



Bigdam.net

(Internet Access | Web Hosting | Wireless | Fiber Optics)

POB 571 ≡ 531 Grand Coulee Ave East ≡ Grand Coulee WA 99133 ≡ 509-633-0493

November 11, 2005

Washington Utilities and Transportation Commission
 Attention: Telecommunications
 P.O. Box 47250
 Olympia, WA 98504-7250
 1300 Evergreen Park Dr. SW

WASH. UT. & TP COMM
 NOV 14 2005
 RECEIVED

RECEIVED
 RECORDS MANAGEMENT
 05 NOV 14 AM 8:43
 STATE OF WASH.
 UTIL. AND TRANSP.
 COMMISSION

Dear Commissioners and Staff Members;

Under the terms of RCW 54.16.340 and RCW 80.04.110, I, Alan Cain, as owner of Terra Byte Systems and bigdam.net, an Internet Service Provider (ISP), and having, on or before October 1, 2005, duly notified the Grant County Public Utility District Number 2 of Ephrata, Washington of my intention to file a petition with the Washington State Utilities and Transportation Commission for a review of its rates pertaining to telecommunications, do hereby file on behalf of bigdam.net and the class of business or commercial users of the Zipp™ fiber network, this petition to the Washington State Utilities and Transportation Commission to review rates, terms and conditions of wholesale telecommunications service applied to bigdam.net, business users on the Zipp™ network, and other ISPs by the Grant County Public Utility District Number 2 (the "District").

The District is authorized under the terms of RCW 54.16.330 to provide wholesale telecommunications service provided that it ensures: "that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services."

I believe that the rate schedule 100 used for the purposes of charging ISPs for services and bandwidth is discriminatory in creating the two classes of service "residential" and "commercial".

In the billing system of the Zipp network as charged to ISPs there are two categories of services provided to subscribers for Internet:

Residential Internet Service Per Subscriber, at \$22.50 per month, and
 Commercial Internet Service Per Subscriber, at \$30.00 per month.

Fiber customers are divided in the billing system at GCPUD as businesses or as residential, and also are identified by yellow pages listings, and by identification as a business by the ISPs. The services rendered by the GCPUG to the two groups – residential, and commercial - are identical.

The pricing is not.

There is no substantive difference between commercial and residential users. They do not in practice receive any appreciable benefit as a member of that class except to pay more money.

I sat in meetings with the PUD, in conjunction with the other ISPs, where we discussed pricing strategies, and agreed that business customers could be charged more, if they received compensatory benefit. I was assured that indeed there would be benefits to the class.

Discussed in those meetings were priority repair services, advance notice for network maintenance, special monitoring for down status, and other benefits.

One justification made was that there would be "special notice" given to allow ISPs to provide enhanced services to business customers. There are no "special notifications" informing us of any potential impacts to businesses, except regular maintenance announcements that affect the network as a whole.

However, and often, maintenance occurs at a different time than initially stated, which certainly negates the ameliorative effects of prior notice. I understand the necessity for changes in times of actions, but the point of this comment is to illustrate the lack of business sensitive communication that would allow for business interruption planning, and justify higher rates.

That would be an example of a benefit to the class of users, offering the business customer an enhanced value for the charge.

The network has not had the capacity to separate out and monitor classes of users such as business owners for special monitoring, which would be one justification. One staff member suggested they might monitor the hubs (neighborhood scale routers) which had businesses more actively, but that would have been before the current network operations center was downsized, and given that most of the hubs have businesses in them, the effectiveness of that strategy is rather questionable.

The notion that one group should be charged more than another for no reason that is measurable is hard to justify to my clients, and I feel it is discriminatory.

Commissioner Allred said in a public commission meeting that it was sufficient reason to charge businesses more "because they could afford it".

The District is authorized under the terms of RCW 54.16.330 to provide wholesale telecommunications service provided that it ensures that: "that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services."

By charging substantially more to the group of users identified as business users for telecommunications purposes, as opposed to power purposes, simply on the basis of having "businesses" with no benefit accrued to that class is discriminatory and preferential. The inference that a business has more money to pay for what is essentially the same service is disturbing in its intrinsic unfairness.

The telephone industry, for example, gives different services to users of different classifications; for example, business users have special listings in directories, and have billing specialists and separate assistance programs, amongst other tangible benefits.

That differentiation is one of many ways by how "traditional" telephone companies justify different rate structures for different classes of customers. DSL customers can buy different bandwidths of service, with different Quality of Service (QoS) agreements, and with service level agreements (SLA). The difference in rates reflects concrete benefits, added by increased levels of service, and kinds of service.

The PUD has repeatedly refused to enter into any QoS or SLA agreements with any of the ISPs with whom I am familiar, and yet they have stated in public meetings "there are unwritten "understandings" about service level agreements". (Director Dawn Woodward, in a meeting in June, 2005)

The GCPUD's official policies for customer service are "best effort", which does little to differentiate a commercial class from a residential class. That there are unwritten service agreements that "any ISP could have by asking" (If you know to ask) seems hostile to the excluded ISPs by limiting any real kinds of commercial services that can be offered, which are time or data type sensitive.

The recent report that the network is set to strip Voice over Internet Protocol headers off the packets to de-prioritize them would certainly interfere in offering VoIP services to businesses – another example of the kind of benefit that would create valid differences in classes of users.

A best effort network by implication does not allow the differentiation of multiple classes of customers based on a non-differentiated network offering, and the offering made at the gateways to a residential customer is the same as that offered to the commercial customer.

Keep in mind, too, that the end user – the business – is actually the ISP customer, and as such, the PUD has no business in defining classes anyway, because they are not the provider. The ISPs are the providers.

The PUD is specifically enjoined from being the provider to the end user; the ability to set categories as to what specific and undistinguishable category end users belong to is thus not their purview. The categorization of Zipp™ gateway customers into different classes is an ISP to customer issue.

I ask that you examine the policies of the Grant County Public Utilities in this matter.

Thank you very much.

Alan Cain,
Owner

Terra Byte Systems and bigdam.net

531 Grand Coulee Avenue East
Post Office Box 571
Grand Coulee WA 99133

Attached:

- Rate Schedule 100
- Notice of Intent
- Response of GCPUD

Subject: wutc comp
From: Alan Cain <admin@bigdam.net>
Date: Sat, 24 Sep 2005 15:21:37 -0700
To: admin@bigdam.net

Alan Cain

Terra Byte Systems / bigdam.net

POB 571

Grand Coulee WA 99133

Grant County PUD Board of Commissioners,

and Tim Culbertson, General manager

Ephrata WA

9-22-05

Dear Commissioners,

In spite of my deeply felt reluctance, I have decided that I will be filing a request with the Washington Utilities and Transportation Commission to examine some of the pricing practices of the Zipp (tm) Network.

While the Zipp network needs revenue to survive, and needs our support as well (which our participation really represents), we as consumers and as providers of broadband Internet services have an obligation not to discriminate against classes of users without clear reasons for those discriminations.

As I have mentioned in Commission meetings, I believe that no basis in fact has been demonstrated for requiring businesses, of whatever size, to be priced in a different manner to residential customers as there are, according to staff, no services provided to those business customers which are different than to the other class, and there is no benefit accrued to the business in exchange for the greater fee charged to the ISPs by the Zipp network.

I was present in initial meetings discussing the rate structure where there was to be a benefit given to such users. The additional services would provide justification for the added tariffs on the rate schedule. Specifically to be provided were the benefits of priority attention in outages, repairs and notices. Perhaps the implementation of such benefits is not technically, or organizationally, easily possible to do in this network; regardless, those benefits have not accrued.

I have since attended meetings where employees have said, "You agreed to these higher rates," but have forgotten the other part of the agreement, where business class customers would gain some tangible superior benefit from the Zipp (tm) network in exchange for paying higher fees.

If the difference in income from the businesses is critical to the success of the network, then the businesses should benefit accordingly, or costs should be spread equitably across all classes of users.

Please let this be your notice of my intent to engage the WUTC on this topic.

Thank you,

Alan Cain



Grant County
PUBLIC UTILITY DISTRICT
Innovation & Excellence...Yesterday, Today and Tomorrow

October 24, 2005

Alan Cain
Terra Byte Systems
P.O. Box 571
Grand Coulee, WA 99133

RE: Terra Byte Systems Notice Intent to File Complaint with UTC

Dear Mr. Cain:

This letter responds to your letter of September 22, 2005, to the Commission and Manager of Public Utility District No. 2 of Grant County. You expressed that you believed that there was no basis for the higher rate charged for business users than residential users under the District's rate schedule.

Different classes of service are common throughout the industry and do not represent discrimination. District customers (the Internet Service Providers) are charged equally based upon the applicable user class. This is not discriminatory.

The District is not required by statute to charge for business users and residential users at the same rate. In fact, the rate difference reflects the pricing policies of the competitive alternatives. For example, most telephone companies charge more for business Digital Subscriber Line (DSL) than residential DSL, and the cable companies charge more for business internet access than they charge residential customers. In both cases, the fundamental service is nearly identical. This is an example of billing "what the market will bear" and is not discriminatory – it is basic economics.

You also state that the District originally indicated business users would receive some tangible benefit. Although the District does not need to justify its higher business rate through such services, the District does provide business users additional consideration and notice for planned outages and priority service handling when multiple service problems are reported.

The District has had an independent consultant review this matter and he has concluded that the District has not acted in a discriminatory or preferential manner. The District is willing to make its consultant available to discuss this matter with you if you wish.

Sincerely,

For
Tim Culbertson
General Manager

Public Utility District No. 2 of Grant County, Washington

P. O. Box 878 • Ephrata, Washington 98823 • 509.754.0500 • www.gcpud.org

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON

**RATE SCHEDULE 100
FIBER OPTIC NETWORK SERVICE**

AVAILABLE: To service providers desiring to use the District's Zipp® fiber optic network. District reserves the right at its sole option to discontinue services listed in this rate schedule at any time.

EFFECTIVE: These rates will be effective January 1, 2005 and shall remain in effect until superseded by the adoption of a Commission resolution revising the same.

BILLING RATES: Use of the Zipp® Network shall be billed in accordance with the charges listed below.

Service:	Non-Recurring Charge	Monthly Charge
<u>Standard Services:</u>		
Residential Internet Service Per Subscriber*	-	\$22.50
Commercial Internet Service Per Subscriber*	-	\$30.00
Video Service Per Subscriber	-	\$5.00
Phone Service (Per POTS port)	-	\$5.00
*Upstream not included		
<u>Connections For Apartments and Hotels:</u>		
LE-22 or equivalent equipment	-	\$3.00 per port, minimum of \$25.00 per building
LE-211 or equivalent equipment	-	\$2.50 per port, minimum of \$28.00 per LE-211
<u>Special VLANs:</u>		
Set Up Fee Per Port	\$50.00	-
Monthly Fee (10 Mbps) Per Port	-	\$30.00
Monthly Fee (100 Mbps) Per Port	-	\$200.00
Monthly Fee (1,000 Mbps) Per Port	-	\$1,200.00

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON

RATE SCHEDULE 100
FIBER OPTIC NETWORK SERVICE
CONTINUED

Service:	Non-Recurring Charge	Monthly Charge
<u>Set Up of New Service Provider</u>	\$500.00	-
<u>Collocation of Customer Equipment in District Facilities</u> (When space and appropriate facilities are available. Prices are for single 19" rack):		
Without UPS or Backup Generation	-	\$200.00
With UPS and Backup Generation	-	\$300.00
<u>Dark Fiber - per strand per mile</u> - (Limited to fiber availability. Capacity planning will reserve fiber for future District use that will not be available for Dark Fiber use.)	-	\$30.00
<u>Special Fiber Construction</u> to any location other than to the electric meter inside a released hub area or all construction required to provide service outside of a released hub area	Prepayment of 100% of estimated District cost	-
<u>Upstream Internet Service</u> (if a service provider desires to purchase upstream Internet transport from the District the following options are available):		
1. <u>Fixed - charge per 1Mbps</u> - (Under this option, the service provider chooses the amount of upstream bandwidth that they wish to purchase to serve their customers and the District will lock down the service provider's port so that no more than the chosen bandwidth will be available.)	-	\$250.00
2. <u>Metered - charge per 1 Mbps of average metered use</u> - (Under this option, the service provider's port will NOT be locked down or capped and the service provider's customers can burst to the total amount of bandwidth available to the PUD. These charges are based on the monthly average megabits per second use and are calculated as follows. (1) District equipment will take readings every five minutes of the bits traveling outward and inward over the customer's connections to the District's equipment, (2) The inward readings shall be averaged to calculate an inward monthly Mbps average, (3) The outward readings shall be averaged to calculate an outward monthly Mbps average, and, (4) The higher of the inward or outward monthly averages will be used for billing.)	-	<7 Mbps avg - \$350.00 7.1-10.0 Mbps avg - \$290.00 10.1-25.0 Mbps avg - \$280.00 25.1-50.0 Mbps avg - \$260.00 50.1-100.0 Mbps avg - \$250.00

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON

**RATE SCHEDULE 100
FIBER OPTIC NETWORK SERVICE
CONTINUED**

Service:	Non-Recurring Charge	Monthly Charge
<u>Each STS-1 SONET Pt-Pt Data Path</u> (sold in increments of STS-1, but provisioned using T-1, OC-3, OC-12, OC-48, & OC-192 line rates. Non-Recurring Charges for equipment may apply. The District will determine the demarcation point)	Prepayment of 100% of estimated District cost	\$400.00
<u>Use of District-Owned Video Head End</u> - per video subscriber		\$3.00
<u>Use of Video Encoder for Public Access Programming</u>		\$55.00 per month or \$10.00 per day
<u>Set Top Box Lease</u> - per box		\$5.00
<u>Use of Myrio Middleware</u> - per video subscriber		\$2.00
<u>Use of shared TV Data Contract on Myrio Middleware</u> - per video subscriber		\$0.50

SERVICE: Service under this Schedule is subject to the terms and conditions in the District's Telecommunications Policies, as the same may be amended from time to time.

TAX ADJUSTMENT: The amount of any tax levied by any governmental entity, in accordance with the Laws of the State of Washington, will be added to the above charges.

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON

RATE SCHEDULE 100
FIBER OPTIC NETWORK SERVICE
CONTINUED

Minimum Bill:

After a six month initial startup period, service providers will be charged a minimum monthly bill according to the following timeline. Existing providers will go through the same steps starting August 1, 2004.

1-6 Months	No Minimum
7-18 Months	\$500.00 Minimum
18+	\$1,000.00 Minimum

Late Payment Charges:

Bills that remain unpaid 25 days after the billing date shall be assessed a late payment charge on the unpaid balance. The late payment charge shall be applied on the 26th day after billing and will be calculated using the US Prime Lending Rate as determined by the Federal Reserve and published in the Wall Street Journal as of the preceding March 15, divided by four (4), rounded to two digits and applied as a monthly percentage interest rate to the accrued outstanding balance. The applicable monthly percentage rate will be adjusted each March 15th based on this same formula. If March 15 falls on a non-business day, the District will use the prime rate published in the Wall Street Journal on the next business day. In no event however shall the minimum monthly late payment charge amount be less than \$50.00. Late payment charges shall continue to accrue until such time as the bill and all accumulated charges have been paid in full.