

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

In the Matter of the Review of: ) DOCKET NO. UT-033034  
Unbundled Loop and Switching )  
Rates; the Deaveraged Zone ) ORDER NO. 03  
Rate Structure; and Unbundled )  
Network Elements, Transport, ) ORDER DISMISSING  
and Termination (Non-recurring )  
Costs) )  
..... )

**Synopsis:** *The Commission dismisses this non-recurring cost proceeding.*

1 **Proceedings.** This docket was initially part of Docket No. UT-023003, also referred to as the “new generic cost case.” The purpose of the new generic cost case was to determine recurring and non-recurring unbundled network element (UNE) rates for both Qwest and Verizon. On August 5, 2003, in the Twelfth Supplemental Order in Docket No. UT-023003, the Commission bifurcated the recurring from the non-recurring cost issues and initiated Docket No. UT-033034 to consider non-recurring UNE rates for Qwest and Verizon. Subsequently, the Commission dismissed Qwest’s issues from the both the recurring and non-recurring cost cases. Therefore, this proceeding purports to focus only on Verizon’s non-recurring UNE rates.

2 **Appearances.** Qwest Corporation (“Qwest”), by Lisa Anderl, attorney, Seattle, Washington; Verizon Northwest Inc. (“Verizon”), by Catherine Ronis, attorney, Washington, D.C.; Covad Communications Company (“Covad”), by Karen Frame, attorney, Denver Colorado; AT&T of the Pacific Northwest, Inc. (“AT&T”), Pac-West, Inc. (“Pac-West”), and XO Washington, Inc. (“XO”), by Gregory J. Kopta, attorney, Seattle, Washington; MCI/WorldCom (“WorldCom”) by Michel Singer-Nelson, attorney, Denver, Colorado; WeBTEC, by Arthur Butler, attorney, Seattle, Washington; Eschelon Telecom, Inc. (“Eschelon”), by Dennis Ahlers, Minneapolis, Minnesota; and Commission Staff, by Gregory J. Trautman Assistant Attorney General.

3 **Background.** Non-recurring rates are charged to interconnecting carriers by the incumbent local exchange carrier. Such rates are based on the incumbent's non-recurring costs to establish service for an individual customer. The customer pays the non-recurring rate one time when service is first established. The non-recurring rate is separate from and not included in monthly recurring charges for ongoing service.<sup>1</sup>

4 The Commission has been reviewing Verizon's UNE rates, both recurring and nonrecurring since the passage of the federal Telecommunications Act of 1996. The Commission first initiated an examination of Verizon's (then GTE's) UNE rates on November 21, 1996,<sup>2</sup> in Docket Nos. UT-960369, UT-960370 and UT-960371. The Commission further reviewed Verizon's UNE rates in Docket No. UT-003013.<sup>3</sup> The instant proceeding arose out of and is a continuation of the prior cost proceeding and the concern that UNE rates be up to date and provide an accurate reflection of TELRIC-based costs.

5 Since this proceeding was initiated in February 2002, the telecommunications industry has changed considerably. The courts have vacated, in part, the Federal Communications Commission's (FCC's) unbundling rules<sup>4</sup> and the FCC is currently embarked on rewriting those rules. The FCC is also contemplating changes in the TELRIC pricing methodology itself.<sup>5</sup> In light of these circumstances, we consider the parties' request to discontinue this proceeding.

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<sup>1</sup> Eighth Supplemental Order, Docket Nos. UT-960369, 960370, 960371, April 16, 1998.

<sup>2</sup> Order Instituting Investigations; Order of Consolidation; and Notice of Prehearing Conference, Docket Nos. UT-960369, UT-960370, UT-960371.

<sup>3</sup> Thirteenth Supplemental Order, January 31, 2001; Thirty-Second Supplemental Order June 21, 2002; Thirty-Eighth Supplemental Order, September 26, 2002; Forty-First Supplemental Order, October 11, 2002; and Forty-Fourth Supplemental Order, December 20, 2002.

<sup>4</sup> *United States Telecom Ass'n v. FCC*, 359 F. 3d 554 (D.C.Cir. 2004) (USTA II).

<sup>5</sup> In the Matter of Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers, WC Docket No. 03-173, FCC 03-224, Rlsd. September 15, 2003.

6 **Request to terminate or dismiss the proceeding.** On September 29, 2004, the Commission convened a prehearing conference to establish a schedule for this non-recurring cost proceeding.<sup>6</sup> The prehearing conference was attended by the primary participants in the current cost proceeding dockets: Verizon, AT&T, MCI, Covad and Commission Staff.<sup>7</sup> During the conference, Verizon, AT&T and MCI stated that they no longer wished to go forward with the proceeding. Covad indicated that it would participate in the case if the Commission did not terminate it, but that it was not in a position to take the lead in presenting a case. Commission Staff stated that since the primary participants sought to terminate the proceeding, Staff would not oppose termination.

7 Based on the statements of the parties at the prehearing conference, the Commission finds that termination - dismissal of the proceeding without prejudice - is the most reasonable course of action. Without the full and active participation of the parties, making an adequate record upon which to base a decision could be difficult. The Commission takes seriously its role in setting UNE rates that are cost-based, that send the right price signals to competitive carriers, and that comply with the total increment long run incremental cost (TELRIC) methodology established by the FCC.<sup>8</sup> We remain open to the possibility of conducting a further review of Verizon's non-recurring rates at a later time, if it is appropriate for us to do so.

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<sup>6</sup> The combined cost proceeding was initially scheduled for hearing in December 2002. (*Second Supplemental Order, Docket No. UT-023003*). The hearing was later continued to December and January 2003. (*Fourth and Fifth Supplemental Orders, Docket No. UT-023003*). In the August 5, 2003 Order establishing a separate case for non-recurring costs (*Twelfth Supplemental Order, Docket No. UT-023003 and Order No. 01, Docket No. UT-033034*), the schedule for the non-recurring cost docket was extended. Hearings were scheduled for May and June 2004. In Order No. 02 of the non-recurring cost docket, the Commission vacated the May and June 2004 hearing dates and scheduled a June 8, 2008 prehearing conference to discuss scheduling. That prehearing conference was later continued to September 29, 2004. (Docket No. UT-033034, Notices, June 7 and September 9, 2004).

<sup>7</sup> Qwest also entered an appearance at the prehearing conference.

<sup>8</sup> Telecommunications Act of 1996, §§ 251(c)(2) and 252(d); 47 C.F.R. § 51.505.

**ORDER**

8 The Commission dismisses this non-recurring cost proceeding.

Dated at Olympia, Washington, and effective this 12th day of October, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.**