

Washington
DOCKET NO. UT-083041
Charter 01-026

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 026

Re: Weinstein Direct Testimony at pages 8-9: Does Qwest notify CLECs or any other customers that any miscellaneous charges apply or may apply prior to undertaking any work that results or may result in Qwest billing such charges (e.g., prior to investigating a network problem or undertaking repair activities)? If so, please explain the circumstances under which Qwest provides such notice and describe the notice that Qwest provides.

RESPONSE:

Yes Qwest does provide notice with a few exceptions. In regard to the circumstances under which Qwest provides such notice Qwest will attempt to have all services approved prior to starting any work related to a miscellaneous service. When Qwest performs Miscellaneous Services at Charter's specific request, Charter is informed of the charge. When, as a result of fulfilling a Charter Request made by Written Order/Trouble Ticket, Qwest discovers it may have to perform miscellaneous work as a result of this request, Qwest will provide notification and only act with approval of the CLEC, if possible, before performing. If the authorization from Charter is verbal, the Qwest technician will inform Charter of the charges before starting. Generally however, the tech will leave and require Charter to re-submit trouble ticket with authorization to include miscellaneous work. Before closeout of the ticket, the tech will again explain the charge to Charter and if possible, do so in writing.

However, there may be situations where Qwest has performed work at Charter's request and the Miscellaneous service occurs without separate notice such as the situations addressed in Sections 9.1.12 (h), (g) and (j) of the ICA. An example would be where a dispatch for repair of a Qwest issue results in isolation of trouble that is determined not to be the fault of Qwest. In such a circumstance, Qwest would assess a miscellaneous charge for the dispatch. Qwest would not have sought approval of the miscellaneous charge prior to the dispatch because it was informed that it was a Qwest issue.

Respondent: Robert Weinstein

Washington
DOCKET NO. UT-083041
Charter 01-029

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 029

Re: Weinstein Direct Testimony at page 15, lines 9-23: Please identify all of the "lawful purposes" to which Qwest may "access," use, or otherwise avail itself of Charter "End User Customer Listings" provided to Qwest. The terms used in this request shall have the same meaning as that given to the terms in Qwest's proposed Section 10.4.2.4.

RESPONSE:

It is not possible for Qwest to list all possible lawful purposes and Qwest does not attempt to do so here. Lawful purposes for which Qwest can utilize listings provided to it by Charter include but are not limited to Directory Assistance products including using the listings for directory assistance, directory assistance lists for DA providers, directory listings provided to directory publishers, directory listings provided to other third parties. Charter seems concerned over Qwest using these listings to market to Charter customers. Qwest does not currently use these listings for marketing purposes but as a DA provider Qwest could lawfully do so. However, Qwest's proposed language includes a provision preventing segregation of Charter customers for marketing - Charter has proposed deleting this provision.

Respondents: Robert Weinstein and Qwest Legal

Washington
DOCKET NO. UT-083041
Charter 01-030

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 030

Re: Weinstein Direct Testimony at page 15, lines 9-23: Please identify all of the ways in which Qwest may "access," use, or otherwise avail itself of Charter "End User Customer Listings" provided to Qwest. The terms used in this request shall have the same meaning as that given to the terms in Qwest's proposed Section 10.4.2.4.

RESPONSE:

Qwest's proposed language for section 10.4.2.4 makes up Weinstein Direct Testimony at page 15, lines 9-23. Qwest may "access," Charter "End User Customer Listings" through various IT systems access for maintaining, updating, verification and production of products. Qwest may use or otherwise avail itself of Charter "End User Customer Listings" in several ways including but not limited to production of listings for directory assistance, directory assistance lists for DA providers, directory listings provided to directory publishers and directory listings provided to other third parties. Qwest does not segregate Charter's listings from its own or other CLECs for marketing purpose. Qwest does not currently use these listings for marketing purposes but as a DA provider Qwest could do so. However, Qwest's proposed language includes a provision preventing segregation of Charter customers for marketing - Charter has proposed deleting this provision. Qwest's retail branch does not use these listings for marketing purposes and could only obtain directory assistance products in a non discriminatory manner like other providers without segregation by carrier.

Respondents: Robert Weinstein

Washington
DOCKET NO. UT-083041
Charter 01-031

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 031

Re: Weinstein Direct Testimony at page 15, lines 9-23: Please identify all of the ways in which Qwest may "access," use, or otherwise avail itself of Charter "End User Customer Listings" provided to Qwest for "marketing purposes." The terms used in this request shall have the same meaning as that given to the terms in Qwest's proposed Section 10.4.2.4.

RESPONSE:

Qwest does not "access," use, or otherwise avail itself of Charter "End User Customer Listings" provided to Qwest for "marketing purposes." Directory Assistance products are not segregated by carrier so Qwest could not "access," use, or otherwise avail itself of Charter "End User Customer Listings" provided to Qwest for "marketing purposes" other than along with all other listings. Qwest is not a directory publisher so it will not purchase the directory publishing product.

Respondents: Robert Weinstein and Qwest Legal

Washington
DOCKET NO. UT-083041
Charter 01-032

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 032

Re: Weinstein Direct Testimony at page 17, lines 1-3: Please describe all of the "lawful uses" of DA listing information, as referenced in this portion of Mr. Weinstein's Direct Testimony.

RESPONSE:

It is not possible for Qwest to describe all possible lawful uses and Qwest does not attempt to do so here. Lawful uses include but are not limited to providing lists for directory assistance products and services and marketing to published or listed customers. The FCC has ruled "In addition, as the Commission has previously noted, "[s]ection 251(b)(3) does not, by its terms, limit the use of directory assistance data solely to the provision of directory assistance." *In the Matters of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Order on Reconsideration and Notice, 14 FCC Rcd 15550.* The FCC ruled that providing carriers could not limit the lawful use of the information in its order "*Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended, CC Docket No. 99-273, First Report and Order, 16 FCC Rcd 2736.*"

Respondents: Robert Weinstein and Qwest Legal

Washington
DOCKET NO. UT-083041
Charter 01-033

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 033

Re: Weinstein Direct Testimony at page 18: Is it Qwest's position that Qwest using Charter's listings (other than non-published or nonlisted listings) for marketing purposes is a "lawful purpose"? Please identify any authority on which Qwest relies to support its position.

RESPONSE:

Assuming the Charter listings were included in marketing lists purchased from a third party, Qwest could use those listings for marketing purposes. In regard to listings provided to Qwest by Charter for directory assistance, Qwest could market to Charter listings included in the Directory Assistance List product which includes other CLECs and Qwest customers as well, without carrier identification. However, Qwest does not use the listings it obtains for its directory listing products and services for marketing purposes.

Qwest is allowed to purchase marketing lists from a variety of sources and Charter end user's information may be included within those lists. Also, Qwest is a DA provider and has the ability to purchase DA listings from other carriers that may include Charter listings and can use them for marketing in accordance with regulations. Qwest will provide the authorities it relies upon in briefing.

Respondent: Robert Weinstein

Washington
DOCKET NO. UT-083041
Charter 01-034

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 034

Re: Weinstein Direct Testimony at page 24: Is it Qwest's position that a Directory Assistance provider using Charter's listings (other than nonpublished or nonlisted listings) obtained from Qwest for marketing purposes is a "lawful" use? Please identify any authority on which Qwest relies to support its position.

RESPONSE:

Qwest objects to Data Request No. 34 on the grounds that it calls for a legal conclusion. Subject to and without waiving this objection, Qwest states the following:

As a general rule, yes. However, there are undoubtedly situations that provide exceptions. The FCC ruled that providing carriers could not limit the lawful use of the information in its order "Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended, CC Docket No. 99-273, First Report and Order, 16 FCC Rcd 2736." "We thus decline to limit the manner in which DA providers use the information beyond the limitation announced in the *Local Competition Second Report and Order*." Qwest reserves the right to cite to additional authorities of which it becomes aware in briefing.

