BEFORE THE WASHINGTON STATE

UTILITIES AND TRANSPORTATION COMMISSION

In re: Statement to Review State Universal Service Policies	)	DOCKET UT-100562
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	)	QWEST CORPORATION'S RESPONSE TO COMMISSION QUESTIONS CONCERNING APPROPRIATE UNIVERSAL SERVICE POLICIES IN WASHINGTON
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Qwest's Reply Comments in Washington USF Docket No. UT-100562

Qwest Corporation ("Qwest") hereby files its reply comments in this docket, addressing questions posed by the Commission, as well as the opening comments of other parties.

1. *What is the role of the public switched telecommunications network operated by incumbent local exchange carriers (ILECs) in providing universal service in the state of Washington?*

ILECs serve the high cost areas of the state of Washington. ILECs provide access to the public switched telecommunications in areas where there is no other facility-based wireline provider. Competitors have chosen not to deploy facilities in these high cost areas because customers cannot be served in an economic manner. Generally, the customers in the high cost areas are charged the same rates as the ILEC customers in competitive areas. In addition to explicit Federal high cost support (available to some rural ILECs in the state), implicit subsidies, such as rate averaging and intrastate switched access charges are the main sources of support for maintaining the average rates in high cost areas. The implicit subsidies are shrinking due to competition and threatening the ability of ILECs to maintain service in high cost areas.

2. *Does the UTC need to address intrastate switched access rates to ensure universal service and the widespread availability of telecommunications services at reasonable rates in Washington? What statutory or rule changes are needed in order to do so?*

At this time, intrastate access reform does not need to be addressed in order to ensure universal service. The FCC has stated that it plans to address intercarrier compensation later this year. It would be prudent to wait for the FCC's action in this area in order to holistically address state and federal intercarrier compensation and alternative recovery mechanisms. In general, if intrastate access rates are lowered through a state access reform proceeding, Qwest suggests that all ILECs and CLECs should decrease intrastate access to the largest ILEC's intrastate composite rate, rather than lowering intrastate to interstate rates as proposed by AT&T. ,. Revenue reductions associated with this decrease could be recovered by increases in the basic local rate, up to a Commission determined statewide benchmark, to be done on a revenue neutral basis. If the increase in basic local service is insufficient, a simplified earnings proceeding could take place for rate-of-return ILECs to justify drawing additional offsetting revenues from a Washington access replacement fund. CLECs have no need to draw from the fund since the CLECs do not serve high cost areas with their own facilities. Additionally, CLEC local rates are not regulated by the Commission and they are able to price their services as they wish, within the constraints of the market. The simplified earnings test could be the one in WITA's proposed Exhibit A from 5/12/10. Qwest also agrees that enabling legislation is necessary in order to establish a Washington state access replacement fund.

Qwest disagrees with Comcast's position that the UTC should move all intercarrier compensation ("ICC") directly to TSLRIC or to bill and keep. This change would take rates immediately to the levels that the FCC targeted for 2020. Outside of a national ICC plan, this makes no sense and puts a tremendous burden on carriers, customers, and/or on a state fund. In addition, moving intrastate access to bill and keep prior to FCC action would incent arbitrage, as some IXCs will attempt to misjurisdictionalize interstate traffic as intrastate in order to achieve cost savings, and some LECs will attempt to classify more of the calls as interstate in order to maximize switched access revenues.

Currently, some CLECs charge higher intrastate access than the ILEC with whom they compete. In fact, allowing CLECs to charge higher switched access rates than the ILEC with whom they compete causes distortions in the local market, as the CLEC's higher subsidization of each local loop gives them a competitive advantage. This occurs even though the CLECs serve no high cost areas in the state.

Public Counsel suggests access charge reform on a gradual basis, not flash cut and that access rebalancing should include an earnings review. As noted, Qwest believes that the earnings review is only necessary when a carrier is or will be drawing from an access replacement fund. Because switched access is a subsidy for the local loop, it is appropriate for local rate increases without an earnings review in order to preserve revenue neutrality.

3. *Should there be a Washington Universal Service Fund (WUSF)? If so, what factors should the State of Washington consider in weighing the need for establishing a WUSF? Commenting parties are encouraged to address the following factors:*
    a. *trending reductions to incumbent carrier's intrastate access charge revenues,*
    b. *the need for comprehensive or streamlined earnings review including determination of the effective intrastate or overall rates of return of recipients of WUSF funding,*

c. *revenues from regulated services,*
d. *revenues from both regulated and unregulated services,*
e. *carrier of last resort obligations of potential WUSF recipients,*
f. *any other factors that should be used in determining the need for establishing a WUSF.*

If the Commission determines that intrastate access rates be reduced to a level at which revenue reductions cannot be recovered through local rate increases, Qwest supports the creation of a state access replacement fund. The access replacement fund is necessary for revenue reductions not recoverable by raising local rates to a benchmark, subject to a simplified earnings review and showing of revenue deficiency.

Comcast's position is that there should not be a WUSF. The end result of this position is that Comcast is asking the rate-of-return carriers to move their entire intrastate access revenue per line to the rural end users. WITA's initial comments demonstrate that intrastate access reduction proposals described by Comcast produce rates of over $50 per month for some WITA company customers. Because rural areas often have facility-based competitors in-town, such situations could result in de-averaged local rates where out-of-town customers rates move toward their underlying cost, which would be multiple times the in-town rates.

Verizon opposes a WSUF, stating that there is no difference between a hidden subsidy and an explicit subsidy, and that either one is just another means of shifting one company's cost to another company and set of customers. This argument, of course ignores any public good/public purpose of making basic local service in high cost areas affordable, and preserving universal service as it is known today.

WITA states there is a need for a fund to facilitate ICC reform and that the State's policy to "preserve affordable universal telecommunications service" is in jeopardy otherwise. Qwest sees that problem as well, but there need for safeguards to keep the fund size in check (earnings showings). WITA agrees that there should be accountability in WUSF and proposes a streamlined earnings review.

4. *What is the role of the National Broadband Plan in evaluating the need for a WUSF? If Congress and the Federal Communications Commission (FCC) implement the recommendations in the National Broadband Plan, what would be the role of a state USF? What are the possible effects on Washington consumers of the changes to federal rules contemplated in the National Broadband Plan if there is no state universal service fund? Does the National Broadband Plan alleviate or intensify the need for Washington to address intrastate access charge reform and universal service issues at this time?*

The National Broadband Plan ("NBP") set out objectives for the FCC in expanding broadband, USF reform, and ICC reform. The FCC has not yet described how its plans affect intrastate access reform except to set an initial target rate at the interstate rates. The FCC has not delineated its jurisdiction over the intrastate access rates, so immediate state action may not be complementary to the reform plans the FCC proposes and may even be counter productive when combined with the FCC reforms.

Comcast's position is that regardless of where the FCC goes with the NBP, the WUTC should expeditiously reduce access charges. This seems reckless with regard to the financial stability of the rural ILECs.

WITA states that the NBP intensifies the need for WUSF. The NBP puts current funds into a state of undetermined status where it is proposed that the federal funds are transitioned away and repurposed. The NBP also calls for intercarrier compensation reform, but the path to this reform has not been described. Qwest is not sure that state action must occur prior to the FCC fully disclosing its proposals in the areas of ICC and the transition from voice USF to broadband USF. State action at this point may preclude options in the future and thus may be premature.

5. *If the UTC addresses intrastate access charge reform, to what extent is there a need for a WUSF to replace some or all intrastate access charge revenues of ILECs in order to preserve and advance the telecommunications network in the State of Washington? Are statutory changes necessary in order to do so?*

Intrastate access revenues are a major revenue source for companies, which contributes to their free cash flows that allows the internal funding of capital that supports broadband expansion and upgrades, as well as the basic capital to maintain and improve the voice network. Reducing intrastate access without allowing compensating increases in rates or other support will greatly hinder the ability of companies to maintain their current network investment levels and kill their ability to increase investment levels.

Comcast believes that there is no need for a replacement fund to offset intrastate access reductions. While Qwest does not want a large access replacement fund, it recognizes that there will be companies for which an increase in local rates will be insufficient to allow them to earn their authorized return.

6. *What direct benefits, if any, will there be to consumers in Washington by addressing intrastate switched access and universal service reform? If intrastate access charge reform is implemented, how will access charge cost reductions realized by current interexchange carriers in Washington be flowed through to Washington consumers?*

If intrastate access reform is implemented, the major benefit to consumers is that the unsustainable access regime is replaced with a more stable revenue source. Because long distance services are priced based on the national market conditions, and are not individually regulated by the states, the state cannot ensure or mandate a flow through of access charge reductions.

7. Should intrastate switched access reform apply to all providers of intrastate switched access in Washington? What statutory or rule changes would be necessary?

Intrastate switched access reform should apply to all LECs. As stated in response to question 2, many CLECs charge intrastate access rates in excess of their competing ILEC, even though these

CLECs serve no high cost territory. Therefore, Qwest believes CLECs intrastate access rates should mirror the intrastate access rates of the largest ILEC in the state. This position is also held by Verizon. Qwest believes that its position requiring lowering intrastate access to the largest incumbent's composite intrastate rate potentially fights traffic pumping to a greater extent than having LECs reduce their intrastate switched access rates to their interstate switched access rate levels. This is because Qwest's proposal would force a rural CLEC's rates down to Qwest's level, as rural CLECs would be allowed, under the AT&T proposal, to charge higher interstate access rates than Qwest's current level. Traffic pumping, and other types of LEC arbitrage are directly related to the higher interstate and intrastate access rates which rural CLECs are allowed to charge today.

8. *Assuming implementation of the National Broadband Plan, is there a need for a state WUSF during the period in which federal universal service support transitions to support for broadband?*

The FCC plan may include mechanisms where intrastate access reductions are offset by some federal charge or fund. In this case there may be a need for a complimentary state fund or no need for a state fund at all.

9. *If a WUSF is established, what should be the criteria for eligibility to draw from the fund? How should the size of the fund be determined? What should be the basis of the amount of support to be received?*

A WUSF can be established to serve two functions: 1) the support of high cost non-competitive areas and 2) as an intrastate access replacement mechanism. The criteria for eligibility for the latter has been discussed above. The eligibility for the former would be to define non-competitive high cost geographic areas by wire center with costs that exceed a local rate benchmark defined by the Commission. The WUSF would support the intrastate costs above the benchmark. The WUSF support would be provided on a revenue neutral basis. The size of the fund depends on whether the Commission implements a high cost support fund and/or access replacement fund. Further, the level of the local rate benchmark selected by the Commission impacts the size of both an access replacement fund as well as a high cost fund The fund size for an access replacement fund is also impacted by the number of carriers who can make a revenue neutral transition to the local rate benchmark. Another variable in the fund size is the earnings showings by rate-of-return ILECs in an access replacement fund.

WITA states to draw from the fund, the carrier must reduce intrastate access to composite interstate levels and agree to be a carrier of last resort ("COLR"). If a non-ILEC becomes a COLR recipient, that carrier must agree to the same level of regulation as the ILEC. Fund recipients must agree to a simplified earnings review. Qwest's additional standard is that the recipient must also raise local rates to a Commission designated state-wide benchmark,.

10. *What, if any, is an appropriate contribution basis for a WUSF? To what extent should other telecommunications providers, including wireless and VoIP service providers (nomadic and fixed) contribute to a WUSF? If so, on what basis should they contribute?*

In order to lessen the administrative burden on carriers, the state should use the same methodology as used by the FCC. While Qwest also agrees that nomadic VoIP should contribute to the fund, as a practical matter the courts have precluded the Kansas and Nebraska commissions from assessing these carriers. Therefore, this issue should be left to be resolved at the federal level.

11. *What is the role of carrier of last resort in a state universal service fund? Should any carrier that receives support from the universal service fund be required to assume the obligations of carrier of last resort with respect to traditional voice services, with respect to broadband service, or both? Should the fund support more than one provider per geographic area? How should "area" be defined?*

In order to receive funds from a Washington USF a carrier should be, serving high cost areas with its own facilities. If a Washington USF is created, it should only support a single carrier in each defined high cost area. Supporting more than one carrier in an area where it is uneconomic for a single carrier to operate creates subsidized competition which is highly inefficient and creates too large a funding burden for consumers in the state. The carrier's responsibilities are currently related to the provision of voice service. Broadband services are currently not regulated and no obligations to serve are appropriate under the current regulatory system. A support "area" should be defined as areas that do not contain an unsubsidized service provider.

WITA would like the COLR responsibilities to be placed on any fund recipient and extended to broadband service. However, the UTC does not have regulatory authority over broadband services, and it is unlikely that the UTC can designate a COLR for a service it does not regulate.

12. *Should a state universal service fund include a local rate benchmark? If so, for what purpose and how should it be determined?*

Yes. Qwest believes it is appropriate to include the use of a local rate benchmark if a fund is created. AT&T agrees with Qwest on this point.

WITA states that a benchmark should be used as an imputation for calculating support. In Qwest's view, as long as the imputation is also used in the earnings analysis to qualify for a draw from the fund, this approach is acceptable.

13. *Should there be a transition period from the current state universal service mechanism to a new WUSF? If so, how long should the transition period be?*

Yes there should be a transition. The length of the transition depends the purpose of the fund and the ultimate rate targets the Commission chooses if the fund use includes the rebalancing of rates.

14. *Currently intrastate universal service support consists of at least two elements that are incorporated into intrastate access charges billed to intrastate interexchange carriers (the Universal Service rate element that is billed by all LECs on both originating and terminating intrastate interexchange usage and the Interim Terminating Access Charge (ITAC) that is billed only on terminating minutes by some carriers but not all). The administration of the traditional USF is currently performed by the Washington Exchange Carrier Association (WECA); but the LECs each administer their own ITACs. Should WECA continue to administer all of the ITACs in conjunction with the Traditional USF? Should WECA continue to administer any USF (traditional or otherwise)? Should the WECA Board be expanded to include the interests of contributors?*

The administration of an access replacement mechanism should be performed by an independent third party, not a fund recipient or contributor. The Commission should issue an RFP for fund administration. WITA states that WECA should continue to administer the fund. Qwest's position is that since WECA is not an independent third party, it should not be the fund administrator.

15. *In designating entities to be eligible for WUSF funding, should there be an eligible telecom carrier (ETC) designation process that is distinct from the existing federal ETC designation process, or should they be combined?*

Whether the WUSF support is based on serving a non-competitive high cost area or as an intrastate switched access replacement mechanism, only the single provider that serves the non-competitive high cost area should receive support.

Comcast says as a general principle, there should be no difference in how carriers are treated for universal service funding. Qwest disagrees – different carriers have different obligations with regard to offering service in high cost areas, and treatment of those carriers for purposes of universal service funding should reflect those differences.

16. *What other kind of oversight, if any, should the UTC have over administration of the WUSF?*

The Commission should include detailed audit and reporting standards in the RFP for the neutral third party administrator to follow and employ in the administration of the fund.