

Agenda Date: October 22, 2003
Item Number: A1

Docket: UT-031191
Company: AT&T Communications of the Pacific Northwest, Inc.
Staff: Tom Wilson, Telecommunications Analyst

Recommendation:

Issue an order granting the petition of AT&T Communications of the Pacific Northwest, Inc., to remove conditions on competitive classification, and waiving securities, transfers of property and affiliated interests statutes and rules superseded by WAC 480-121-063 in Docket UT-031191.

Background:

On July 23, 2003, AT&T Communications of the Pacific Northwest, Inc., (AT&T) petitioned the Commission to remove conditions on the competitive classification of AT&T and to grant waivers of securities, transfers of property, and affiliated interests statutes and regulatory rules superseded by WAC 480-120-063. AT&T was classified as a competitive telecommunications company pursuant to RCW 80.36.320 in 1987.¹

At the time of classification, AT&T provided primarily long distance services.² In summarizing the U-86-113 Order the Commission concluded that AT&T's services were subject to effective competition but imposed four conditions to remain in effect until at least March 1, 1990. The four conditions have remained in place to date, and they are: (1) AT&T was required to continue charging geographically uniform rates; (2) AT&T was required to continue providing service in all areas of the state; (3) AT&T was restricted in its ability to change prices charged to customers using one hour of long distance service per month relative to the prices charged to customers using ten hours of long distance service per month; and (4) AT&T was restricted from placing prohibitions or surcharges for resale or shared use of any interexchange service or facility.³ Staff estimated AT&T's estimated share of the relevant market was approximately 75 percent in U-86-113.⁴ The Commission agreed with the Staff economist, Richard Cabe, that, market share was but one factor to be analyzed. U-86-113 was one of the first major competitive classification cases the Commission had received since RCW 80.36.320 was adopted in 1985, and divestiture of the Bell system and increased long distance competition was still in developmental stages. With these considerations in mind, the Commission said that the analysis should not be static, noting significant evidence of a decline in AT&T's market power. However, the Commission agreed with Richard Cabe that "vestiges" of market power remained

¹ *In re Petition of AT&T for Classification as a Competitive Telecommunications Company*. Docket No. U-86-113, Fourth Supp. Order, Commission Order Granting Petition With Conditions and Granting Waivers in Part (June 5, 1987) ("U-86-113 Order").

² *Id.* at 18.

³ *Id.* at 4.

⁴ *Id.* at 11.

at that time, especially in rural areas. For example, equal access was not yet implemented everywhere in Washington, potentially inhibiting competition by non-dominant carriers. The Commission was mindful that competition most often served the interest of consumers in metropolitan areas, thus, in order to protect the broader public interest, the Commission imposed the described conditions on AT&T's classification as a competitive telecommunications company.⁵

Discussion:

In the instant case, AT&T's petition provides evidence that AT&T no longer has any vestiges of market power, that it does not have a significant captive customer base and that there are reasonably available alternatives. Since 1987, AT&T's market share has declined, and equal access has long since been completed.⁶

Attached to the petition, the FCC's May 2002 report entitled "Trends in Telephone Service" shows at Table 10.1 that AT&T's share of total national toll service revenues including intrastate, interstate and international toll revenues, was just slightly greater than 60 percent in 1987, and that it had declined to about 34% in 2000. At the state level, the report shows AT&T's market share for toll was estimated to be 43.1 percent in 2000. Dr. Cabe notes that since 1987, Qwest has now been granted the authority to provide in-region long distance services, as have other local exchange companies.

The declaration of Richard Cabe, attached to the petition (Dr. Cabe is the Staff member who testified in U-86-113 who is now an independent economics consultant), provides evidence that equal access has now been implemented in what were once considered to be the most likely exchanges in Washington to ever convert to equal access last. Dr. Cabe testifies that he checked with Western Wahkiakum Telephone Company and Inland Telephone Company and found that there was a list of long distance carriers able to serve customers via equal access.⁷ The WUTC currently registers and competitively classifies new long distance companies as competitive telecommunications companies routinely without conditions such as those imposed upon AT&T.

It is Staff's conclusion that AT&T's evidence is persuasive and Staff concurs in AT&T's analysis of effective competition for its services today. Therefore Staff supports granting AT&T's petition. The reason for the conditions in the first place was that there was not yet enough competition in pockets of the state in 1987, and that the WUTC wanted to proceed cautiously, but that situation no longer exists. Today competition in the toll market in Washington is well established and it is appropriate to treat AT&T like any competitively classified telecommunications company. Therefore, because competition will serve the same interests as the conditions were intended to foster, and competition is now well established, the conditions should be removed, and waivers consistent with those granted to other competitively classified telecommunications companies should be permitted.

⁵ *Id.* at 19.

⁶ Declaration of Richard Cabe, Docket UT-031191, at 4-5.

⁷ Declaration of Richard Cabe, UT-031191, at footnote 2.

Conclusion

Grant the petition to remove conditions on competitive classification of AT&T Communications of the Pacific, Inc., in Docket UT-031191.