

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In re the Matter of the Petition of)
) DOCKET NO. UT-013073
)
ELECTRIC LIGHTWAVE, INC.,)
FOX COMMUNICATIONS, INC.,)
INTERNATIONAL TELCOM LTD,) ORDER CLARIFYING
and XO WASHINGTON, INC.) DECLARATORY ORDER ON
) RECIPROCAL COMPENSATION
For Declaratory Order on Reciprocal) RATES
Compensation Rates)
.....)

1 **SYNOPSIS:** *The Commission reaffirms that it did not establish a permanent per-minute of use reciprocal compensation rate structure in Docket No. UT-960369. Nor did the Commission state whether UNE switching costs should also be used to establish termination rates for purposes of reciprocal compensation.*

2 **PROCEEDINGS:** On August 13, 2001, Electric Lightwave, Inc., Fox Communications, Inc., International Telcom Ltd., and XO Washington, Inc. (“Joint Petitioners”) filed with the Commission a petition for declaratory order in this matter pursuant to RCW 34.05.240 and WAC 480-09-230. The Joint Petitioners sought an order of the Commission clarifying that supplemental orders entered in Docket No. UT-960369, *et al.* (“UT-960369”), did not establish per-minute of use (“MOU”) rates for reciprocal compensation. The Joint Petitioners also requested that the Commission declare that as a result, interim reciprocal compensation rates in interconnection agreements approved by the Commission remain in effect until the Commission specifically establishes different per-MOU rates for reciprocal compensation in some other proceeding.

3 The Commission on January 31, 2002, entered its Declaratory Order on Reciprocal Compensation Rates in this proceeding. In that Order, we declared that Commission orders in UT-960369 did not establish permanent per-MOU reciprocal compensation rates to replace interim rates in Commission-approved interconnection agreements. The Declaratory Order states that interim reciprocal compensation rates previously approved in interconnection agreements remain in effect subject to further order of the Commission. We also discussed other proceedings that were available to the parties to further pursue modification of interim reciprocal compensation rates in Commission-approved interconnection agreements or to establish permanent per-MOU rates.

4 On February 11, 2002, Verizon Northwest, Inc. (“Verizon”), filed a petition for
clarification of the Commission’s Declaratory Order pursuant to WAC 480-09-810.¹

5 **VERIZON’S PETITION FOR CLARIFICATION:** Verizon requests clarification
regarding its procedural options to establish permanent per-MOU rates. First,
Verizon asks whether the company may now make a tariff compliance filing to
establish permanent per-MOU reciprocal compensation rates, or whether it must
await some future Commission order.² Second, Verizon requests clarification why a
further petition to establish permanent rates would be necessary in the ongoing
generic proceeding, in light of the Commission’s consideration of reciprocal
compensation rate structures in Part B of Docket No. UT-003013.³

DISCUSSION AND DECISION

6 The Declaratory Order, at Paragraph 34, states the principle that permanent rates
established in Commission orders must be submitted in tariff filings and approved by
the Commission before becoming effective. We also noted that neither Qwest nor
Verizon included reciprocal compensation rates in their tariff compliance filings in
UT-960369. In observing that their conduct was inconsistent with their claims, we
stated:

At a minimum, the failure of Qwest and Verizon to file reciprocal
compensation rates in tariffs would prevent any authorized rate from
becoming effective. *Declaratory Order, at Paragraph 34.*

7 The reference in the Declaratory Order, at Paragraph 34, to the minimum
consequences of Qwest’s and Verizon’s failure to file reciprocal compensation rates
in tariffs was made in response to their claim that permanent rates became effective in
December 2000.

8 Verizon’s first request suggests that there may be some basis for the company to now
make a tariff compliance filing to establish permanent per-MOU reciprocal
compensation rates. This is not an option for the company in light of the
Commission’s findings in the Declaratory Order.

9 We found, at Paragraphs 28 and 44, that the Commission did not establish
termination rates for reciprocal compensation in UT-960369. Furthermore, we found,
at Paragraphs 32 and 44, that the Commission did not establish a permanent per-

¹ The Commission addresses petitions for clarification filed under WAC 480-09-810 in the same
manner as a petition for reconsideration.

² Verizon’s first request for clarification is based on discussion in the Declaratory Order at Para. 34.

³ Verizon’s second request for clarification is based on discussion in the Declaratory Order at Para. 37.
Paragraph 37 states that parties may “further petition the Commission to establish a permanent rate in
the generic cost proceeding.”

MOU reciprocal compensation rate structure. Accordingly, we concluded that our orders in UT-960369 did not establish permanent per-MOU reciprocal compensation rates.

10 Verizon's second request is denied, as it does not actually seek clarification of any specific decision in the Commission's Declaratory Order as purported. Rather, Verizon's request anticipates outcomes in the Part B proceeding, which must await entry of the final order in Part B.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner