

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF
RESPONSE TO DATA REQUEST

DATE PREPARED: April 13, 2007
CASE NO.: UT-063038
REQUESTER: Pac-West

WITNESS: Robert Williamson
RESPONDER: Robert Williamson
TELEPHONE: (360) 664-1288

PAC-WEST DATA REQUEST NO. 21:

Re: Rebuttal Testimony of Robert Williamson, page 12, lines 2-4

Please provide all cost studies, analyses, work papers, and any other documents that support the statement that “Because of the way FX service is provisioned by the ILECs, FX service is expensive for subscribers and often proves less cost-effective than 800- service.”

RESPONSE:

Staff objects to the request for “any other documents” and to the very broad definition of “document” set out in the definitions section of these data requests, as it is overbroad and beyond the scope of permissible discovery in a proceeding such as this. See *In Re US WEST Communications, Inc.*, Docket No. UT-980948, Ninth Supp. Order (April 1999), <http://www.wutc.wa.gov/rms2.nsf/vw2005OpenDocket/F01A1C2636ADC79808256B7E00159AAF>

Staff has not conducted any formal cost studies or analyses, or generated any work papers in regard to this statement. The statement is based on the analysis that follows.

FX Service has been most commonly used when a business wants to receive and/or originate calls in an adjacent calling area from the one in which it resides. 800 service, like VNXX service, is commonly used by businesses wanting to receive calls from many different local calling areas without the “calling party” being billed for a long distance call. The cost for using FX service for the receipt of calls from multiple local calling areas is expensive because a private line circuit is required to connect each desired local calling area to the subscriber’s premises. Unlike FX service, a subscriber to an 800 service can receive calls from as many local calling areas as it requires without the cost of private line circuits connecting each local calling area to the subscriber’s premises.

The fact that FX service is expensive is evident from Qwest’s exchange access tariff, which is a publicly available document. The fact that subscribers acting in their own financial self-interest often choose 800- service over FX service is not based on any cost studies, formal analyses, work papers or other documentation, but rather on Mr. Williamson’s experience in the telecommunications industry. The fact that 800- service is commonly used by businesses that market their products or services in an area larger than the local calling area is also evident from a casual perusal of any yellow pages directory. Please see also Staff’s response to Pac-West’s Data Request No. 22 regarding the small number of FX lines served by Qwest in Washington.

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PAC-WEST DATA REQUEST NO. 22:

Re: Rebuttal Testimony of Robert Williamson, page 12, lines 4-12

Please provide all cost studies, analyses, work papers, and any other documents that support the statement that FX service as provided by the ILECs is not “a significant ‘loophole’ in the access charge system.” In addition, please quantify or otherwise explain the term “significant” in this context.

RESPONSE:

Staff makes the same objection as set forth in response to DR 21, above.

Staff has not conducted any cost studies, formal analyses, or generated any work papers in regard to this statement. Rather, the statement is made on the basis of Mr. Williamson’s experience in the telecommunications industry and on the same observations stated in response the DR 21, above.

The word “significant” does not denote any specific quantitative measure, but simply means “of a noticeable or measurably large amount.”

Staff would note, however, that Qwest has provided quantitative evidence that supports the statement. Qwest witness Mr. Brotherson states in his rebuttal testimony (Rebuttal Testimony, Exhibit LBB-24RBT, March 20, 2007, pg. 13, 18-21) that out of a total 1,800,000 lines served by Qwest in Washington State, only 4,047 are FX lines. This represents less than one percent of the total lines (approx. 0.22 percent). No matter what usage the FX lines generate, less than one quarter of one percent of the total of Qwest lines cannot have a major influence, or create “a significant” ‘loophole,’ in the access system.

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PAC-WEST DATA REQUEST NO. 23:

Re: Rebuttal Testimony of Robert Williamson, page 12, lines 7-12

Is it Staff's position that local exchange customers would place the same number, frequency, and duration of calls to their ISPs that they currently place as "local" calls as they would if those calls were rated as toll calls because the ISP modem is not physically located within the same local calling area as the customer? If so, please provide all studies, analyses, work papers, and any other documents that support your response. If not or if you do not know, please explain how "VNXX" service as Staff defines that term results in a "hole in the access charge regime."

RESPONSE:

It is not Staff's position that local exchange customers would place the same number, frequency and duration of calls to their ISPs that they currently place as "local" calls as they would if those calls were rated as toll calls. Most consumers would not want to be billed a per minute usage charge for the longer holding times required for dial-up Internet access.

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PAC-WEST DATA REQUEST NO. 24:

Re: Rebuttal Testimony of Robert Williamson, page 14, line 29 through page 16, line 7

Is the local exchange carrier that serves the customer who calls the ILEC FX customer at that customer's telephone number assigned to the same local calling area entitled to charge the ILEC originating access charges for that call? If not, please explain how the ILEC is complying with the "rules of the road" that "if a call is between local calling areas, then access charges should apply."

RESPONSE:

Please see Mr. Williamson's responses to Pac-West's Data Requests Nos.11, 16(a)(b)(c) and 17 (a)(b)(c).

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PAC-WEST DATA REQUEST NO. 25:

Re: Rebuttal Testimony of Robert Williamson, page 17, lines 11-14

Please explain why, if the Commission permits “VNXX” as Staff defines it, LECs other than CLECs “have no alternative but to continue to provide FX service in the same manner they traditionally have done.” If your response, in whole or in part, relies on the different network architectures deployed by ILECs and CLECs, please explain why the Commission should prohibit CLECs from provisioning a service in a particular manner because ILECs cannot provide that service in that same manner as a result of the structure of the ILECs’ networks.

RESPONSE:

LECs other than CLECs “have no alternative but to continue to provide FX service in the same manner that they traditionally have done” because FX service, as provided by the ILECs, is a Commission-approved tariffed service and Qwest’s tariff describes the manner in which the service is provided (i.e., through the use of a private line from the customer’s premise to the serving central office). (Qwest WN40 Exchange and Network Services Washington.) CLEC VNXX exploits an arbitrage opportunity that arises from the fact that (1) CLECs are allowed to have only one switch per LATA, (2) the ILEC is required to transport calls from its customers to the CLEC’s point of interconnection, and (3) the ILEC serves the vast majority of residential customers who originate calls to the CLEC’s customers that utilize VNXX arrangements. This last point means that the intercarrier compensation flows almost entirely from the ILEC to the CLEC. In short, the ILECs and the CLEC’s situations are not symmetrical and there is no way for ILECs to take advantage of the same arbitrage opportunity vis-à-vis the CLECs. Allowing VNXX would not level the playing field between ILECs and CLECs—rather, it would allow CLECs to broaden the existing arbitrage opportunities that the FCC described in the *ISP Remand Order*.

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PAC-WEST DATA REQUEST NO. 26:

Re: Rebuttal Testimony of Robert Williamson, page 17, lines 15-18

Please explain, in Staff's view, why "a rule that would define calls as local simply based on 'the calling and called NPA/NXXs' would be 'too sweeping in its potential effect and [would have] potentially unacceptable consequences in terms of intercarrier compensation.'" As part of your response, please identify each "potential effect" and each "consequence" of such a rule.

RESPONSE:

It was not Staff's but the Arbitrator's conclusion in Docket No. UT-033035 that: "AT&T ... advocates the adoption of its proposed definition for Exchange Service or EAS/Local Traffic without giving due regard to its breadth. Simply redefining Exchange Service or EAS/Local Traffic as AT&T advocates raises too many imponderables not fully developed on the record in this arbitration. Such definition implicates not only specific services about which AT&T professes to be concerned, it also implicates other potential services that it would better to consider on a case-by-case basis as one carrier or another seeks to implement new services ... AT&T's proposed definition for Exchange Service or EAS/Local Traffic, ... is too sweeping in its potential effect and has potentially unacceptable consequences in terms of intercarrier compensation." (UT-033035, ORDER NO. 04, ¶ 34 & 35, December 1, 2003)

This Commission agreed with the Arbitrator's decision in Order No. 05 in the same docket: We affirm the Arbitrator's decision. We agree with his conclusion that "AT&T's alternative simply goes too far-is too sweeping in its implications-to be adopted on the record in this proceeding." (UT-033035, ORDER NO. 05, ¶ 15, February 6, 2004)

In Washington, as in most other states, the Commission has historically rated telephone calls as local or inter-exchange based on the physical (geographic) location of the parties. A change to such a monumental basic premise could result in a substantial reduction in local exchange carrier's access charge revenues and cause them to make up the shortfall by increasing local service rates. Such a decision would also affect local number portability. The FCC continues to discuss these matters, and others, in its Inter-Carrier Compensation docket.

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PAC-WEST DATA REQUEST NO. 27:

Re: Rebuttal Testimony of Robert Williamson, page 17, lines 19-20

Please identify and provide all provisions of the COCAG and Commission rules that define “foreign exchange service.” Is it Staff’s position that such service must be “tariffed” to be considered to be an exception to geographic number assignment?

RESPONSE:

Neither the COCAG nor the Commission’s rules define “foreign exchange service.” Foreign exchange service is a service that was offered nationwide by the local telephone service providers long before the advent of local service competition with the assent of state regulators. It has an established meaning that includes a method of provisioning and a rate design.

COCAG ¶ 2.14 states that exceptions exist such as tariffed foreign exchange service. Neither the COCAG nor Commission rules provide a definition of foreign exchange service but instead rely on the serving LEC’s tariff for that definition. In addition, please see Mr. Williamson’s responses to Pac-West’s Data Requests Nos. 5 and 6.

It is not Staff’s position that such a service must be tariffed to be considered an exception to geographic numbering. It is Staff’s opinion that such an exception must be explicitly listed in the industry standards (COCAG) or must be expressly authorized by state law. Until this year, all registered CLECs were required to file Price Lists with this Commission (WAC 480-80-204). Price lists were required to “include ... a description of the service ...,” for all services being offered. Although Price Lists are not required now, Staff is aware that some CLECs listed in those Price Lists FX services similar in nature to that of the ILECs. To Staff’s knowledge no CLEC listed an FX service that relies on VNXX number assignment.

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PAC-WEST DATA REQUEST NO. 28:

Re: Rebuttal Testimony of Robert Williamson, final page, line 7-8

Please describe the efforts that Staff has undertaken, and all resulting studies, analyses, work papers, or any other documents, to support the statement that “There is no reason to believe that the situation in Washington is different than New Hampshire.”

Staff makes the same objection as set forth in response to DR 21, above.

At this time, Staff has not undertaken any such studies or analyses. However, the CLECs have not provided evidence to show that the situation in Washington is any different than that presented by the Commission staff in New Hampshire. There is anecdotal evidence in the record, presented by Level 3 witness Dr. Blackmon and Qwest witness Mr. Linse, that there are most likely similar services being offered in this state today. (Blackmon Testimony, page 9; Linse Rebuttal Testimony, pages 13 and 14).