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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the
Continued Costing and Pricing of Unbundled
Network Elements, Transport, Termination, and
Resale

Docket No. UT-003013, Part B
**QWEST’S PETITION FOR FURTHER
RECONSIDERATION AND/OR
CORRECTION OR CLARIFICATION OF THE
38TH SUPPLEMENTAL ORDER**

Pursuant to the provisions of WAC 480-09-810 and –815, and RCW 34.05.470, Qwest Corporation (“Qwest”) hereby petitions for further reconsideration and/or correction or clarification of the Commission’s 38th Supplemental Order in this matter, entered on September 23, 2002.

I. INTRODUCTION

Qwest requests further reconsideration of the Commission’s decision concerning the probability of manual orders with regard to Qwest’s nonrecurring costs and charges, set forth in paragraph 68 of the 38th Supplemental Order. Qwest believes that the Commission’s conclusion on that issue is affected by errors of fact and law that can be corrected through this process. Alternatively, if the Commission determines that reconsideration is not properly sought with regard to a decision contained in an order on reconsideration, Qwest asks the Commission to correct or clarify its decision, or to take other appropriate action to remedy the errors contained in the 38th Supplemental Order.

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II. BACKGROUND

In its Part B Order,¹ the Commission affirmed that Qwest is entitled to recover the additional costs incurred to manually process orders. *Part B Order*, ¶ 128. Qwest was permitted to establish a unified order processing rate that reflected appropriate assumptions regarding the probabilities of mechanized and manual orders. *Part B Order*, ¶ 129.

AT&T/XO petitioned for reconsideration, arguing that the 17th Supplemental Order in Docket Nos. UT-960369, et al., required Qwest to “establish separate rates for manual and electronic ordering.” *AT&T/XO Part B Reconsideration Petition*, ¶ 8. AT&T/XO devoted one paragraph to this issue in their petition for reconsideration, citing only paragraph 128 of the Part B Order, which in turn referenced paragraph 112 of the 17th Supplemental Order.

The 17th Supplemental Order, at paragraph 112, required U S WEST to make a compliance filing identifying interim rates for “TMA, or manual ordering, and EDI, or electronic ordering.” There, the Commission stated that by “establishing separate rates for manual and electronic access to an ILECs operational support system, we establish rates that reflect the cost of service. For example, parties who do not use manual access will not have to pay for the cost of providing this type of interface.” *17th Supplemental Order*, ¶ 112. In the 38th Supplemental Order, relying on paragraph 112 of the 17th Supplemental Order, the Commission reversed its decision in the Part B Order and required Qwest to “establish separate nonrecurring charges for orders submitted electronically and orders submitted for manual processing.” *38th Supplemental Order*, ¶ 68.

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III. ARGUMENT

Qwest respectfully suggests that the Commission’s decision is incorrect, and is premised on a misunderstanding of what was required by the 17th Supplemental Order, and of what the Commission ultimately required Qwest to do in terms of rate design for OSS cost recovery and nonrecurring charges.

¹ *In the Matter of the Continued Costing and Pricing of Unbundled Network Elements, Transport, and Termination*, Docket No. UT-003013, Thirty-Second Supplemental Order; Part B Order; Line Splitting, Line Sharing Over Fiber Loops; OSS; Loop Conditioning; Reciprocal Compensation; and Nonrecurring and Recurring Rates for UNEs (June 21, 2002) (“Part B Order”).

1 First, it is essential to bear in mind that paragraph 112 of the 17th Supplemental Order was
2 limited to OSS cost recovery, and was not generally applicable to nonrecurring charges for specific
3 UNEs. The Commission decision in paragraph 112 is the final paragraph of the section of the order
4 entitled “OSS/TRANSITION COSTS” that begins at paragraph 83. Nonrecurring charges, on the other
5 hand, are discussed separately at paragraphs 425-437. Further, following entry of the 17th Supplemental
6 Order, Qwest filed compliance tariffs, as required by paragraph 112, showing separated OSS cost
7 recovery rates for manual and mechanized orders. However, the Commission rejected those tariffs, and
8 eventually approved a rate design for OSS cost recovery that *did not establish separate rates for*
9 *manual and electronic access.*² Thus, there can be no justification that such a rate design is required by
10 or consistent with the 17th Supplemental Order. Additionally, in the dozens of tariffed nonrecurring rates
11 that have been filed and approved since the date of the 17th Supplemental Order, not a single rate
12 element has had separate charges to reflect manual and electronic ordering. Thus, it seems reasonable to
13 conclude that neither the Commission nor any party believed that such a rate design was required by any
14 provision of the 17th Supplemental Order.

15 Set forth below is a chronology of the relevant orders and compliance filings on this issue. A
16 review of this summary clearly shows that there are no rates that reflect the separate costs of manual and
17 electronic access, and the Commission modified the requirements of paragraph 112 in its subsequent
18 orders such that paragraph 112 cannot be relied upon to support a requirement to separate all of Qwest’s
19 nonrecurring charges into separate rate elements.

20 **Docket Nos. UT-960369 et al. – Establishes Principle of OSS Cost Recovery**

21 **17th Supplemental Order, August 30, 1999** – Paragraph 112, ILECs ordered to file separate
22 rates for manual and electronic access for purposes of OSS/transition cost recovery.

23 **25th Supplemental Order, May 19, 2000** – Addresses compliance filings made on November
24 15, 1999 pursuant to the 17th Supplemental Order.

24 Paragraph 28: “For the limited purpose of this proceeding the Commission approves the
25 assignment of costs to the manual and electronic cost categories. As a separate matter, the

26 ² See the summary of orders provided below. Qwest’s OSS compliance filing, containing separate rates for manual and electronic ordering, was rejected by the 25th Supplemental Order in Docket Nos. UT-960369, et al. Qwest’s OSS cost recovery proposal reflecting the same rate design was rejected by the 13th Supplemental Order in Docket No. UT-003013 and a single rate was ordered instead of two separate rates.

1 Commission addresses below the recovery of these costs. At para. 43 below, however, the
2 Commission determines that due to our concern about double recovery of costs, we do not
approve the OSS rates at this time.”

3 Paragraph 43: “We do not approve U S WEST's OSS compliance filing.”

4 **26th Supplemental Order, September 1, 2000** – Addresses compliance filings made on June
5 9, 2000 pursuant to the 17th Supplemental Order.

6 Paragraph 29: “U S WEST’s interim OSS rate recovery charge is denied because of the lack of
7 record evidence and the lack of tariff language specifying the exact activities to which the
proposed charges would apply.”

8 Paragraph 31: “In Docket UT-003013, we will continue to explore procedures to assure that the
OSS charges recover the appropriate costs as determined in that proceeding.”

9 Paragraph 48: “We have addressed the CLECs’ concerns at Paragraph 29 by deciding that U S
10 WEST is not authorized in this docket to collect for its OSS costs.”

11 **27th Supplemental Order, September 1, 2000** – “Final Order” in this docket. This order did
12 not address interim OSS rates and did not authorize U S WEST to refile any tariffs. Thus,
U S WEST never established interim OSS rates.

13 **Docket No. UT-003013 – Establishes Permanent OSS Cost Recovery Rates**

14 In accordance with the requirements of Docket Nos. UT-960369 et al., U S WEST/Qwest
15 submitted bifurcated EDI/IMA rates in Terri Million's testimony on January 31, 2000 (Ex. T-90)
(this testimony was filed under Docket Nos. UT-960369 and pulled into Docket No. UT-
16 003013 after it was opened in February 2000) and August 4, 2000 (Ex. T-95). Verizon
submitted the flat LSR rate (Mr. Tanimura’s testimony, Ex. T-320).

17 **13th Supplemental Order, January 31, 2001** – Final Order in “Part A”. Establishes rates for
OSS cost recovery.

18 Paragraph 145: The table set forth at this paragraph shows Qwest’s proposal to establish prices
19 for electronic and non-electronic (manual) service orders. It also shows Verizon’s proposal for a
flat charge of \$3.27 per local service request.

20 Paragraph 156: “The Commission finds that Verizon's proposed rates are just and reasonable,
21 and we approve these charges to be applied on a local service request basis.”

22 Paragraph 157: “Qwest’s proposal to assess rates on a service order basis is rejected. . . . In
23 light of our rejection of the costs reported by Qwest, we find that Qwest must charge both OSS
transition and transaction rates equal to Verizon’s approved rates.”

24 **17th Supplemental Order, May 8, 2001** – Addresses compliance filings made in accordance
25 with the 13th Supplemental Order. Approves Qwest’s OSS tariffs which mirror Verizon's. OSS
Transition Charge, per LSR \$3.27; OSS Transaction Charge, per LSR \$3.76.

1 Thus, it is clear that the original requirements of the 17th Supplemental Order with regard to rate
2 design for OSS cost recovery were never implemented, and were then superceded by the Commission's
3 decisions in the 13th and 17th Supplemental Orders in Docket No. UT-003013.

4 Those requirements were also superceded by the Commission's approval of Qwest's numerous
5 compliance filings (containing literally dozens of nonrecurring charges) since the date of the 17th
6 Supplemental Order. A review of Qwest's entire interconnection tariff, WN U-42, fails to disclose any
7 nonrecurring rates that are structured to assess different charges for manual and mechanized ordering.
8 The effective date on each of these tariff sheets is subsequent to the 17th Supplemental Order in Docket
9 No. UT-960369, which was entered over three years ago.

10 Each and every nonrecurring charge in that tariff was filed as a part of a series of compliance
11 filings in accordance with Commission orders in this and the prior docket. It has been the Commission's
12 practice to allow parties an opportunity to review and comment on compliance filings prior to approving
13 or rejecting those filings. To the best of Qwest's knowledge, not one of these filing has been rejected on
14 the basis that the UNE nonrecurring charges were not separated to reflect manual and mechanized
15 ordering. Thus, it can only be concluded that these rates were indeed in compliance with prior
16 Commission orders, and that the Commission originally had in mind to separate these rates only for
17 purposes of OSS cost recovery, as stated in paragraph 112 of the 17th Supplemental Order. All
18 evidence indicates that that ruling was subsequently changed in the Part A order, and that the requirement
19 does not now apply to either OSS rates or nonrecurring charges.

20 Qwest believes that a review of the relevant provisions of these orders will convince the
21 Commission that it erred in paragraph 68 of the 38th Supplemental Order, and that, to correct this error,
22 the Commission should allow Qwest's nonrecurring charges to remain as previously approved after
23 various compliance filings.

24 However, in the event that the Commission does not agree with the argument set forth herein,
25 Qwest must call several other issues to the Commission's attention. First, it is unclear from the 38th
26 Supplemental Order's discussion of the 17th Supplemental Order whether the Commission now expects

1 Qwest to revise its OSS cost recovery rates to reflect separate nonrecurring charges for manual and
2 electronic orders, of if Qwest is to revise its nonrecurring rates for all UNEs. If the latter, it is unclear
3 which nonrecurring rates would be impacted by the requirement to create separate nonrecurring charges.
4 Not all of Qwest's nonrecurring rates were at issue in Part B, and Qwest had no notice that rates outside
5 the docket might be implicated by this order. Nor was Qwest aware that either parties or the
6 Commission could read the 17th Supplemental Order to require such a result, or Qwest would certainly
7 have addressed the issue while Docket Nos. UT-960369 was still open and underway.

8 Qwest also has great concerns with regard to implementation of this requirement in terms of the
9 amount of time it would take to develop the separated nonrecurring costs and the amount of time and
10 expense to program a billing system to recognize and bill for different types of order submission. Qwest
11 believes that these issues do not necessarily warrant further discussion here, as they are speculative at this
12 point. However, in the event that the Commission does not correct the 38th Supplemental Order as
13 requested herein, Qwest believes that it would be necessary to explore these issues in much greater detail.

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19 **IV. CONCLUSION**

20 In conclusion, Qwest asks for reconsideration and/or correction or clarification of the
21 Commission's order as set forth herein.

22 Respectfully submitted this 3rd day of October, 2002.

23 QWEST

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