

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

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| In the Matter of the Pricing Proceeding for Interconnection, Unbundled Element, Transport and Termination, and Resale |) | DOCKET NO. UT-960369 |
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| In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for |) | |
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| |) | DOCKET NO. UT-960371 |
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| U S WEST COMMUNICATIONS, INC. |) | |
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| In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for |) | TWENTY-NINTH SUPPLEMENTAL ORDER; RESOLVING ISSUES ON COMPLIANCE FILINGS; AUTHORIZING REILING |
| |) | |
| GTE NORTHWEST INCORPORATED |) | |
| |) | |
| |) | |

Procedural history. The Commission entered its Twenty-Sixth and Twenty-Seventh Supplemental Orders in these dockets on September 1, 2000. The Twenty-Sixth Supplemental Order authorized and required the filing or refiling of certain tariffs setting wholesale rates for certain unbundled network elements. The Twenty-Seventh Supplemental Order required GTE and U S WEST to file wholesale rates for unbundled loops, and it constituted a final order for the dockets, incorporating the results of prior orders.

GTE and U S WEST filed rates in response to the orders. In its Twenty-Eighth Supplemental Order, entered on September 27, 2000, the Commission invited parties to comment on the compliance filings.

Staff has filed its Comments on the ILEC compliance filings; Verizon Northwest Inc., and Qwest have filed responses to Staff's Comments. No other parties commented. In this Order the Commission addresses the issues raised by the parties in the comments and responses.

QWEST Compliance Filing

On September 15, 2000, Qwest filed tariff revisions under Advice No. 3169T to comply with the Commission's Twenty-Sixth and Twenty-Seventh Supplemental Orders in this docket. The filing proposes to establish rates for various interconnection services as Tariff WN U-42 and resale of services as Tariff WN U-43.

Commission Staff Comments

Commission Staff addressed Tariff WN U-42, rates for interconnection services. Staff commented that Qwest's tariff revisions "appear to be in compliance with prior Commission orders."¹

However, Staff noted that while the Commission's Twenty-Sixth Supplemental Order established per-port common channel signaling rate of \$148.80 for U S WEST, the Company increased this rate in its compliance filing by 4.05% to arrive at the rate of \$154.82.

Commission Staff stated its belief that the \$148.80 rate set by the Commission was intended to be the approved cost of the port and not the actual rate for the port. This being the case, Staff felt that the Company's increase of 4.05% to \$154.82 was appropriate and in compliance with the intent of the Commission's prior orders.

Commission Staff also noted that the Company's compliance filing added new language to sheet 1. Staff stated that the Company has since then filed a replacement sheet removing the language and satisfying its concerns.

In addition, Commission Staff noted that sheet 13 of the Company's filing included rates for various operator services in the tariff, even though the Commission did not direct the Company to include them. While Staff does not object to the inclusion of these rates, it asks the Commission to remind parties to follow the provisions of WAC 480-09-340 when making compliance filings.

Commission Decision

The Commission finds that the Staff is correct in its interpretation of our Twenty-Sixth Supplemental Order concerning the per-port common channel signaling rate of \$148.80 for U S WEST. The Commission did intend that to be the established cost of the port and not the rate. Therefore, the Commission finds that increasing this cost by 4.05% to arrive at the rate of \$154.82 as contained in Qwest's compliance filing is appropriate and in compliance with the Commission's prior orders on this issue.

¹ *Comments of WUTC Staff on ILEC Compliance Filings*, in Dockets UT-960369, 960370, and 960371, p. 2

The Commission takes note of the fact that the Company has filed a replacement sheet removing language that Staff objected to. The Commission accepts the language of this replacement sheet as complying with our previous orders.

Parties are directed in all future compliance filings to follow strictly the provisions of WAC 480-09-340 forbidding parties from adding items to compliance filings that are not authorized in the relevant order or orders in the docket.

A petition for reconsideration is pending as to the rates for deaveraged unbundled loops. This Order will approve rates as filed and require refiling of corrected, updated tariff sheets for all filed rates that the Commission has not previously allowed to go into effect, *except* deaveraged rates for unbundled loops.

The Commission orders that the September 15, 2000 compliance filing become effective on midnight of the date this order is served, as amended by the replacement sheets identified as WN U-42, Section 1, 1st Revised Sheet 1 and WN U-42, Section 3, Original Sheet 10, and excluding the tariff sheets identified as WN U-42, Section 3, Original Sheet 6, WN U-42, Section 3, Original Sheet 7, and WN U-42, Section 3, Original Sheet 8. The Company must file corrected tariff sheets within five business days after the date of this order.

Verizon Compliance Filing

On September 18, 2000, Verizon filed under Advice Nos. 945, 946, and 947, proposed tariff revisions to comply with the Commission's Twenty-Sixth and Twenty-Seventh Supplemental Orders. On May 26, 2000, Verizon filed Advice No. 927 in compliance with the Commission's Twenty-Fifth Supplemental Order in this docket. Advice No. 927 accompanied Tariff WN U-21 to establish rates for various interconnection services. The filing in Advice No. 946 proposes revisions to various sheets filed with Advice No. 927.

Sheet Numbering

Commission Staff states that:

Advice No. 946 used revised sheet numbers to establish tariff revisions ordered in the Commission's Twenty-Sixth and Twenty-Seventh Supplemental Orders in this docket. The Company mistakenly believed that Advice No. 927 had become effective on the stated effective date rather than upon Commission order as required by WAC 480-09-340 (3). The Company will need to refile tariff sheets which are all labeled as "Original Sheets."¹

¹ *Ibid.*, p. 4

Verizon states that it agrees that this revision should be made to its compliance filing.² Verizon is Ordered to refile tariff sheets with corrected sheet numbers

Sheet 2, “General Regulations”

Commission Staff Comments

Commission Staff states that the first two paragraphs of sheet 2, “General Regulations”, of Verizon’s Advice Nos. 927 and 946, indicate that the tariff rates, terms, and conditions for UNEs are subordinate to any rates, terms, and conditions that are contained in interconnection agreements. Staff says that it “does not believe that the Commission intends for rates, terms, and conditions, once they are tariffed, to be supplanted by different rates, terms, and conditions for the same UNEs in interconnection agreements” and suggests that the paragraphs in question be either deleted or revised.

Staff addresses two paragraphs. First, it suggests that the first paragraph should be changed to read as follows (with Staff-suggested language underlined):

The general regulations, terms and conditions for the UNEs listed in this tariff will be governed under the CLP’s Interconnection Agreement until such time as the Commission adopts tariffed terms and conditions.³

Commission Staff also urges that the second paragraph should be revised. Staff’s suggestions are set out below. The Company’s proposed language as filed is presented in the first paragraph. The language proposed by Staff is presented in the second paragraph.

Verizon’s original language: The rates for UNEs listed within this tariff are not inclusive. Additional rates may be applied as indicated within each CLP’s Interconnect Agreement.

² *Verizon Northwest Inc.’s Response to Staff’s Comments Regarding its September 18, 2000 Compliance Filing*, in Dockets UT-960369, 960370, and 960371, p. 2.

³ *Ibid.*, p. 4

Staff's proposed replacement paragraph: Additional rates do not apply to the tariff UNE service when CLP's choose to use tariff UNE service rates in an Interconnection Agreement.¹

Verizon does not agree that either paragraph should be deleted.

Verizon states that it included this language in its tariff to “inform CLECs of where the terms and conditions governing Verizon’s provisioning of UNEs are contained so that there is no assumption that there are no terms and conditions for these UNEs.”²

Verizon does not object to Staff’s proposed first-paragraph language with the following proposed alteration (Staff proposed language is underlined, Verizon’s proposed additional language is in **bold**):

The general regulations, terms and conditions for the UNEs listed in this tariff will be governed under the CLP's Interconnection Agreement until such time as the Commission adopts tariffed terms and conditions. **This provision does not preclude any party from negotiating different UNE terms and conditions under 47 U.S.C. §251(c) (1).**³

Verizon also notes that, while it will accept Commission Staff’s proposed language for paragraph 1 as noted above, it is not currently aware of an open docket addressing UNE terms and conditions.

Regarding paragraph 2, Verizon asserts that it intended this paragraph merely to “clarify that only the UNE rates that have been approved by the Commission are currently contained in the tariff. Several UNE rates have not yet been ordered, or even addressed by the Commission. Rates for these UNEs are, however, currently contained in each CLP’s Interconnection Agreement.”⁴ To clarify the intent of its proposed language for this paragraph, Verizon proposes the following revision:

The rates for the UNEs listed in this tariff are not inclusive. The rates for those UNEs that have not been addressed by the Commission are contained in the CLP’s Interconnection Agreement.

Commission Decision

Concerning paragraphs one and two in sheet 2 of Verizon’s Advice Nos. 927 and 946, the Commission agrees with Verizon that paragraphs in question need not be deleted.

¹ *Ibid.*, p. 5

² *Ibid.*, p 2

³ *Ibid.*, p. 2.

⁴ *Ibid.*, p. 3

Concerning paragraph one, the Commission accepts Staff's additional language, along with Verizon's suggested modification. Accordingly, the Commission orders that paragraph one of WN U-21, sheet 2 be altered to read:

The general regulations, terms and conditions for the UNEs listed in this tariff will be governed under the CLP's Interconnection Agreement until such time as the Commission adopts tariffed terms and conditions. This provision does not preclude any party from negotiating different UNE terms and conditions under 47 U.S.C. §251(c) (1).

Concerning paragraph two, the Commission agrees with the intention of the language proposed by Staff. That would make it clear that the Commission-approved UNE rates are the rates at which those services must be offered to CLPs and that, should a CLP choose to accept a UNE service at the tariffed rate approved by the Commission, other rates for that service do not apply. The Commission is also sympathetic to Verizon's point that CLP interconnection agreements may contain UNEs whose rates have not yet been ordered or addressed by the Commission. Therefore, the Commission directs that paragraph two of WN U-21, sheet 2 be revised to read as follows:

Rates for the UNEs listed in this tariff are rates that have been approved by the Commission for the listed UNEs. If, in its Interconnection Agreement, a CLP chooses to use a UNE service listed in this tariff at the tariffed rate, no additional rates for that service may be applied. However, the UNEs listed in this tariff are not inclusive of all available UNEs currently listed in each CLP's Interconnection Agreement. The Commission has not addressed rates for UNEs not appearing on the list of UNEs filed in this tariff.

Sheet 4. 4-Wire Analog Voice Grade Loop

Staff notes that sheet 4 of Verizon's Advice Nos. 927 and 946 includes a statewide average monthly rate for the 4-wire analog voice grade loop. Staff asserts that the

Company needs to file rates for the 4-wire loop for each density zone rather than the statewide average rate.

Verizon responds that while it “believes the Commission intended to deaverage both 2-wire and 4-wire loops rates, the Twenty-Fourth Supplemental Order only indicates that deaveraged 2-wire rates were adopted by the Commission. Twenty-Fourth Supplemental Order at paragraphs 81, 83, 93, 97-98.”⁵

Verizon goes on to state, “If the Commission indeed intended Verizon to file deaveraged 4-wire loop rates in its compliance tariffs, Verizon assumes that the calculation of the 4-wire deaveraged rates would be computed using the same methodology adopted in the Seventeenth Supplemental Order for the 4-wire statewide average rate. The Commission concluded that the Verizon statewide average 4-wire rate is 50% more than the adopted statewide average 2-wire rate. Seventeenth Supplemental Order at paragraph 525.”⁶

Applying this methodology Verizon proposes the following deaveraged 4-wire loop rates:⁷

| Zone | Prices | Percentage of Lines |
|------|---------|---------------------|
| 1 | \$22.44 | 28.88% |
| 2 | \$25.11 | 23.93% |
| 3 | \$30.17 | 9.78% |
| 4 | \$35.04 | 18.88% |
| 5 | \$74.78 | 18.52% |

Verizon requests clarification from the Commission concerning whether it intended to deaverage 4-wire loop rates in its Twenty-Fourth Supplemental Order using the methodology adopted in the Seventeenth Order Supplemental Order, and if so, whether the 4-wire deaveraged loop rates approved for Verizon are those noted above.⁸

⁵ *Comments of Verizon*, p. 3

⁶ *Ibid.*, p. 3

⁷ *Ibid.*, p. 4

⁸ *Ibid.*, p. 4

Commission Decision

Paragraph 481 of our Seventeenth Supplemental Order in this Docket states, “In the Phase III proceeding, the Commission will ask the parties to make deaveraged pricing proposals that result in an average price for the loop that is equal to the statewide loop prices we establish in the instant Order.”

At paragraphs 79 and 525 of that order, the Commission determined that Verizon’s statewide average cost of a 4-wire loop should be set at 50 percent above the statewide average cost established by the Commission for a Verizon 2-wire loop. In the Twenty-Fourth Supplemental Order, at paragraph 10, we ordered that parties “submit proposals to deaverage rates that would result in the same average price for the loop determined by the Commission in Phase II.”

Given these prior rulings, it seems clear that Verizon must file 4-wire loop rates for each density zone rather than using the statewide average rate.

We find Verizon’s methodology for determining deaveraged 4-wire loop rates to be a reasonable interpretation of the Commission’s directions and approve the deaveraged 4-wire loop rates proposed by the Company on page four of its Comments, and replicated in the table above, as the deaveraged 4-wire loop rates for Verizon.

Accordingly, we reject the statewide average 4-wire loop rate and direct Verizon to file the deaveraged 4-wire analog voice grade loop rates listed in the table set out above.

Sheet 4.3, Interim Local Number Portability ("ILNP") Charges

Staff states, “Regarding Advice No. 946, sheet 4.3, a footnote should be added that states that the Interim Local Number Portability (ILNP) charges are not applicable in areas with long-term number portability.”⁹ Verizon states that it does not object to adding this footnote to its tariff filing.¹⁰

The Commission directs Verizon to add a footnote to WN U-21, sheet 4.3 stating that the Interim Local Number Portability (ILNP) charges are not applicable in areas with long-term number portability.

Sheet 4.1 and 4.2, Service Orders

Commission Staff notes that Sheets 4.1 and 4.2 contain revisions the Company made

⁹ *Comments of Staff*, p. 5

¹⁰ *Comments of Verizon*, p. 4

to its non-recurring charges (NRCs) for Service Ordering, reflecting work time adjustments that the Commission directed Verizon to make.

Staff expresses concern, however, that a number of NRCs include charges for OSS recovery costs that, in some cases, exceed the cost of the service itself. Staff is concerned that the level of these charges will act as a barrier to entry by CLECs. Staff states that it does not dispute that the Company has been authorized to establish interim OSS rates, but Staff is concerned both about the proposed amount to be recovered on each service order and with the underlying validity of the costs and demand forecast used to calculate the amount of the charge.

Staff repeats that the OSS costs and demand forecasts used to develop the charge do not appear to have been part of the Company's filing in Part A of Docket No. UT-003013. Staff asserts that the proposed charge is almost four times the level of OSS cost recovery per service order that Commission Staff recommended in the Part A proceeding. Staff recommends that the non-recurring cost estimates be adjusted to reduce the amount of OSS cost recovery to no more than \$5.00 per service order.

Verizon states that Staff points to no support in the record of its contention that the Company's proposed OSS recovery charges are excessive and argues that the Staff recommendation should be rejected.

Verizon goes on to point out that while the Commission deferred addressing permanent OSS costs and pricing to Phase III – and subsequently to Docket UT-003013 Part A, it adopted interim OSS prices in the Seventeenth Supplemental Order. The Company further asserts that the Commission expressly adopted Verizon's non-recurring costs and rates—which included OSS costs—with minor modifications and that removal or modification of the Company's OSS costs were not included in the modifications ordered. Seventeenth Supplemental Order at paragraphs 107-08, 452, 526, 536, and 452 through 455.

