

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd
J. Dennis O'Brien
Thomas Pugh
Phyllis A. Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Proposed Change in Terms of
Qwest Corporation's Access Service Tariff
Regarding Jurisdictional Report Requirements

ISSUE DATE: February 27, 2009

DOCKET NO. P-421/AM-08-1351

ORDER APPROVING PROPOSED CHANGE
WITH MODIFICATIONS AND SETTING
REPORTING REQUIREMENTS

PROCEDURAL HISTORY

On November 10, 2008, Qwest Corporation (Qwest) filed a proposal to modify its access service tariff to change the way it charges interexchange carriers for terminating long distance calls whose interstate or intrastate origin is unclear. Under the current tariff, the company bills for these calls by applying the interstate/intrastate ratio of the individual carrier's aggregated Minnesota traffic. Under the new tariff, the company would apply the carrier's interstate/intrastate ratio until unidentified traffic reached 6% of the carrier's total, after which all unidentified traffic would be billed at the higher, intrastate access rates.

The following parties filed comments: the Minnesota Department of Commerce (the Department); AT&T Communications of the Midwest, Inc. (AT&T); Sprint Communications Company, L.P. (Sprint); and MCI Communications Services, Inc. d/b/a Verizon Business Services (Verizon). AT&T, Sprint, and Verizon opposed implementing the new tariff without further proceedings, clarifications, and revisions. The Department recommended approving the new tariff with modifications.

On February 12, 2009, the case came before the Commission.

FINDINGS AND CONCLUSIONS

I. Introduction

As a local exchange carrier, Qwest provides the switching services – called access services – required for interexchange carriers to deliver long distance calls to Qwest's local service customers. Qwest relies on identifying information provided with each call to determine whether the access services provided should be billed at interstate or intrastate rates. Intrastate rates are significantly higher than interstate rates.

Qwest states that it does not consistently receive the information it needs to make the interstate/intrastate determination. The company also reports that the amount of unidentified traffic is higher than can reasonably be explained by technical difficulties and that the level of unidentified traffic varies substantially from carrier to carrier for no discernible reason. The company proposes to change the classification formula to classify all unidentified traffic above a 6% threshold as intrastate, stating that this would reduce the financial incentive for inaccurate or inattentive reporting of call detail.

II. Positions of the Parties

A. AT&T

AT&T stated that it did not challenge Qwest's need to set a threshold for defaulting to intrastate access rates, but that it was important that interexchange customers have access to documentation explaining the classification of individual calls and that these customers have a process to challenge questionable classifications. AT&T also argued that the tariff needed a clearer definition of "sufficient call detail" and a higher default threshold. The company suggested 7%.

B. Verizon

Verizon also argued for a clearer definition of "sufficient call detail" and a dispute resolution process. The company urged the Commission to suspend the filing, pending further proceedings, arguing that Qwest had not documented that there was a need to establish *any* threshold.

C. Sprint

Sprint opposed the proposed tariff modifications on grounds that they would allegedly classify many interstate calls as intrastate, to the financial detriment of interexchange carriers. The company also argued that the proposal violates Qwest's Alternative Form of Regulation Plan, because the Plan requires consistency with industry standards, and the industry standard is to apply the interstate/intrastate ratio to the jurisdictional classification of unidentified traffic.

D. Qwest

Qwest claimed that its proposed tariff reflects prevailing industry practice, pointing out that Verizon, AT&T, and Embarq all have affiliated local exchange carriers with access services tariffs that classify all unidentified traffic above specific thresholds as intrastate traffic.

The company defended the reasonableness of the proposed 6% threshold by explaining that less than 1% of total terminating traffic is delivered without interstate/intrastate identifying information and that percentages of unidentified traffic vary widely from carrier to carrier without ready explanation. The company stated that its own affiliated interexchange carrier delivers interstate/intrastate identifying data 100% of the time.

The company agreed to address parties' concerns by (1) modifying the tariff to provide a right to require documentation of the reasons that specific calls were classified as intrastate calls; (2) modifying the tariff to establish a process for challenging classifications thought to be incorrect; (3) modifying the tariff to provide a clearer definition of what constitutes insufficient originating information; and (4) filing quarterly reports over a two-year period detailing the impact of the tariff modification on intrastate minutes of use, interstate minutes of use, and Qwest's Minnesota revenues.

E. The Department of Commerce

The Department supported the proposed tariff modifications, with the revisions and the reporting requirements to which the company had agreed. The Department stated that the record demonstrated a clear problem with under-reporting originating information and that the proposed 6% threshold was a reasonable point at which to default to intrastate rates. The Department was confident that the rights to obtain classification documentation and to dispute questionable classifications would provide adequate protection to Qwest's interexchange customers.

III. Commission Action

The Commission concurs with the Department and will approve the proposed tariff modifications as revised, subject to quarterly reporting requirements.

The record demonstrates that Qwest faces difficulty in receiving accurate, timely, and complete call detail from some interexchange carriers. While overall levels of unidentified interexchange traffic are below 1%, certain carriers have unidentified traffic levels significantly exceeding the 6% default threshold proposed here. Whether these high levels of unidentified traffic are due to inadvertence, inattentiveness, or some other factor, it is clear that neither Qwest nor its other access service customers should be forced to compensate for the lost revenues that under-reported intrastate usage represents.

The company's proposed 6% threshold is reasonable. It is well above the company's system-wide level of unidentified traffic (1%) and well above its affiliated interexchange carrier's level of unidentified traffic (0%). It would appear to have no reasonable likelihood of prejudicing any carrier making a good-faith effort to provide adequate call detail, and should unique and unforeseeable circumstances lead to that result, the carrier would be adequately protected by the documentation and dispute resolution provisions added to the modified tariff.

Further, adopting a threshold for defaulting to an intrastate jurisdictional classification is squarely within the bounds of industry practice – two of the three companies filing comments have affiliates who have adopted such thresholds, as has another major Minnesota local exchange carrier, Embarq. This tariff modification therefore complies with the terms of Qwest's Alternative Form of Regulation Plan, which permit it to raise prices for rate-regulated services as long as the price adjustment is not “inconsistent with the practices of other telecommunications carriers. . .”¹

The Commission concurs with commenting parties that the tariff requires a clearer definition of “insufficient call detail,” to ensure adequate notice to affected customers. The Commission will therefore require Qwest to add to the tariff the language set forth below:

Traffic without sufficient call detail shall be that traffic for which the originating number information lacks a valid Charge Party Number (ChPN) or Calling Party Number (CPN).

Finally, the Commission concurs with the Department that effective regulatory oversight requires that the company report quarterly, for at least the next two years, on the impact of implementing the tariff, to ensure that any untoward consequences are promptly identified and addressed.

¹ Qwest Alternative Form of Regulation Plan IV. B. 1. c., approved in docket P-421/05-1081.

The Commission will so order.

ORDER

1. The Commission hereby approves Qwest's proposed access services tariff revisions filed on November 10, 2008, as modified in Qwest's January 9, 2009 reply comments, conditioned upon the insertion in the tariff of the definition set forth below:

Traffic without sufficient call detail shall be that traffic for which the originating number information lacks a valid Charge Party Number (ChPN) or Calling Party Number (CPN).

2. The Company shall file quarterly reports for the next two years detailing the impact of the tariff modification on intrastate minutes of use, interstate minutes of use, and Qwest's Minnesota revenues.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



(S E A L)

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STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 27th day of February, 2009 she served the attached

ORDER APPROVING PROPOSED CHANGE WITH MODIFICATIONS AND SETTING REPORTING REQUIREMENTS.

MNPUC Docket Number: P-421/AM-08-1351

XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

XX By personal service

XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

Commissioners
Carol Casebolt
Peter Brown
Eric Witte
Marcia Johnson
Kate Kahlert
Mark Oberlander
Kevin O'Grady
Mary Swoboda
DOC Docketing
AG - PUC
Julia Anderson - OAG
John Lindell - OAG

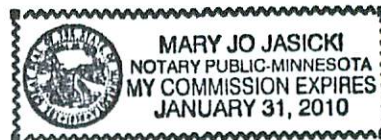
Margie DeLaHunt

Subscribed and sworn to before me,

a notary public, this 27th day of

February, 2009

Mary Jo Jasicki
Notary Public



10:
MN PUC

Susan Henson
Qwest
Room 2300
200 South 5th Street
Minneapolis MN 55401

Burl W. Haar
MN Public Utilities Commission
Suite 350
121 7th Place East
St. Paul MN 55101-2147

Bret Lawson
Sprint
KSOPHN0304-3B511
6450 Sprint Parkway
Overland Park KS 66251

20:
Dept. of Commerce

Melanie McIntyre
AT&T Services, Inc.
Room 515
220 SE 6th Street
Topeka KS 66603

Linda Chavez
MN Department Of Commerce
Suite 500
85 7th Place East
St. Paul MN 55101-2198

Adam M. Nathe
Gray Plant Mooty
500 IDS Center
80 South Eighth Street
Minneapolis MN 55402

30:
Inter-Office Mail

Philip R. Schenkenberg
Briggs And Morgan
2200 IDS Center
80 South Eighth Street
Minneapolis MN 55402

Julia Anderson
MN Office Of The Attorney General
1400 BRM Tower
445 Minnesota Street
St. Paul MN 55101-2131

John Lindell
OAG-RUD
900 BRM Tower
445 Minnesota Street
St. Paul MN 55101-2130

40:
Regular Postal Mail

Diane C. Browning
Sprint Nextel
KS90HN0212-2A511
6450 Sprint Parkway
Overland Park KS 66251

Letty S.D. Friesen
AT&T
Room B1201
2535 E. 40th Avenue
Denver CO 80205-3601