

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of;)
)
The Continued Costing and Pricing of)
Unbundled Network Elements, Transport and)
Termination, and Resale for Qwest)
Corporation)
_____)

Docket No. UT-003013

Part A

Rebuttal Testimony

of

Mark S. Reynolds

on behalf of

Qwest Corporation

August 4 , 2000

1 **Q. PLEASE STATE YOUR NAME, POSITION, EMPLOYER, AND BUSINESS**
2 **ADDRESS.**

3 A. My name is Mark S. Reynolds. I am employed by Qwest Corporation (“Qwest”) (f/k/a
4 U S WEST Communications Inc.) as Director - Regulatory Affairs. My business address is
5 Room 3206, 1600 - 7th Avenue, Seattle, WA 98191.

6 **Q. PLEASE REVIEW YOUR EDUCATION, WORK EXPERIENCE AND PRESENT**
7 **RESPONSIBILITIES.**

8 A. I have a Bachelor of Arts, in English, from Oregon State University (1977), and a Masters
9 of Business Administration (1979) from the University of Montana. I joined Pacific
10 Northwest Bell (“PNB”) in 1981 as a business sales account manager. I moved to product
11 management where I was responsible for a wide range of product, pricing, and costing
12 support for PNB products and services. I assisted in PNB’s post-Divestiture state
13 regulatory pricing dockets involving local telephone service, long distance and
14 switched/special access services.

15 I have held various director positions in costs, economic analyses, pricing, planning
16 and interconnection for U S WEST Communications in the marketing and regulatory areas.
17 I was responsible for ensuring economic pricing relationships between and among
18 U S WEST’s product lines, including telephone exchange service, long distance, and
19 switched/special access services. I represented U S WEST, both as a professional pricing
20 policy witness, and as the lead company representative, in a number of state regulatory and

1 industry pricing and service unbundling workshops. I managed a staff of over 100
2 employees responsible for the economic analyses and cost studies that supported
3 U S WEST's tariffed product and service prices and costs before state and federal
4 regulators.

5 In the recent past, I managed U S WEST's interconnection pricing and product
6 strategy and the interconnection negotiations teams that were in pursuit of interconnection
7 and resale contracts with new local service providers. Also, I managed U S WEST's cost
8 advocacy and witness group which was responsible for providing economic cost
9 representation in telecommunications forums, workshops and regulatory proceedings.

10 I am currently the Washington Regulatory Affairs Director for Qwest responsible
11 for managing all wholesale oriented regulatory matters in the state.

12 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THE GENERIC DOCKET?**

13 A. Yes. I filed both direct and responsive testimony in both the cost and price phases of the
14 previous Generic Docket (UT-960369 et al.)

15 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

16 A. I respond to the Direct Testimony of Commission Staff witness Thomas Spinks regarding
17 his reference to Qwest's rate of return and earnings level as a criteria for evaluating the
18 recovery of OSS costs.

19 **Q. HOW DOES MR. SPINKS IMPLICATE QWEST'S RATE-OF-RETURN AND**
20 **EARNINGS LEVEL WITH QWEST'S PROPOSAL FOR OSS COST RECOVERY?**

1 A. On page 7 of his testimony, Mr. Spinks references the testimony of Qwest witness Theresa
2 Million that specifically addresses whether Qwest’s OSS costs have already been recovered
3 in retail rates.¹ In her testimony, Ms. Million is responding to the Commission’s 17th
4 Supplemental Order² requirement that;

5 “Both ILECs [Qwest and Verizon] also must address and be able to defend their
6 determination of the degree to which these costs have already been recovered
7 through their retail rates. To the extent these costs have been recovered through
8 retail rates, the parties should address whether the the revenue should be rebated to
9 retail customers.”
10

11 Ms. Million’s response to this Commission inquiry is contained on pages 13 and 14
12 of her Direct Testimony. Generally, Ms. Million points out that retail rates in Washington
13 are based on a 1997 rate case that included costs incurred before the period for which
14 Qwest is seeking recovery of OSS development and enhancement costs. In other words, in
15 direct response to the Commission inquiry, Ms. Million testifies that Qwest’s current retail
16 rates were not set based on cost or revenue requirement analyses that included any of the
17 OSS costs that Qwest is seeking recovery for in this docket.

18 Mr. Spinks, in turn, uses Ms. Million’s reference to 1997 rate case as a basis for his
19 testimony in which he tries to establish that based on his analysis of Qwest’s current
20 earnings level, Qwest is earning more than its authorized rate-of-return and, thus, must

¹ Mr. Spinks specifically references page 13, line 8, of Ms. Million’s Direct Testimony.
² See 17th Supplemental Order at ¶ 110.

1 already be recovering the OSS costs for which it seeks recovery in its retail rates.

2

3 **IS MR. SPINKS’ ANALYSIS APPROPRIATE FOR EVALUATION OF QWEST’S OSS**
4 **COST RECOVERY PROPOSAL?**

5 No. As Ms. Million clearly points out in her testimony in the section referenced by Mr. Spinks;

6

7 “As I have already discussed, OSS is a UNE. The Telecom Act and the FCC have
8 directed the states to determine reasonable compensation for the provision of all
9 UNEs. This compensation is independent from the determination of recovery of
10 costs for retail service, especially when the form of regulation is rate-of-return, as is
11 currently the case in Washington. In fact, the Act and the FCC have been quite
12 specific in stating that UNE rates are not to be determined in rate-of return
13 proceedings³.⁴
14

15 **WHAT EXACTLY DOES THE TELECOMMUNICATIONS ACT OF 1996 STATE WITH**
16 **RESPECT TO THE USE OF RATE-OF-RETURN ANALYSES IN THE**
17 **DETERMINATION OF INTERCONNECTION AND NETWORK ELEMENT**
18 **CHARGES?**

19 Section 252(d)(1)(A)(i) of the Telecommunications Act of 1996 states;

20

21 “(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES.
22 Determinations by a State commission of the just and reasonable rate for the
23 interconnection of facilities and equipment for purposes of subsections (c)(2) of
24 section 251, and the just and reasonable rate for network elements for purposes of

1 ³ First Report and Order at ¶ 704.

1 ⁴ Million Direct Testimony, pages 13-14.

1 subsections (c)(3) of such section –
2 shall be –
3 (i) based on the cost (**determined without reference to a rate-of-return or**
4 **other rate based proceeding**) of provisioning the interconnection or network
5 element (whichever is applicable), . . .” (emphasis added)
6

7 **WHAT IS YOUR RECOMMENDATION TO THE COMMISSION REGARDING MR.**
8 **SPINKS’ TESTIMONY REGARDING QWEST’S RATE-OF-RETURN AND HIS**
9 **CONCLUSION ABOUT THE RECOVERY OF OSS COSTS FROM RETAIL**
10 **RATES?**

11 The Commission should reject Mr. Spinks’ analysis as being directly counter to the clear meaning
12 of the Act. Furthermore, the Commission should realize that Qwest’s reference to the
13 retail rates set in the 1997 rate case was to be directly responsive to the Commission’s
14 question in the 17th Supplemental Order and was inappropriately used by Mr. Spinks to
15 launch into his analyses.

16 **NOTWITHSTANDING THE INAPPROPRIATENESS OF USING RATE-OF-RETURN IN**
17 **THE DETERMINATION OF UNE PRICES, DID QWEST REVIEW MR. SPINKS’**
18 **ANALYSIS OF QWEST’S EARNINGS?**

19 Yes. The testimony of Mr. Carl Inouye addresses Mr. Spinks’s rate-of-return analysis and finds
20 that the financial data, and the process for evaluating such data, do not support Mr. Spinks’
21 conclusions. Consequently, if the Commission does not reject Mr. Spinks’ analysis
22 because it is clearly counter to the directives of the Act, it should reject it because it does

1 not accurately represent Qwest's financials.

2 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

3 A. Yes, it does.