

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	DOCKET NO. UT-030614
)	
	)	ORDER NO. 01
QWEST CORPORATION)	
)	
	)	ORDER SUSPENDING
For Competitive Classification of	)	EFFECTIVE DATE OF
Basic Business Exchange	)	COMPETITIVE CLASSIFICATION;
Telecommunications Services.	)	SETTING PETITION FOR
	)	HEARING;
	)	NOTICE OF PREHEARING
	)	CONFERENCE
.....)	)	(June 6, 2003)

I. BACKGROUND

1 On May 1, 2003, Qwest Corporation (Qwest), filed with the Commission a Request for Competitive Classification of basic business exchange telecommunications services. Qwest contends that these business services, which include Basic Business Local Exchange Service, Centrex Services, Private Branch Exchange Trunks, and Basic Business Features, are offered by other competing providers and that Qwest no longer has a captive customer base. The stated effective date is May 31, 2003. The petition came before the Commission at its regularly scheduled open public meeting on May 28, 2003. By order of the Commission, the effective date has been suspended and the petition set for hearing.

II. MEMORANDUM

2 Pursuant to RCW 80.36.310, a telecommunications company may petition to have services classified as competitive telecommunications services under RCW 80.36.330. The company must state an effective date for the classification and provide notice and publication of the proposed classification. The proposed

classification will take effect on the date stated unless the Commission suspends the date and sets the matter for hearing under chapter 34.05 RCW.

3 Pursuant to RCW 80.36.330, the Commission is authorized to "classify a telecommunications service provided by a telecommunications company as a competitive telecommunications service" if it finds that the service is "subject to effective competition." The statute defines "effective competition" to mean that "customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base."

4 In determining whether a particular service is a competitive service, the Commission shall consider, among other factors, the following:

- (1) the number and size of alternative providers of services;
- (2) the extent to which services are available from alternative providers in the relevant market;
- (3) the ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (4) other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

RCW 80.36.330(1).

5 In its petition Qwest identifies 34 companies offering local exchange service to business customers in Washington. The petition includes various confidential exhibits providing information on the number of wholesale exchange access lines purchased by specific competitors in each wire center with the identities of the competitors masked.

6 Qwest has notified its business customers of its petition. To date, the Commission has received four comments from customers regarding the issues raised by Qwest's petition. Letters in opposition to the filing have been

received from the U.S. Department of Defense and the Federal Executive Agencies, Public Counsel, Allegiance Telecom of Washington, Inc., AT&T Communications of the Pacific Northwest, Inc., Eschelon Telecom, Inc., Focal Communications Corporation of Washington, Integra Telecom of Washington, Inc., Pac-West Telecom, Inc., Time Warner Telecom of Washington, LLC, WorldCom, Inc., and XO Washington, Inc. and WEBTEC.

- 7 Because the competitive classification of basic business exchange services might injuriously affect the rights and interests of the public and because Qwest has not demonstrated that the services are subject to effective competition or that the Commission should classify the services as competitive, the Commission suspends the effective date of the competitive classification and sets the matter for hearing and investigation.

III. FINDINGS AND CONCLUSIONS

- 8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities and transfers of public service companies, including telecommunications companies. RCW 80.01.040; Chapter 80.04; and Chapter 80.36 RCW.
- 9 (2) Qwest is a telecommunications company and is a public service company subject to the jurisdiction of the Commission.
- 10 (3) This matter was brought before the Commission at its regularly scheduled meeting on May 28, 2003.
- 11 (4) The petition for competitive classification filed by Qwest on May 1, 2003 might result in the provision of service by Qwest that might injuriously affect the rights and interest of the public.
- 12 (5) Qwest has not yet demonstrated that the services are subject to effective competition or that the Commission should grant the petition for classification of the services as competitive.

- 13 (6) In order to carry out the duties imposed upon the Commission by law, and as authorized in RCW 80.36.330, the Commission believes it is necessary to conduct an investigation pertaining to matters placed at issue in the petition, as authorized in RCW 80.36.310.
- 14 (7) As required by RCW 80.04.130(2), Qwest bears the burden of proof to show that the proposed competitive classification is fair, just and reasonable.
- 15 (8) Qwest may be required to pay the expenses reasonably attributable and allocable to such an investigation to the extent the requirements for such payment are in accordance with the provisions of Chapter 80.20 RCW.

IV. ORDER

THE COMMISSION ORDERS;

- 16 (1) The competitive classification filed by Qwest in Docket No. UT-030614 on May 1, 2003 is suspended.
- 17 (2) The Commission will hold hearings as indicated below.
- 18 (3) The Commission will institute an investigation of Qwest's books, accounts, practices, activities, and operations pertaining to this petition.
- 19 (4) Qwest shall pay the expenses reasonably attributable and allocable to the Commission's investigation to the extent the requirements for such payment are in accordance with the provisions of Chapter 80.20 RCW.

V. NOTICE OF PREHEARING CONFERENCE

20 Hearing in this matter is being held pursuant to Part IV of chapter 34.05 RCW pertaining to adjudicative proceedings, including but not limited to RCW 34.05.413, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission has jurisdiction over this matter under Title 80 RCW, having legal authority to regulate the rates, services, and practices of telecommunications companies providing service within the state of

Washington and to determine whether to grant requests for classification of services as competitive. In addition to the foregoing, statutes and rules involved include those within chapter 80.36 RCW including RCW 80.36.330, chapter 480-09 WAC, and chapter 480-120 WAC.

21 **NOTICE IS HEREBY GIVEN That a prehearing conference in this matter will be held at 9:30 a.m. on Friday, June 6, 2003, in Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

22 Those present at the prehearing conference will be required to consider formulating any other issues in the proceeding and to determine other matters to aid in the disposition, as specified in WAC 480-09-460. Petitions to intervene should be made in writing prior to the prehearing conference or made orally at that time. Appearances will be taken. The time and place for any additional hearing will be set at the prehearing conference or by later written notice.

23 **NOTICE IS FURTHER GIVEN** That, in accordance with WAC 480-09-700(1)(a), the Commission has determined that good cause exists for this matter to be heard upon shortened notice.

24 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.

25 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440. THE PARTIES ARE FURTHER ADVISED THAT THE SANCTION PROVISIONS OF WAC 480-09-700(4) ARE SPECIFICALLY INVOKED.**

26 The names and mailing addresses of all parties and their known representatives are as follows:

Petitioner: Qwest Corporation
1600 Seventh Avenue
Seattle, Washington 98191

Representative: Lisa A. Anderl
Senior Attorney
1600 7th Avenue, Room 3206
Seattle, Washington 98191
(206) 345-1574

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jonathan C. Thompson
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
Olympia, WA 98504-0128
(360) 664-1225

Public Counsel: Simon ffitich
Public Counsel Section
Office of Attorney General
900 Fourth Avenue, Suite 2000
Seattle, WA 98164-1012
(206) 464-7744

- 27 Theodora M. Mace has been appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250 and will preside at the prehearing conference.
- 28 The Commission will provide at its offices in Olympia, Washington, current records of the hearing for the use of those who may wish to review them. The Public Counsel section of the Office of the Attorney General has been designated by the Attorney General to represent the public. The address of the Commission, shown below, may be used for inquiries of Public Counsel, or Public Counsel may be contacted directly by writing or calling the address or telephone number listed below.

29 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective this 30th day of May, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Inquiries may be addressed to:

Executive Secretary
Washington Utilities and
Transportation Commission
Chandler Plaza Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

-or- Public Counsel Section
Office of Attorney General
900 Fourth Avenue, Suite 2000
Seattle, WA 98164-1012
(206) 464-7744

[Service Date May 30, 2003]

NOTICE

PLEASE BE ADVISED that the hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and that if limited English-speaking or hearing impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be designated below and returned to:

Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250.

(SUPPLY ALL REQUESTED INFORMATION)

Docket No.: **UT-030614**

Case Name: **Petition Of Qwest Corporation For Competitive Classification**

Hearing Date:_____ Hearing Location:_____

Primary Language:_____

Hearing Impaired (Yes) (No)

Do you need a certified sign language interpreter: (Yes) (No)

Visual_____ Tactile_____

Other type of assistance needed:_____

English-speaking person who can be contacted if there are questions:

Name:_____

Address:_____

Phone No.: (____)_____