

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re the Petition of

U S WEST COMMUNICATIONS, INC.

For Competitive Classification of Business
Services in Specified Wire Centers

DOCKET NO. UT-000883

PUBLIC COUNSEL REQUEST FOR
CLARIFICATION AND
RECONSIDERATION

Pursuant to WAC 480-09-810, Public Counsel respectfully requests clarification and reconsideration of the Commission's Seventh Supplemental Order in this docket, entered December 18, 2000 (hereinafter "Order"). The grounds for the request are set forth below.

I. Request for Clarification

In the order, the Commission states that "Qwest's petition for competitive classification is granted only for the wire centers of the four exchanges of Bellevue, Seattle, Spokane, and Vancouver, *and only for those business customers served on DS-1 or larger circuits.*" Order, ¶ 93, Ordering Paragraph 1 (emphasis supplied). As Public Counsel and TRACER noted in their brief, "[m]ultiple small customers may be aggregated on to a DS-1 or greater circuit, thereby blurring the distinction between large and small business customers that Dr. Blackmon appeared to be attempting to make"[.] Brief, ¶141.

Public Counsel requests that the Commission clarify whether all business services purchased by customers who are served over DS-1 circuits as a result of aggregation, are classified as competitive under the terms of the Seventh Supplemental Order.

II. Request for Reconsideration

Public Counsel requests that the Commission reconsider its decision to waive the requirements of RCW 80.36.179 (unreasonable preference) and RCW 80.36.180 (prohibition on discrimination). In the order, the Commission states that Public Counsel and TRACER did not offer argument in support for this request. In fact, the record reflects that Public Counsel and TRACER expressed serious concern for potential discriminatory conduct by Qwest, not only in

the brief, but also through testimony. For example, the Public Counsel/TRACER brief points out:

Qwest has the technical capacity (and desires through this Petition the legal authority) to price discriminate against customers on an individual basis or with geographic granularity....It would be relatively simple for Qwest to begin price discriminating against its business customers based on their "value" to Qwest, such that the "Gold +" customer would receive the competitive price decrease while the "Bronze customers receive price increases. Ex. 29C. Public Counsel/TRACER Brief, ¶14. See also ¶15.

Likewise, Dr. Goodfriend observed in her rebuttal testimony that "[c]ompetitive classification provides Qwest an enhanced opportunity to raise (or lower) the price and change the terms and conditions Qwest offers to fit the circumstances of the competition facing *each* distinct customer. Ex. 168T, p. 33, ll. 3-4 (emphasis in original).

Without the statutory protections afforded by RCW 80.36.170 and 180, those customers who are less desirable to Qwest and who have few or no alternatives can be isolated and subjected to unreasonable discriminatory treatment. The level of competition in the market, which Public Counsel questions in any event, is certainly inadequate to protect customers from undue discrimination so as serve the same purpose as the statutory protections as required by RCW 80.36.330(8).

DATED this _____ day of December, 2000.

CHRISTINE O. GREGOIRE
Attorney General

ROBERT W. CROMWELL, JR.
Assistant Attorney General
Public Counsel