commission, Qwest included the testimony and exhibits of Mark Reynolds. *See Qwest's Petition for Approval of an Alternative Form of Regulation in Accordance with RCW 80.36.135.* Exhibit No. \_\_\_\_ (MSR-3) is an elaborate exhibit that sets forth in detail the "services which would be treated as competitively classified services under the AFOR." On pages 2 through 3, Mr. Reynolds cited numerous services for which Qwest desired competitive classification treatment. However, listing services or custom number services for business customers were nowhere mentioned.

4 This is even more relevant because, during the hearings, both Public Counsel and Commissioner Jones pointedly asked about the significance of Exhibit No. \_\_\_\_ (MSR-3), Exhibit 70 at hearing. Mr. Reynolds testified, in response to both, that the second category of services, listed on pages 2 through 3, set forth the services that would be treated as competitively classified under the AFOR. Tr. 243-45; 416; 604. In particular, Commissioner Jones noted, "The second basket [of services in Exhibit 70] lists the 13 categories of service that really is the heart of this AFOR that will be treated as

competitively classified under this AFOR,” to which Mr. Reynolds responded, “Right.” Tr. 316.

5 For the Commission to grant Qwest the relief it now seeks to detariff business listing and custom numbering services, the Commission would have to rewrite and disregard Qwest’s specific testimony on this very point. The Commission would also have to assume its Order 06 granted Qwest more authority than it requested from the Commission in its original petition or that Qwest represented it was seeking when directly questioned on this point at the hearings. Staff believes that this is not a proper reading of Order 06, and that Qwest’s proposal to detariff its business listing services and custom numbering services should be rejected as not compliant with the order.

6 Qwest could cure this deficiency—if granted leave by the Commission to do so—by filing replacement sheets revising its tariff and catalog compliance filing to retain the affected services in tariff and remove them from the catalog.

**2. Qwest’s proposals regarding pricing of packages, as described in its letter captioned *Additional Compliance Issues regarding Á La Carte Features and Package Pricing, in accordance with Order Nos. 06 and 15.***

7 The Commission required in Order 06, ¶ 81, that: “... Qwest continue to offer [r]esidential service features on an á la carte basis during the AFOR and the price of a bundle not exceed the sum of the components.” The Commission’s directive is quite simple. Qwest’s package offerings cannot be priced higher than the sum of the individual á la carte components. Qwest has proposed two “options” for compliance in its letter. Staff has reviewed both of Qwest’s “options,” and believes that, although Option 1 comes close, neither complies with the Commission’s order.

8 Qwest's Option 1 would allow a customer the opportunity to select certain feature combinations whose á la carte price would be less than the price of a package. (Qwest cites a price of \$29.99.) If a customer attempted to do this, a service representative would first encourage them to purchase higher-priced features. If the customer still wished to order the lower-priced features, only then will Qwest inform them that a package is not available and that they must order á la carte.

9 This is not what the Commission order requires. Qwest is not permitted to offer packages that violate the á la carte pricing restrictions of Order 06. Under Qwest's Option 1, the company would continue to hold these packages out to the public as being available with feature combinations that Order 06 prevents them from actually selling.

10 Staff suggests that Qwest could cure the defect in Option 1 by clearly specifying, when it originally sets forth its package offerings, that certain combinations of features are not available as part of a package. For example, the company could include in its descriptions of the affected package a statement to the effect that, in Washington, package prices can not exceed the sum of their parts, and, therefore, some combinations of features are not available in Washington.<sup>1</sup> In this manner, customers would not be misled or subjected to unwarranted sales pitches, and they would be clearly informed, at the outset, of what packages are available. In addition, the company would have to acknowledge—or the Commission would have to clarify—that Option 1 would apply only to specific, existing packages, and that Qwest will not seek to apply this approach to packages introduced after the effective date of Order 06. Further, the company's draft notice to customers—provided

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<sup>1</sup> It appears that there are nine features in the two affected service packages that could be purchased at a lower price on an á la carte basis.

in its filing of December 31, 2007—would have to be modified on that basis to clearly explain the effects to customers.

11           Option 2 does not comply with the Commission’s directive. It would permit the company to continue to offer prices for—and permit customers to continue purchasing—packages consisting of features whose individual prices are less than the amount of the package. Qwest might have earlier sought modification of the Commission’s order on this point, had it desired to continue to offer such packages, but it did not. Thus, Option 2 cannot be deemed to be in compliance with the requirement in Order 06.

12           Option 1—even if modified according to Staff’s suggestion—could still result in service disruptions for current customers with non-compliant feature package combinations, who, for their own reasons, do not modify their feature selections: their service would be changed from package to á la carte without their consent. The language of the order draws a bright line that does not appear to allow properly informed, existing customers who have specifically affected packages with non-compliant feature combinations—and existing customers whose feature combinations meet the test in Order 06—to continue their service without alteration, if they so desire.

**3. Clerical Errors in Qwest’s Filing of December 31, 2007.**

13           Qwest’s catalog filing of December 31, 2007, omits approximately 100 pages from Section 9 of the catalog and contains clerical errors that could confuse readers. Some of the errors were corrected in Qwest’s errata filing of January 11, 2008; others were not, including the following:


<b>December 31 filing</b>	<b>January 11 Errata</b>	<b>Should read</b>
<b>§5 120.6</b>		
i. Standalone residential basic exchange service is	No replacement sheet	i. Standalone residential basic exchange service is

<p>available in 5.2 of Qwest's Exchange and Network Services Tariff. Rates and charges for standalone features are found in the Exchange and Network Services Catalog Per Order 6, UT-061625, all features may be [REDACTED]</p>		<p>available in 5.2 of Qwest's Exchange and Network Services Tariff. Rates and charges for standalone features are found in the Exchange and Network Services this Catalog Per WUTC Order 6, UT-061625, all features may be individually purchased from this Catalog [REDACTED]</p>
<p><b>§5 120.10</b></p>		
<p>g. Standalone residential basic exchange service is available in 5.2 of Qwest's Exchange and Network Services Tariff. Rates and charges for standalone features are found in the Exchange and Network Services Catalog Per Order 6, UT-061625, all features may be [REDACTED]</p>	<p>No replacement sheet</p>	<p>g. Standalone residential basic exchange service is available in 5.2 of Qwest's Exchange and Network Services Tariff. Rates and charges for standalone features are found in the Exchange and Network Services this Catalog Per WUTC Order 6, UT-061625, all features may be individually purchased from this Catalog [REDACTED]</p>
<p><b>§5 120.14</b></p>		
<p>h. Standalone residential basic exchange service is available in 5.2 of Qwest's Exchange and Network Services Tariff. Rates and charges for standalone features are found in the Exchange and Network Services Catalog Per Order 6, UT-061625, all features may be [REDACTED]</p>	<p>No Replacement sheet</p>	<p>h. Standalone residential basic exchange service is available in 5.2 of Qwest's Exchange and Network Services Tariff. Rates and charges for standalone features are found in the Exchange and Network Services this Catalog Per WUTC Order 6, UT-061625, all features may be individually purchased from this Catalog [REDACTED]</p>
<p><b>§9 sheets 2-100</b></p>		
<p>Missing</p>	<p>Missing</p>	<p>Similar to filing of November 29</p>

DATED this 15<sup>th</sup> day of January, 2008.

Respectfully submitted,

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Attorney General



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