

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Qwest’s Petition to be Regulated Under an Alternative Form of Regulation Pursuant to RCW 80.36.135

Docket No. UT-061625

QWEST’S PETITION TO MODIFY THE AFOR

I. INTRODUCTION

1 Qwest Corporation (“Qwest”) hereby petitions the Commission under RCW 80.36.135(6) to modify the current alternative form of regulation (“AFOR”) to allow Qwest to file tariffs requesting cost recovery for certain costs associated with mandated relocation of Qwest’s facilities.

2 RCW 80.36.135(6) provides that “[u]pon petition by the company, and after notice and hearing, the commission may rescind or modify an alternative form of regulation in the manner requested by the company.” Under this provision, Qwest may petition to modify the AFOR, and the Commission may grant such a petition after notice and hearing.

II. BACKGROUND

3 One of the main characteristics of the current AFOR is that under the AFOR, Qwest is not regulated under the traditional, ratebase, rate of return regulatory structure. However, Qwest did also not receive complete pricing flexibility for all of its service offerings under the AFOR. In particular, Qwest's stand-alone residential service ("1FR") is still tariffed, and subject to all applicable tariffing rules and laws during the pendency of the AFOR.

4 Thus, the AFOR is really a middle ground between full deregulation and full regulation. For example, under the traditional regulatory model, a price change of a certain magnitude would prompt a rate case, with an evaluation of all of the company's services, revenues, and expenses, prior to a determination as to the reasonableness of the rate change. However, the AFOR does not contemplate a rate case during the life of the plan. As such, while Qwest could still file a tariff to change the prices of its tariffed services, it is uncertain under the AFOR how those changes should be evaluated.

III. MODIFICATION PROPOSAL

5 Qwest believes that extraordinary circumstances now exist, which were not contemplated at the time of the AFOR negotiation, hearings, and implementation, that may require Qwest to incur extraordinary expenses in connection with the relocation of its facilities. It is Qwest's preliminary assessment that it may be appropriate for Qwest to recover those costs from some or all of its customers, including those who purchase only tariffed services. Thus, Qwest seeks to modify the AFOR to enable Qwest to file tariffs in furtherance of such cost recovery during the pendency of the AFOR, and that the Commission may review and evaluate those tariff filings without the need for a rate case or other full-blown rate investigation.

6 The proposal allows Qwest the opportunity to file a tariff to request authorization from the Commission to recover the costs incurred for the relocation of facilities required by a

government entity that are not otherwise paid or reimbursed from another source. The proposal states that after filing, the Commission may authorize recovery of relocation costs the Commission determines to be substantial and beyond the normal course of business.

7 A number of events contribute to the potential need for this cost recovery. At the time the AFOR was approved, no party contemplated that there would be a need for a provision such as this one. However, since that time the state and the country have experienced unprecedented economic issues – frequently referred to in the media and in government communications as a crisis. As a means of ameliorating that crisis, the federal government has allocated significant funds for infrastructure improvements, including improvements and reconstruction in the public rights of way. Those improvements, including a number of road projects, could result in an extraordinary level of demand for Qwest to relocate its facilities within those rights of way. Further, local projects, not necessarily funded with federal recovery money, may also create unprecedented demand for relocations. The Alaskan Way viaduct tunnel project is an example of one such project that would require substantial relocation of facilities that was not under serious consideration by the state at the time the AFOR was proposed and approved. The costs for these relocations are not generally reimbursed by the requesting entity.

8 Under the AFOR modification as proposed herein, Qwest is required to file the recovery amount, a list of the services to be assessed, and the term of the assessment, and must provide cost support for the recovery amount. The Commission shall have 90 days after receipt of the information to verify the costs that may be recovered and the recovery amount to be assessed. The Commission shall prescribe the method of cost recovery. Costs recoverable by Qwest, as verified by the Commission, may be identified as a separate line item on the bill for all retail access lines, unless the Commission orders a different cost allocation.

9 This proposal does not presuppose that any particular costs may actually be recovered – that

issue is to be decided during the proceeding associated with the tariff filing. It merely allows a forum for the cost recovery request to be heard and considered, without debate as to whether it is appropriate to seek such cost recovery during the term of the AFOR.

10 Qwest therefore respectfully requests that the Commission modify the AFOR by adding the terms in Attachment A hereto, which sets forth the terms and conditions under which Qwest may file for cost recovery for relocation costs.

DATED this 18th day of August, 2009.

QWEST

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