Respondent: Robert Weinstein

Washington
DOCKET NO. UT-083041
Charter 01-035

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 035

Re: Weinstein Direct Testimony at page 25: Please state whether Qwest would need to negotiate/arbitrate an amendment to the interconnection agreement with Charter "if Qwest sought a rate change through a cost docket and the rate was approved," regardless of which party's position the Commission adopts in this proceeding. If not, please explain why not.

RESPONSE:

Agreed upon language in Section 2.2 states:

It is expressly understood that this Agreement will be corrected, or if requested by CLEC, amended as set forth in this Section 2.2, to reflect the outcome of generic proceedings by the Commission for pricing, service standards, or other matters covered by this Agreement. Rates in Exhibit A will be updated to reflect legally binding decisions of the Commission and newly changed rates shall be applied on a prospective basis from the effective date of the legally binding Commission decision, unless otherwise ordered by the Commission.

Thus, a negotiation/amendment would not necessarily be required to implement the results of a cost docket.

Respondent: Robert Weinstein

Washington
DOCKET NO. UT-083041
Charter 01-039

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 039

Re: Weinstein Direct Testimony at page 38, line 34 and page 39, line 16:
Please describe and explain the basis for Qwest's position that 5% is the
"proper" and "reasonable" percent of variance for triggering a party's
obligation to pay for an audit. Please provide all data, studies, or other
empirical evidence that supports your position.

RESPONSE:

The ultimate objective of this provision is for both parties to work for accurate bills to the other party. In the end it becomes a judgment of what is a reasonable expectation of accuracy. Establishing the 5% threshold encourages both parties to insure their billing is accurate. While Qwest has no empirical studies that support that a customer would consider a bill with only a 5% variance more preferable than a bill with a 10% variance, Qwest believes this is self evident. More to the point is the question of whether it is reasonable to expect this level of accuracy. And the reasonableness of this expectation is born out by the hundreds of contracts the have been executed by Qwest and CLECs wherein both sides have signed up for this standard. While some errors may be inevitable, a 5% threshold for determining who pays for the audit serves as a positive motivation for both Qwest and Charter to continue to monitor and insure accurate billing.

Respondent: Robert Weinstein

Washington
DOCKET NO. UT-083041
Charter 01-041

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 041

Re: Weinstein Direct Testimony at pages 37-40: Without naming the CLEC, please identify and describe each audit that Qwest has conducted or arranged to be conducted of a CLEC since January 1, 2002, including the following:

- a. The reason Qwest initiated the audit;
- b. Whether an independent auditor was used (and if so which party requested the use of an independent auditor);
- c. The billed amounts subject to the audit;
- d. The amount owing as a result of the audit;
- e. The cost of the audit; and
- f. The amount of the cost of the audit each party paid.

RESPONSE:

Qwest has not conducted an audit of a CLEC in Washington in the stated time frame.

Respondent: Robert Weinstein

Washington
DOCKET NO. UT-083041
Charter 01-042

INTERVENOR: CHARTER FIBERLINK WA-CCVII, LLC

REQUEST NO: 042

Re: Weinstein Direct Testimony at page 39, lines 4-6: Please describe Mr. Weinstein's review of other Qwest/CLEC interconnection agreements for a variance provision. A complete response will include a list of the specific interconnection agreements Mr. Weinstein reviewed and an indication of whether the ICA contained a 5% variance provision or a variance provision with some other threshold.

RESPONSE:

Mr. Weinstein performed an electronic search of Qwest's currently effective interconnection agreements for the term "audit" and either "10%" or "ten percent." This included Qwest interconnection agreements in Washington. No ICA with these terms was found.

Respondent: Robert Weinstein