

Agenda: July 31, 2003

Item Numbers: **A1 and A3**

Docket Numbers: UT-030940 and UT-031023

Company: Qwest Corporation
Verizon Northwest, Inc.

Staff: Glenn Blackmon, Assistant Director-Telecommunications
Tani Thurston, Regulatory Analyst

Recommendation:

- (1) Issue an Order in Docket UT-030940 granting Qwest Corporation a temporary exemption until October 31, 2003, from the requirements of WAC 480-262(3)(c) and direct the Company to provide rate disclosure using the method in WAC 480-120-262(3)(b).
- (2) Issue an Order in Docket UT-031023 denying the request of Verizon Northwest Inc., for an interpretive and policy statement and granting a temporary exemption until August 1, 2005, from the requirements of WAC 480-120-262(3)(c), allowing Verizon to provide maximum rate disclosure instead of actual rates and charges.

Discussion:

The Commission's revised operator service rate disclosure rule, WAC 480-120-262(3), requires that companies disclose their prices for operator-assisted calls from pay phones and other aggregator locations if the price exceeds a benchmark established in the rule. The full text of the requirement is included as Attachment A to this memo.

The purpose of the rule is to provide customers with information about the cost of these calls before they incur the charges. Customers are often quite surprised to find that the charge for a brief local or in-state call from a pay phone costs them \$5 to \$25.

Shortly before the new rule took effect on July 1, 2003, both Qwest and Verizon asked the Commission to be exempted from the rule. Both companies cited the

costs of providing rate quotes on every operator-assisted call as the reason for their requests. The relief requested, however, was different for each company.

Verizon

Verizon proposes to warn the customer about the operator service charges but not provide the actual rates and charges. Verizon would modify the automated message that each caller hears to state a “not-to-exceed” or maximum price. In some cases, the actual charge for the call would be significantly lower than the quoted price.

Verizon suggests that the Commission interpret the existing language of 480-120-262(3)(c) as allowing the use of a maximum rate. In the alternative, Verizon seeks a permanent waiver of the requirement to disclose actual rates and charges.

Staff believes the Commission should not issue an interpretive statement to say that the term “all rates and charges” means “maximum charge.” The rule requires that customers receive the actual rate that they will be charged. However, while it does not comply with the rule, a maximum charge quote may be a reasonable alternative. The purpose of the rule is to ensure customers have enough information to decide whether they want to make the call. A maximum rate quote would at least warn customers when the charges are very high.

Staff has some concern that this approach will cause customers to disconnect when they would have completed the call had they known the actual rate. Because of this concern, Staff recommends that the Commission grant a temporary exemption for two years. With more experience enforcing the rule, the Commission can at that time determine whether to continue the alternative approach.

Qwest

Qwest initially sought a permanent exemption from the rule, making this request in its June 12, 2003, petition. Qwest withdrew this request and filed a revised petition on July 25, 2003. Under the revised approach, Qwest intends to modify its operator-assisted rates to conform to the benchmarks in WAC 480-120-262 and seeks a temporary exemption while it implements the rate changes.

The rule provides for mandatory rate disclosure only if the rates exceed \$0.50 per call plus \$0.50 per minute. Qwest’s current rates are higher for the per-call

charge and lower for the per-minute charge. Qwest intends to lower its per-call charge and raise its per-minute charge so that neither exceeds the benchmark. The overall revenues are approximately the same under the new rates and the old rates. Qwest seeks an exemption from the rule only until October 31, 2003, when it says it can implement the new rates.

Staff believes it is unfortunate that it will take so long for Qwest to conform its rates and practices to the new rule. However, the ultimate result will be that Qwest will charge operator service rates that are at or below the benchmark established by the Commission. Therefore Staff recommends that the Commission grant the temporary exemption as requested by the Qwest.

Conclusion

Staff recommends that the Commission grant temporary exemptions to Qwest and Verizon as discussed above.

Excerpt from WAC 480-120-262 **Operator Service Providers (OSPs)**

(3) **Oral disclosure of rates.** This subsection applies to all calls from pay phones or other call aggregator locations, including, but not limited to, prison phones and store-and-forward pay phones or "smart" phones. When a collect call is placed, both the consumer placing the call and the consumer receiving the call must be given the rate quote options required by this section.

(a) **Oral rate disclosure message required.** Before an operator-assisted call from a call aggregator location can be connected by an OSP (whether by a presubscribed or other provider), the OSP must first provide an oral rate disclosure message to the consumer. If the charges to the consumer do not exceed the benchmark rate in (f) of this subsection, the oral rate disclosure message must comply with the requirements of (b) of this subsection. In all other instances, the oral rate disclosure message must comply with the requirements of (c) of this subsection.

(b) **Rate disclosure method when charges do not exceed benchmark.** The oral rate disclosure message must state that the consumer may receive a rate quote and explain the method of obtaining the quote. The method of obtaining the quote may be by pressing a specific key or keys, but no more than two keys, or by staying on the line. If the consumer follows the directions to obtain the rate quote, the OSP must state all rates and charges that will apply if the consumer completes the call.

(c) **Rate disclosure method when**

rates exceed benchmark. The oral rate disclosure message must state all rates and charges that will apply if the consumer completes the call.

(d) **Charge must not exceed rate quote.** If the OSP provides a rate quote pursuant to either (b) or (c) of this subsection, the charges to the user must not exceed the quoted rate. If a consumer complains to the commission that the charges exceeded the quoted rate, and the consumer states the exact amount of the quote, there will be a rebuttable presumption that the quote provided by the complaining consumer was the quote received by the consumer at the time the call was placed or accepted.

(e) **Completion of call.** Following the consumer's response to any of the above, the OSP must provide oral information advising that the consumer may complete the call by entering the consumer's calling card number.

(f) **Benchmark rates.** An OSP's charges for a particular call exceed the benchmark rate if the sum of all charges, other than taxes and fees required by law to be assessed directly on the consumer, would exceed, for any duration of the call, the sum of fifty cents multiplied by the duration of the call in minutes plus fifty cents. For example, an OSP's charges would exceed the benchmark rate if any of these conditions were true:

(i) Charges for a one-minute call exceeded one dollar;

(ii) Charges for a five-minute call exceeded three dollars; or

(iii) Charges for a ten-minute call exceeded five dollars and fifty cents.