Verizon states that if Staff had been concerned about the level of Verizon's interim OSS costs and rates, Staff should have filed a petition for reconsideration of the Commission's decision in the Seventeenth Supplemental Order or filed objections to the OSS costs contained in the Company's compliance filings of November 15, 1999 or June 9, 2000.

Moreover, Verizon continues, the Commission in its Twenty-Fifth Supplemental Order at paragraph 21, rejected concerns raised by several CLECs about the level of Verizon's interim OSS charges derived from the ILEC cost studies filed in Phase II. In that Order, Verizon argues, the Commission stated that OSS rates established in this proceeding are interim and subject to a true-up, and therefore the CLECs concerns about overcharges can be addressed in subsequent proceedings.

Verizon also calls the Commission's attention to paragraph 49 of the Twenty-Sixth Supplemental Order, which states:

The CLECs have requested that any interim charge for OSS cost recovery be included as a separately identified element of the nonrecurring charges. This request is denied. GTE's June 8, 2000 compliance filing provided additional information that explains how the cost elements generated by its November 1999 NRC study are used to develop the compliance rates (see Exhibit 2 and 3).

Verizon concludes by stating that, since the interim OSS rates are subject to true-up, Staff may address its concerns with Verizon's proposed permanent OSS costs and prices in Part A of Docket UT-003013.

Commission Decision

After reviewing our decisions on OSS recovery in the Seventeenth, Twenty-Fifth, and Twenty-Sixth Supplemental Orders we find ourselves in agreement with Verizon. The Commission Staff had ample opportunity to voice its concerns with the level of Verizon's interim OSS recovery costs at several earlier points in these proceedings. Furthermore, Staff and other parties will have ample opportunity to critique Verizon's proposed permanent OSS costs and prices in Docket UT-003013, thereby affecting the eventual true-up.

Commission Staff's recommendation that the non-recurring cost estimates be adjusted to reduce the amount of OSS cost recovery to no more than \$5.00 per service order is hereby rejected.

Tariff WN U-22-Resale Local Exchange Services

Commission Staff states that the proposed resale tariff, filed under Advice No. 945, contains numerous terms and conditions of service. Staff points out that the Commission's Twenty-Sixth Supplemental Order took note of the fact that parties had agreed to address terms and conditions at a later date and directed Qwest to remove terms and conditions from its resale tariff. In order to make Advice No. 945 consistent with this Commission directive, Staff recommends the following changes to remove terms and conditions.

1. Sheets 3, 5, 6, and 7 should be deleted.
2. Sheet 1 - Delete all except the first two paragraphs and the sixth paragraph, which begins with the words "Service offered in this tariff . . ."
3. Sheet 9 - Delete the paragraphs titled "Interference with or Impairment of Service" and "Subscribing to Adequate Service."

Commission Staff also asserts that the non-recurring charges shown on sheets 12, 13,

and 14 are identical to the rates filed in the Company's June 8, 2000 compliance filing and that the non-recurring charges for ordering resale local service rely on the same cost study that was used to develop the non-recurring service order charges for UNEs. Staff believes the adjustments made to the time estimates for UNE service orders also must be flowed through to the applicable service order charges for resale local services.

With one exception, Verizon does not object to Staff's recommendations concerning the removal of terms and conditions from its resale tariff. The exception is paragraph 5 of Sheet 1, where Verizon asks to keep the following language:

This tariff is applicable to the resale of services available to registered Competitive Local Providers (CLPs), who have an effective Interconnection Agreement with the Company for this state under Sections 251 and 252 of the Telecommunication Act of 1996, or have adopted such an agreement to Section 252(i) thereof.

Verizon asserts that this language should remain in the tariff to ensure that only CLECs who have an interconnection agreement with Verizon may purchase from the Company's resale tariff. Verizon makes the further assertion that this language is also necessary because the resale terms and conditions are currently outlined in each CLEC's interconnection agreement, not in Verizon's proposed resale tariff.

Verizon has no objection to Staff's suggestion that the NRC study adjustments to time estimates for UNE service orders that Verizon made in preparing its September 18, 2000 compliance filing also should be made to the time estimates for resold service orders. Verizon committed to provide parties with the updates to its NRC study and proposed rates no later than October 30, 2000.

Commission Decision

Staff's understanding is correct that terms and conditions are not properly included as part of a compliance filing in this proceeding. In our Fourteenth Supplemental Order, at paragraph 75, we stated that we would not consider tariff terms and conditions in the pricing phase of this proceeding. As Staff has correctly pointed out, we reiterated this position in our Twenty-Sixth Supplemental Order at paragraph 78.

The Commission also finds, however, that Verizon's suggested language for paragraph 5 of Sheet 1 is reasonable as it would ensure that the Company's tariffed resale rates are made available only to parties with whom the Company has interconnection agreements, and not to retail customers.

Accordingly, the Commission Orders that Verizon make the following modifications to Advice 945:

1. Sheets 3, 5, 6, and 7 should be deleted.

2. Sheet 1 - The first two paragraphs should be retained. The fifth paragraph should be retained, but modified to read as follows:

This tariff is applicable to the resale of services available to registered Competitive Local Providers (CLPs), who have an effective Interconnection Agreement with the Company for this state under Sections 251 and 252 of the Telecommunication Act of 1996, or have adopted such an agreement pursuant to Section 252(i) thereof.

The sixth paragraph beginning with the words “Service offered in this tariff . . .” shall also be retained.

All other paragraphs must be removed from this sheet.

3. Sheet 9 - Delete the paragraphs titled “Interference with or Impairment of Service” and “Subscribing to Adequate Service.”

Concerning the NRC study adjustments recommended by Staff, the Commission notes that Verizon did not object to this proposal and that it committed itself to providing parties with updates to its NRC study and proposed rates no later than October 30, 2000. Verizon followed through on this commitment and filed updates to its NRC Study and proposed rates on October 30, 2000. Since no other party, including Commission Staff whose comments on this issue prompted the filing in question, has chosen to comment on Verizon’s updated filing, the Commission presumes that this particular matter is now at an end. The Commission orders that Verizon replace the NRC rates filed in Advice 945 with the revised rates filed in the October 30, 2000 NRC study.

Tariff WN-20: Collocation Service

Commission Staff states that Verizon filed Advice No. 947 to comply with the Commission’s decision not to “round up” some values in determining certain collocation charges. Staff states that the Company has subsequently filed revisions to its collocation tariff WN U-20 that deleted the unrounded charges and established monthly recurring charges in their stead.

Commission Staff recommends that, since the monthly rates are being considered in Docket No. UT-003013, this advice should not be permitted to become effective.

Verizon states that its understanding of Staff’s proposal is that the non-recurring building modification charges included in Advice No. 947 would not become effective and the monthly building modification charges currently contained in Verizon’s collocation tariff would remain in effect. Verizon concurs with Staff’s recommendation that Advice No. 947 not become effective.

Commission Decision

The Commission rejects Advice No. 947.

Conclusion

The Commission accepts the elements of the Qwest compliance filings, except those stating rates for deaveraged, unbundled loops.

The Commission rejects Verizon's compliance filings, but authorizes and directs Verizon to refile tariffs consistent with the terms of this order within seven days after the date of this Order. The revised tariffs must be filed to become effective five business days after the date of filing. Parties may file comments with the commission no later than the close of the second business day and may respond to any such comments no later than the close of the business day following filing. All filings must be served to be received by other parties no later than the close of the business day that they are filed with the Commission.

O R D E R

The Commission accepts the Qwest compliance filing to become effective on midnight of the day this order is served.

The Commission rejects Verizon's compliance filings. The Commission authorizes and directs Verizon to refile tariffs consistent with the terms of this order within seven days after the date of this order. The filed tariffs must be filed to become effective five business days after the date of filing. Parties may file comments with the commission no later than the close of the second business day after the tariff filing, and may respond to any such comments of others no later than the close of the business day following the comments' filing. All filings must be served to be received by other parties no later than the close of the business day that they are filed with the Commission.

DATED AND EFFECTIVE at Olympia, Washington this first day of December, 2000.

THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner