

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of the Investigation into)	
)	DOCKET NO. UT-003022
U S WEST COMMUNICATIONS, INC's ¹)	
)	
Compliance with Section 271 of the)	DOCKET NO. UT-003040
Telecommunications Act of 1996)	
.....)	
In the Matter of)	
)	36 TH SUPPLEMENTAL
U S WEST COMMUNICATIONS, INC's)	ORDER MODIFYING
)	INTERPRETIVE AND
Statement of Generally Available Terms)	POLICY STATEMENT
Pursuant to Section 252(f) of the)	AND ORDERS IN
Telecommunications Act of 1996)	DOCKET NO. UT-970300
.....)	

I. SYNOPSIS

1 *In this Order, the Commission modifies its October 29, 1997, Interpretive and Policy Statement and March 15, 2000, Order Adopting Supplemental Policy Statement, to remove the requirement that Qwest file with the Commission its application for in-region interLATA service in Washington 90 days in advance of filing the application with the FCC.*

II. MEMORANDUM

Procedural Background

2 On October 29, 1997, the Commission issued an *Interpretive and Policy Statement on Process for RBOC Application Under Section 271 of the 1996 Telecommunications Act (Interpretive and Policy Statement)* in Docket No. UT-970300. In the *Interpretive and Policy Statement*, the Commission stated that “USWC [U S WEST, now Qwest Corporation (Qwest)] is directed to notify the Commission at least 90 days in advance of its intention to file a Section 271 application with the FCC to provide in-region interLATA service in Washington.” *Interpretive and Policy Statement at 4*. The *Interpretive and Policy Statement* also identified the evidence Qwest was required to file with the Commission.

¹ After this proceeding began, U S WEST merged and has become known as Qwest Corporation. For consistency and ease of reference we will use the new name Qwest in this Order.

3 Following collaborative discussions among representatives of Qwest, competitive local exchange carriers (CLECs), industry groups, Commission Staff, and Public Counsel, the Commission approved on March 15, 2000, a proposal incorporating workshops into a procedural schedule and establishing revised evidentiary requirements. *Order Adopting Supplemental Interpretive and Policy Statement on Process and Evidentiary Requirements, Docket UT-97300, at 1 (Order Adopting Supplemental Policy Statement)*. However, the Commission retained the final “90-day” adjudicative process in the schedule, stating:

This final stage will enable a review of the actual information and actual documents that U S WEST files with the FCC and will ensure that the application is consistent with the parties’ agreements and commitments made during the workshop process. The concluding adjudicative process will also permit the resolution of any items that have not been resolved to that point. The concluding process will only be as long or as involved as needed. . . . U S WEST must file its “final” Section 271 Application to the FCC in Washington State at least 90 days before U S WEST plans to file it with the FCC, unless the Commission sets a shorter time based on the extent of remaining issues and the Commission’s perceptions of remaining evidentiary and process needs.

Id., ¶41.

4 In October 2001, during the workshop process, AT&T requested clarification of whether the Commission intended to require Qwest to file its application with the Commission 90 days prior to filing with the application with the FCC as ordered in the *Order Adopting Supplemental Policy Statement*. In the *Nineteenth Supplemental Order Modifying Prehearing Conference Order*, the Administrative Law Judge stated that “the Commission continues to require that Qwest file its complete application with the Commission ninety days before filing its application with the FCC.” *Nineteenth Supplemental Order*, ¶9. However, the order also stated that “the Commission may establish a shorter time based on the extent of the remaining issues and remaining evidentiary and process needs.” *Id.*

5 During a prehearing conference held in this proceeding on June 4, 2002, Qwest requested an opportunity to present argument to the Commission that the Commission waive the 90-day filing requirement.

The Parties’ Positions

6 During argument on the issue scheduled for June 6, 2002, Qwest asserted that the basis for the 90-day filing requirement is no longer applicable. Qwest also asserted that the FCC will request current data on performance to be filed with the application. If Qwest were to file its application 90 days prior to filing with the FCC, that

performance data will no longer be current, and Qwest would be asked to file a different, more current set of data with the FCC. Qwest also asserted that it intends to file an application for in-region interLATA authority for the state of Washington in the second week of July. A 90-day filing requirement would make it impossible for the company to file an application in July.

7 AT&T stated that it does not have a strong position on the issue of the 90-day requirement, and asserts that the issue is more appropriately whether the Commission believes it needs such a period for review. AT&T asserted that it believes the workshop and hearing process has ended too early and that there are still items to be resolved in the areas of performance data, change management, and operations support system (OSS) testing. AT&T asserted that those issues might be resolved during a 90-day review period.

8 WorldCom and Covad concurred in AT&T's remarks, stating only that the time could be used for additional testing and retesting of certain unresolved OSS tests.

Discussion and Decision

9 The Commission opened this proceeding over two years ago after entering the *Order Adopting Supplemental Policy Statement*. The Commission has held numerous workshops, admitted over 1800 exhibits, heard oral argument after each workshop, and held several hearings over the course of the proceeding. The Commission held the last of its scheduled hearings on June 5-7, 2002, and will soon issue its final order in this proceeding.

10 The *Interpretive and Policy Statement* established the 90-day filing requirement out of concern that Qwest, then U S WEST, might file its application with the FCC, allowing the state only 20 days, as set forth in section 271(d)(2)(B) of the Act, to review the filing. *Interpretive and Policy Statement at 3*. The *Interpretive and Policy Statement* also references a list of "best practices" published by the National Association of Regulatory Utility Commissioners (NARUC) for RBOC applications under section 271, which recommends that RBOCs provides state commissions advance notice of plans to file an application, and provide information to the state commission relative to its FCC filing at least 90 days in advance of its filing with the FCC. *Id. at 2-3*.

11 The Commission retained the 90-day filing requirement in the *Order Adopting Supplemental Policy Statement*, in part out of concern that the application be consistent with the parties' agreements and commitments made during the workshop process. *Order Adopting Supplemental Policy Statement, ¶41*.

12 The state review process has thus far exceeded a 90-day process and has involved extensive review of Qwest's compliance with the requirements of section

271(c)(2)(B), Qwest's Statement of Generally Available Terms and Conditions, or SGAT, Qwest's interconnection agreements with CLECs, Qwest's compliance with section 272, Qwest's performance under agreed to performance standards, Qwest's proposed Performance Assurance Plan, or QPAP, third-party testing of Qwest's Operations Support Systems (OSS), and evidence concerning whether Qwest's application under section 271 would be in the public interest.

- 13 The parties did not present a compelling reason for retaining the 90-day filing requirement. Given the extensive proceedings in our state, we find that there is no longer a compelling reason to retain the 90-day filing requirement.

III. ORDER

- 14 IT IS ORDERED that the Commission's October 29, 1997, *Interpretive and Policy Statement* and March 15, 2000, *Order Adopting Supplemental Policy Statement* in Docket No. UT-970300 are modified to remove the requirement that Qwest file its application for in-region interLATA service in Washington with the Commission 90 days in advance of filing the application with the FCC.

DATED at Olympia, Washington and effective this _____ day of June, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner