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TRANSCRIPTION OF DOCKET A-021178

Item C2, Docket A-021178

Fred Ottavelli: Good morning Commissioners, Fred Ottavelli, Commission staff. This too is a rulemaking to consider establishing rules that would require reporting of transactions between regulated companies and their subsidiaries to the Commission. It is intended for this rule to be moved forward rather quickly, but I suspect that it won't be as nearly as smooth as the rule that we just considered.

The rule has the potential to apply to several industries that are regulated by this agency to include multiple transportation companies, water companies, energy companies, and telecommunications companies. Recognizing as the rule moves forward that there are substantial differences between these industries, and therefore, as a result, there is every potential that the rules be unique to the various industries under consideration.

Turmoil in the financial and business climate...financial markets and business climate...that we have seen over the last several years has heightened the necessity for the Commission to consider rules such as these. Rating downgrades, bankruptcies, accounting scandals are only a few of the new things, if you will, that we are seeing, not only in the general business...among general businesses...but also specifically with utilities.

The subsidiaries have every ability to impact the results or the regular utilities. Cross subsidies...cross subsidies are an example of what can occur. Large cash infusions...there are multiple things that can happen. One might say

that with...if you look at Edgar Bergen and Charlie McCarthy, one is never quite sure who is in control, and that is a situation that exists within this environment.

As a result, the Commission must be apprised of transactions that occurring between regulated utilities and their subsidiaries. It is important for the Commission to have that knowledge. As a result, the proposal is that the Commission consider establishing rules applicable to the regulated companies requiring the pre-filing of certain transactions with subsidiaries, requiring regulated companies to file periodic reports detailing transactions, and where there are significant transactions or arrangements requiring certain immediate post-filing. There are all areas of consideration.

The intent will be to mail to all stakeholders a request for written comments and to schedule a workshop on October 31st, starting at 9:30 a.m., in the morning to fully explore these issues. Therefore, the staff recommends that the Commission direct the Secretary to file a Preproposal Statement of Inquiry (CR-101) in Docket A-021178, to consider establishing rules that would require reporting of transactions between regulated transportation, water, energy, and telecommunications companies and their subsidiaries to the Commission.

Chairwoman Showalter: Thank you. Ms. Jensen.

Theresa Jensen: Good morning, Theresa Jensen with Qwest Corporation. I'm somewhat surprised to see an empty room. We participated in a workshop discussing this issue on August 8th...and there was quite a bit of discussion concerning this item. And, there appears...appeared at that point in time to be a lack of consensus, even within the Commission staff organization, for the various industries, as to how these types of issues were handled and addressed.

What I would ask you is not to commence a rulemaking without first confirming that this is information that we believe...and expressed at the workshop...that the Commission can get from companies that they specifically

have a concern with respect to. This is the...and I understand that this is just whether we commence a rulemaking and start to comment and so forth but...in essence the type of detail suggested here does tie up resources and may accumulate quite a bit business with the Commission between the company.

And I think, that...that the issues that have been raised by the Commission staff, in many instances, tend to be company-specific. And, we believe that you currently are empowered to go to a company and ask on a company-specific basis, the company to do these things...to pre-file certain transactions, to provide periodic reports, and to provide post-filed reports. So my only request would be that, if you haven't done that, then I would ask you to do that before commencing a rulemaking that really requires all companies to do this, whether you have a need for it or not. And too, if you have done that and companies have refused, that's a different issue. But, I think you would find that companies would not refuse.

But, I know if you came to Qwest with this type of request, Qwest would readily comply, and I believe most other utilities would as well. And, that's the extent of my comments. Thank you.

Chairwoman Showalter: All right, thanks. I...well, I think you should take the CR-101 for what is legally is...and I believe it is...it's an inquiry into whether there should be a rulemaking, and please make those comments at the "101" stage. The issue of relationships of companies and their subsidiaries is a serious one. And it's, I think becoming a more pressing issue as the general economic climate in telecommunications and electricity...to name two...is becoming more difficult. And it...there's a pressure on companies to get cash from somewhere to "tide" them over. And, so I think the whole question of the relationship with the regulated part of a company to the non-regulated parts of the company is just more of a worry now than it probably used to be.

So, that's sort of the big context. Then we have a statute. The statute requires, in my view, certain kinds of information. Possibly, it requires information, if re-writing the statute wouldn't be necessary. On the other hand, the statute doesn't cover some other things, but maybe other statutes that the general ability of this Commission to get information does cover it. So, I...I think it's appropriate to engage in this "101" stage for the purpose of scoping out what information do we really need? Of that kind of information, what is permitted by our statutes to request, what is required by our statutes to request? If the kind of information we don't need...same question...what is permitted by our statutes not to request, what is required to our statutes to request anyway? I just think these are...these are important to outline so that, given our current state of the law, we can do the best that we can and should, with a fairly serious issue.

It may turn out that figure that the statute is both over-broad and under-broad...that's quite a word... and too narrow. But, in the first instance, I think we should see what tools we have to address this issue...and, it may be that a rule isn't the best approach. One of the problems with the "ad hoc" approach is it generally only occurs to you to ask a specific company of a specific thing, after something has alarmed the Commission. And, I don't know that, that's the best method of asking for information. Maybe it is. I support this recommendation too call for comments on whether or not we should have a rule, and if so, what should it look like.

Commissioner Oshie: I concur with the Chair and look forward to the discussion at the workshop. And I move that the Commission direct the Secretary to file a Preproposal Statement of Inquiry in Docket A-021178 to consider establishing rules that would require reporting of transactions between regulated companies and their subsidiaries to the Commission.

Chairman Showalter: Second the motion. The motion carries.