

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

)	
In the Matter of the Implementation of)	DOCKET NO. UT-033025
the Federal Communications)	
Commission’s Triennial Review Order)	ORDER NO. 03
)	
)	ORDER DECLINING TO
)	INITIATE PROCEEDINGS TO
)	ADDRESS ILEC BATCH CUT
)	PROCESSES; CLOSING DOCKET
.....)	

- 1 **Nature of the Proceeding:** The Washington Utilities and Transportation Commission (Commission) initiated this proceeding to implement the provisions of the Federal Communications Commission’s (FCC) Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, also known as the Triennial Review Order, released on August 21, 2003, in CC Docket Nos. 01-338, 96-98, and 98-147.

- 2 **Procedural History:** The Commission initiated this proceeding on August 22, 2003, by issuing a notice requesting comments from all interested persons concerning the process for implementing the FCC’s Order in Washington state. The Commission established the docket to scope and implement the Commission’s response to the Triennial Review Order. The Commission received responses from nine telecommunications companies, Commission Staff and Public Counsel.

- 3 The Commission convened prehearing conferences in this docket on September 26, 2003, and October 13, 2003. At these prehearing conferences, the Commission, with the assistance of the parties to this proceeding, established a procedural schedule for proceedings arising from the FCC’s Triennial Review Order. In Order No. 01, the first prehearing conference order in this proceeding, the Commission required all persons interested in challenging the FCC’s national finding of no impairment for enterprise market switching to file a petition by October 3, 2003. The Commission also required all persons interested in challenging the FCC’s national finding of impairment for mass-market switching,

dedicated transport, and DS1, DS3, and dark fiber loops to file a petition with the Commission by October 10, 2003.

- 4 No person or corporation filed a petition on October 3, 2003, challenging the FCC's enterprise market switching findings. On October 10, 2003, Qwest Corporation (Qwest) filed a petition with the Commission in Docket No. UT-033044 to initiate a review of the FCC's findings concerning mass-market switching and dedicated transport. No other person or company filed a petition with the Commission concerning mass-market switching, dedicated transport, or loops.
- 5 In paragraph 8 of Order No. 01, the Commission noted a disagreement between the parties concerning a requirement in the Triennial Review Order that state commissions approve a batch hot cut migration (batch-cut) process for incumbent local exchange companies (ILECs) to address impairment in mass-market switching caused by existing ILEC hot cut processes. Specifically, the parties disagreed about the obligations of state commissions and ILECs operating in Washington state to develop a batch-cut process within the state of Washington. The Commission will address the development and implementation of a batch-cut process for Qwest in Docket No. UT-033044.
- 6 On October 14, 2003, the Commission issued a notice to all parties and interested persons requesting comments by October 21, 2003, concerning the obligations under the Triennial Review Order of the Commission and ILECs, other than Qwest, operating in Washington state to initiate development of a batch-cut process within the state of Washington.
- 7 **Batch Cut Migration Process.** On October 21, 2003, Verizon Northwest Inc. (Verizon), MCI, Inc. (MCI), Covad Communications Company (Covad), United Telephone Company of the Northwest d/b/a Sprint (Sprint), and Commission Staff filed comments with the Commission. Verizon, MCI, and Staff assert that the requirement for states to approve and implement a batch-cut process for ILECs is an integral part of the mass-market switching analysis in the Triennial Review Order. These companies also assert that there is no obligation for ILECs or the Commission to develop a batch-cut process unless the ILEC files a petition with the Commission contesting the FCC's findings of impairment for mass-market switching.

- 8 Sprint asserts that its current processes are sufficient and that a batch-cut process is not necessary because the company does not provide UNE-P to any competitive local exchange carrier (CLEC) and provisions only low levels of UNE loops. Covad argues that the Commission should examine the effect of hot cuts on line splitting when examining an ILEC's hot cut processes.
- 9 **Discussion.** The FCC finds that CLECs are impaired without access to unbundled local circuit switching for mass-market customers. *Triennial Review Order*, ¶459. The FCC makes this finding "based on evidence in our record regarding the economic and operational barriers caused by the cut over [or hot cut] process." *Id.* The Triennial Review Order describes a hot cut as "a process requiring incumbent LEC technicians to disconnect manually the customer's loop, which was hardwired to the incumbent LEC switch, and physically re-wire it to the competitive LEC switch, while simultaneously reassigning (*i.e.*, porting) the customer's original telephone number from the incumbent LEC switch to the competitive LEC switch." *Triennial Review Order*, n.1293.
- 10 Specifically, the FCC requires that "state commissions, must, within nine months from the effective date of the Order, approve and implement a batch-cut process that will render the hot cut process more efficient and reduce per-line hot cut costs." *Triennial Review Order*, ¶¶ 423, 460. In the alternative, state commissions must make detailed findings by geographic market to support a conclusion that current hot cut processes do not create impairment and that a batch cut process is unnecessary. *Id.*
- 11 It is not clear from the text of the Order whether the state commission approval of a batch-cut process is independent of or an integral part of the state commission's market-by-market analysis of CLEC impairment without unbundled mass-market switching. The final rules adopted in the Order, however, include state commission review of an ILEC batch-cut process as a part of the state commission's impairment analysis. *See* 47 C.F.R. §51.319(d)(2)(ii). Under these final rules, state commissions need only conduct a batch-cut analysis for an ILEC if a state commission is conducting an impairment analysis of unbundled mass-market switching provided by the ILEC.
- 12 Verizon and MCI assert that Verizon need not develop a batch-cut process because Verizon has not filed a petition with the Commission to initiate a

proceeding. The Triennial Review Order is silent concerning how state commission proceedings should be initiated. While the Commission is not precluded from initiating a Triennial Review Order proceeding on its own motion, the Commission chose to require parties to petition the Commission to initiate proceedings.

- 13 Sprint asserts that a review of its hot cut process is unnecessary, and MCI asserts that such a review is not presently necessary for Verizon. No party or interested party requests that the Commission initiate a mass-market switching proceeding involving Verizon or the other ILECs operating in Washington state.
- 14 Based upon the comments filed and the discussion above, the Commission declines to initiate further proceedings at this time to address development of a batch-cut process for ILECs other than Qwest.
- 15 **Closure of the Docket.** As there are no issues remaining for the Commission to resolve in this docket, Docket No. UT-033025 is now closed.

Dated at Olympia, Washington, and effective this 19th day of November, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge