Agenda Date: September 28, 2005
Item Number: A4

Docket: **UT-051218**

Company: Qwest Corporation

Staff: Tim Zawislak, Regulatory Analyst
Betty Erdahl, Regulatory Analyst
Jing Roth, Regulatory Consultant
Deborah Reynolds, Regulatory Analyst
Kristen Russell, Regulatory Analyst
Pam Smith, Consumer Affairs Specialist

Recommendation:

Issue an Order Approving Qwest Corporation's Petition to Modify the requirements of Cause U-85-23 and Docket UT-990976 in order to discontinue the obligation for Qwest Corporation to be the IntraLATA designated carrier of Private Line services in the service areas of the five other companies listed below (collectively the affected companies).

Discussion:

On August 12, 2005, Qwest Corporation (Qwest) filed a petition in order to be relieved of its obligation to be the designated carrier of Private Line services in the service areas of the following five companies:

1. Asotin Telephone Company (TDS affiliate)
2. Lewis River Telephone Company (TDS affiliate)
3. McDaniel Telephone Company (TDS affiliate)
4. Ellensburg Telephone Company (Fairpoint affiliate)
5. YCOM Networks (Fairpoint affiliate)

Granting Qwest's petition would have two effects. First, it proposes to change the way intraLATA Private Line customers receive bills (i.e. from which company); and second, as a corollary, it proposes to change the way companies receive compensation for intraLATA Private Line services.

Under today's environment the five affected companies already provide services and facilities to the customers. However, under the IntraLATA Telecommunications Plan (ITP) adopted by the Commission in WUTC Cause U 85-23, et al., Qwest has been billing customers for intraLATA Private Line services at its statewide average rates and then paying the five affected companies (as well as the other 15 companies not addressed in this petition) for the underlying services and facilities they provide. As a result, Qwest frequently ends up paying more to the other companies than what it is able to collect from the customers. In its petition, Qwest argues that this practice is inappropriate and unfair in an emerging competitive environment.

<u>Background:</u>
In Docket UT-990976, Qwest had previously sought and been granted relief of its prior obligation for being the Designated intraLATA Toll[1] Carrier (DTC), with respect to the approximately 20 remaining ILECs (including the five named in this petition) or their predecessors.

As was the case in Docket UT-990976, the obligation Qwest now seeks to be relieved from was also established in WUTC Cause No. U 85-23, et al.[2] Coincidentally, U 85-23, et al., was the same case that established our state's current High Cost Universal Service Funding mechanism presently administered by the Washington Exchange Carrier Association (WECA).

<u>Impacts of the Petition:</u>
With regard to this petition Qwest has taken a more measured step and seeks only to eliminate its obligation to be the designated carrier of Private Line services[3] in the

---

[1] Switched intraLATA Toll service, as contrasted to intraLATA Private Line service, is not dedicated between particular points and had been granted competitive classification uniformly. Competitive classification for intraLATA Private Line service has been granted only on a geographically isolated basis, so far.

[2] *See page 23, I.B., and page 28, IV.C., of the Eighteenth Supplemental Order in WUTC Cause No. U-85-23, et al.*

[3] It should be noted that the private line obligation was only one of several other designations and obligations that continue to remain in effect for Qwest. *See the Commission's order in Docket UT-990976, Order Granting Petition in Part, Denying Petition in Part, and Retaining Jurisdiction, dated September 28, 1999; clarifying that Qwest (fka U S WEST) continues to have obligations and that the Commission continues to retain jurisdiction*. Additionally, Qwest had already been relieved of its designated role as intraLATA private line carrier in the operating territories of Verizon Northwest and Sprint/United Telephone Company of the Northwest, through those companies' primary toll carrier (PTC) dockets.

territories of the five affected companies. Additionally, in this case, the five affected companies *do not object* to this change in operational practice *as long as* they receive information from Qwest to enable them to bill the end-users and so long as the parties have a workable understanding of the processes that will be followed. To that end, Qwest has been working with these carriers in order to facilitate a positive outcome.[4]

As explained in Qwest's petition, it is willing to notify customers of the transition to the new Multiple Bill, Multiple Tariff (MBMT) billing mechanism for the services listed in its petition. In fact, Attachment 1 is a sample copy of the notices that were mailed to customers earlier this month. Attachment 2 is a rate comparison prepared by Staff.

The five affected companies do not object to the transition to what is referred to in the industry as "Multiple Bill Multiple Tariff" or "MBMT" (which is where the customer pays directly to each company that provides each portion of a service or facility). **Nonetheless, customers will still be impacted if the petition is granted** – as opposed to "Single Bill" which is what Qwest performs under the status quo.

Qwest notes in its petition that many services affected by this petition have already been classified as competitive (so that customers may have other choices as well). However, as in the case of Verizon and Sprint/United Telephone Company, the five affected
companies have not yet had their comparable services classified as competitive in their respective service areas.

Realizing that the rates they were charging Qwest may have been inflated, or at least out of balance (e.g. neither cost-based nor market-based), the five affected companies also propose to concurrently change their rates applicable to intrastate Private Line services and facilities (based on NECA Tariff No. 5, which is filed with the FCC for interstate circuits). This proposal has the added benefit of eliminating the arbitrage opportunity between the companies' interstate and intrastate tariffs, as well.

---

[4] Subsequent to its petition, on August 22, 2005, Qwest filed (in Docket UT-051218) copies of confidential settlement agreements that resolve certain billing disputes related to these services and companies, that appear to make substantial progress in these areas. Additionally, the companies' tariffs also provide guidance on these issues along similar lines as the way interLATA Private Line services are provisioned (both intrastate and interstate).

The proposal to mirror NECA Tariff No. 5 will cause both rate decreases and increases. Attachment 2 is a sample rate comparison for one of the affected companies and is provided in order to illustrate this phenomenon. Due to the way in which the tariffs are applied (mileage sensitive as well as fixed termination rates), the average impact on customers from each of the five affected companies results in an overall increase in combined average customer billing. Although, it is estimated that the five affected companies would still end up losing revenue given their proposal for transitioning to the NECA rate levels.

However, Qwest would experience an overall net cost savings (i.e. an expense reduction) as a result of no longer subsidizing these private line routes (under either current rates or NECA rates), due to the change in billing.

The bottom line is that customers would now be expected to pay full price for the services and facilities they acquire from each of the companies. In theory, this will provide the proper signals for competition to develop over time.

Customer Notice:
Customer notification is already underway as evidenced by Attachment 1. The notice includes not only the restriction in Qwest's billing of services to the affected customers, but also the proposed rate changes that the five affected companies will be sponsoring in other dockets. Additional notice may be required as the five affected companies prepare their filings. Those dockets will likely be brought to an Open Meeting and presented during the month of October.

In this case (or phase), Qwest and the five affected companies are proposing a November 1, 2005, implementation date. Staff anticipates that other phases (possibly three in total), including the remainder of the companies not addressed here, should be completed by July 1, 2006.

Customer Comments:
The Commission has not received any comments either in favor of or opposed to this petition, as of the drafting of this memo (September 23, 2005).

<u>Conclusion</u>:
Although not all services have been classified as competitive (especially for the five affected companies), Staff does not believe that approval or denial of this petition should be predicated on that fact. The real underlying problem that Qwest is attempting to address (and the five affected companies do not object to) is that the intraLATA Private Line market in Washington is not consistent with a fair competitive environment, with the remainder of Qwest's states, or even with the interLATA private line market within the same state.

Moving to MBMT is Qwest's idea of creating a level intraLATA Private Line market and Staff agrees. In fact, the move to MBMT will likely remove a barrier to competition and enable customers to make purchasing decisions on actual prices.

Therefore, Staff recommends that the Commission issue an order approving Qwest Corporation's petition to modify the requirements of Cause U-85-23 and Docket No. UT-990976 in order to discontinue the obligation to be the IntraLATA designated carrier of Private Line services in the service areas of the five affected companies.

Additionally, Staff wishes to commend the five affected companies (three TDS affiliates and two Fairpoint affiliates) for working with Qwest Corporation order to address and resolve the issue with respect to these service areas, and Staff would encourage the other 15 independent ILECs in our state to continue to work with Qwest Corporation in coordinating the transition toward discontinuing the obligation for Qwest in those service areas (including adequate Customer Notice and Commission approval), as soon as possible, or by July 1, 2006, to more fully address the underlying issue.

Attachments (2)