

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of US WEST)	<u>DOCKET NO. 99-049-17</u>
COMMUNICATIONS, INC., for Pricing)	
Flexibility)	<u>REPORT AND ORDER</u>

ISSUED: September 1, 2000

SYNOPSIS

The Public Service Commission of Utah grants pricing flexibility to Qwest Corporation (formerly US West Communications, Inc.) for specified retail business services in the areas served by ten central offices along the Wasatch Front in accordance with a Stipulation between the parties. In addition, the Commission approves the Stipulation which provides that pricing flexibility for the same services may be extended to six additional central offices along the Wasatch Front on certain conditions. This Stipulation and Order resolves all pending requests for pricing flexibility of Qwest. Furthermore, Qwest agrees that it will not seek pricing flexibility for these services in other areas of the state until the earlier of (i) July 1, 2001, or (ii) completion of Qwest's region wide OSS test.

APPEARANCES

Lynn Anton Stang Gregory B. Monson David L. Mortensen	for	Qwest Corporation
Michael L. Ginsberg Assistant Attorney General	"	Division of Public Utilities
Douglas C. Tingey Assistant Attorney General	"	Committee of Consumer Services
Gregory J. Kopta	"	NEXTLINK Utah, Inc. Electric Lightwave Inc.
Mark P. Trincherro	"	McLeodUSA Telecommunications Services, Inc.
Richard S. Wolters	"	AT&T Communications of the Mountain States, Inc.

BY THE COMMISSION:

PROCEDURAL HISTORY

On April 30, 1999, Qwest filed a petition for pricing flexibility. The petition sought pricing flexibility for every public telecommunications service in each Qwest wire center in which a competing telecommunications corporation was providing the same or a substitutable service. Petitions to intervene were filed by AT&T Communications of the Mountain States, Inc. ("AT&T"), NEXTLINK Utah, Inc. ("NEXTLINK"), Electric Lightwave, Inc. ("ELI"),

McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), the Utah Rural Telecom Association ("URTA") and Tel-America of Salt Lake City, Inc. ("Tel-America"). All petitions to intervene were granted. Over the course of proceedings, URTA and Tel-America have ceased to be active parties in this docket. The Division of Public Utilities ("Division") has been an active party throughout this proceeding. The Committee of Consumer Services ("Committee") did not participate actively in the proceeding until the final stages of negotiations discussed hereafter.

On May 21, 1999, the Commission held a scheduling conference. During this conference a procedure was established for competitive local exchange carriers ("CLECs") to update price lists and maps showing defined geographic areas in which services were provided or to verify that their price lists and maps on file were current or that they were not providing public telecommunications services in the state of Utah. Pursuant to the procedures established in the scheduling conference and subsequent discovery, the Division compiled a list of same or substitutable services being provided by CLECs and a map of geographic areas, by Qwest wire center, in which it believed CLECs were providing the services. The parties reviewed and had input into the list and map.

Prior to filing the petition, Qwest had filed notices of intervention and requests for pricing flexibility in certain dockets considering the grant of certificates of convenience and necessity to CLECs. These notices and requests were filed pursuant to Utah Code Ann. §§ 54-8b-2.2(2)(b) & 54-8b-2.3(2)(b). The Commission commenced Docket No. 99-049-13 to deal with these applications. Pursuant to our "Order Combining Dockets, Closing Docket, Granting Intervention and Setting Deadline for Intervention, Providing Notice to Certificated Providers To File Current Price Lists and Maps or Verification, Allowing Discovery, and Requiring U.S. West To Make Supplemental Filing" dated June 29, 1999, the Commission transferred all pleadings and orders in Docket No. 99-049-13 into this docket and took related actions to close Docket No. 99-049-13 and to conduct all proceedings related to Qwest's requests for pricing flexibility in this docket. Thereafter, Qwest continued to file notices of intervention and requests for pricing flexibility in numerous dockets considering applications by CLECs for certificates. These notices and requests were filed jointly in the certificate dockets and this docket until July 5, 2000. At that time, we requested that Qwest file further notices and requests in a new docket, Docket No. 00-049-31, and gave notice that we had transferred all requests and notices filed after December 31, 1999 to the new docket. Our decision in this docket resolves Qwest's pending requests for pricing flexibility in each of these notices and requests.

Pursuant to further hearings and procedural orders, Qwest filed supplements to its petition for pricing flexibility. In its Supplement filed December 8, 1999, it provided a list of same or substitutable services and wire centers for which it believed it was eligible for pricing flexibility pursuant to Utah Admin. Code R746-351-3. The list and map were essentially identical to the list and map compiled by the Division. NEXTLINK, ELI and AT&T filed responses to this supplement contesting Qwest's position. In its Second Supplement filed January 18, 2000, Qwest attempted to comply with Utah Admin. Code R746-351-4. As part of the Second Supplement, Qwest filed certifications with respect to the matters set forth in Utah Code Ann. § 54-8b-2.3(2)(b)(iii) and Utah Admin. Code R746-351-4(A)(2). The Division, NEXTLINK, ELI and McLeodUSA filed responses to the second supplement. The Division's response stated that it needed further information to determine if Qwest was entitled to pricing flexibility. The other parties' responses opposed pricing flexibility.

The parties have conducted extensive discovery and have provided extensive information to the Division which the Division compiled and shared in aggregate form with the parties.

The parties have significant disputes regarding both the factual and legal requirements for pricing flexibility and whether those requirements are met in this case. However, the parties also recognize that there may be a sufficient level of competition in certain wire centers to justify pricing flexibility for retail business services provided by Qwest in those wire centers if Qwest is in compliance with Commission rules and orders adopted or issued under Utah Code Ann. § 54-8b-2.2. The parties also agree that litigation of issues of compliance would be difficult and time consuming and that many of the issues that would be involved in such litigation will be the subject of extensive review in other proceedings, including review of Qwest's compliance with 47 U.S.C. § 271.

Based upon the foregoing, the parties held settlement discussions and entered into a Stipulation. All of the active parties to this docket except the Committee entered into the Stipulation. The Stipulation was presented to the Commission for approval at a hearing on August 1, 2000. After the Stipulation was proffered and admitted without objection, the

Division of Public Utilities presented testimony of Ingo Henningsen, Emily Marshall and Peggy Egbert in support of the Stipulation. The Committee cross examined these witnesses and also presented argument regarding a concern for single line basic business service customers. While not otherwise opposing the Stipulation, the Committee requested that the Commission consider imposing a price cap for these services. The CLEC parties also cross examined Ms. Egbert and made statements that they did not agree with her assessment of Qwest's compliance. The Commission also questioned the parties and witnesses regarding various aspects of the Stipulation and the evidence presented.

STIPULATION

The operative provisions of the Stipulation are contained in Paragraph 8 of the Stipulation. In that paragraph, the parties agree to terms and conditions to the grant of pricing flexibility for specified retail business services in the areas served by ten specified central offices. They also agree that Qwest will receive pricing flexibility for the same services in the areas served by six additional specified central offices subject to certain conditions. For purposes of clarity, Paragraph 8 of the Stipulation is set forth in this Order in its entirety and the appendices referenced in Paragraph 8 are incorporated into and made attachments to this Order.

8. Based upon the foregoing, the parties have held settlement discussions and have agreed that the Commission may enter an order as follows:

a. Qwest shall be granted pricing flexibility for the services in Appendix A in the 10 wire centers in Appendix B effective five days after the later of:

i. The effective date of the Commission's order.

ii. The filing by Qwest of a price list for the services in Appendix A which indicates that the price list is applicable within the designated geographic area served by the wire centers in Appendix B and any necessary tariff revisions.

b. Qwest may obtain pricing flexibility in one or more of the wire centers in Appendix C in accordance with the following procedures:

i. The Division shall update the information it has compiled in this docket regarding number of access lines served by Qwest and all CLECs in the six wire centers semiannually. To facilitate this updating, Qwest and all CLECs shall provide the number of access lines, on a DS0 equivalent basis, served with any service in Appendix A in each of the six wire centers to the Division on the following schedule:

(1) Information current as of June 30, 2000 shall be provided to the Division not later than September 1, 2000.

(2) Information current as of December 31, 2000, shall be provided to the Division as part of the annual reports required to be filed with the Division.

(3) Information current as of June 30, 2001, shall be provided to the Division not later than September 1, 2001.

(4) In the event the Commission adopts a rule requiring provision of this information on a different schedule, the rule shall govern following its effective date.

ii. If a CLEC cannot provide the information required by subparagraph 8.b.i because it does not have the number of access lines, on a DS0 equivalent basis, served with any service in Appendix A by wire center, it shall provide the number of DS0 equivalent access lines served with any service in Appendix A for switched services by NPA-NXX and the number of private line/special access lines used for access by originating and terminating municipality, along with an identification of the private line/special access lines that are self-provisioned or provisioned with facilities leased from Qwest.

iii. If Qwest or any CLEC is required to estimate any information provided to the Division under subparagraph 8.b.i, it shall provide a detailed explanation of how the estimate was made and shall provide with the estimate the number of customer access lines assigned or ported.

iv. It is understood that the individual company information provided to the Division is highly sensitive confidential information and is provided pursuant to the terms of the Protective Order in this docket.

v. The Division shall provide a copy of its aggregated update to each of the parties to this Stipulation entitled to receive confidential information pursuant to the terms of the Protective Order within 15 days after receipt of the information.

vi. In the event a Division update indicates that CLECs are providing service to 10% or more of the business access lines in any of the six wire centers in Appendix C, Qwest shall be entitled to pricing flexibility for the services in Appendix A in the wire center on the following terms and conditions:

(1) Qwest shall notify the Commission and the parties in writing that it believes it is entitled to pricing flexibility for the services in Appendix A in the wire center.

(2) Pricing flexibility shall be effective 15 days following notification unless, prior to the expiration of the 15-day period:

(a) Any CLEC that is a party to this Stipulation notifies the Commission, the Division and U S WEST in writing that it does not believe Qwest is in compliance with its obligation under subparagraphs 8.b.vii and 8.b.viii, below, or

(b) the Division notifies the Commission and U S WEST in writing that it believes there has been a substantial negative change in U S WEST's performance under Utah Admin. Code R746-365 relative to its performance at the time of this Stipulation or that it has substantially increased prices for the services in Appendix A in the wire centers in Appendix B without good cause.

(3) If a notice opposing pricing flexibility is given pursuant to the foregoing subparagraph 8.b.vi.(2), Qwest may either withdraw its notice or notify the involved party in writing that it desires to attempt to resolve the issue. In the latter event, the involved parties shall attempt in good faith to resolve the issue promptly. If they are unable to do so, Qwest may present the disputed issue to the Commission for resolution. The Commission shall attempt to resolve the disputed issue on an expedited basis.

vii. Qwest shall provide the parties to this Stipulation with an aggregated wholesale performance monitoring report, including its statistical analyses, semiannually in accordance with the schedule set forth in subparagraph 8.b.i, above. Qwest and the parties to this Stipulation shall attempt to agree upon a mutually acceptable format for these reports. It is understood that Qwest will not be required to provide information in these reports beyond information required to be provided under Utah Admin. Code R746-365, except for its statistical analyses. These reports shall be provided on a confidential basis pursuant to the terms of the Protective Order.

viii. Qwest shall conduct a joint review with regard to provisioning and repair of interconnection facilities and services with any CLEC that requests such a review. The review will be limited to review of actual experience with the requesting CLEC during a recent and reasonably limited period of time. If in the course of the review, problems in provisioning or repair are identified, the parties shall attempt in good faith to remedy the problems.

c. Except as otherwise provided in this Stipulation, Qwest shall not seek pricing flexibility for the services in Appendix A in any area within the state of Utah prior to the earlier of:

i. July 1, 2001, or

ii. Completion of the region wide OSS test.

In addition to these operative provisions, this Stipulation contained typical settlement provisions stating that it is a compromise of disputed positions and that no party is waiving its position on any issue except as specifically provided in the Stipulation. The Stipulation specifically identified certain issues upon which the parties were not agreeing.

DISCUSSION

Incumbent telephone corporations such as Qwest may obtain pricing flexibility for services the same or substitutable for those a CLEC is authorized to provide in the same designated geographic area in which the CLEC is authorized to provide them in the certificate proceeding of the CLEC. Utah Code Ann. § 54-8b-2.3(2). The pricing flexibility granted to Qwest becomes effective when four conditions are met: (1) the Commission has issued a certificate to the CLEC; (2) the CLEC has begun providing the authorized services in the defined geographic area; (3) Qwest has allowed the CLEC to interconnect with its essential facilities and to purchase its essential services by written agreement, stipulation or pursuant to an order of the Commission; and (4) Qwest is in compliance with the rules and orders of the Commission adopted or issued under Section 54-8b-2.2. *Id.* 54-8b-2.3(2)(b)(iii). Rule R746-351 establishes procedures by which pricing flexibility granted to an incumbent telephone corporation such as Qwest may become effective.

It has been our experience that CLECs typically seek authority in all areas of the state served by Qwest to provide local exchange and intraLATA toll services broadly defined. We have granted certificates to qualified applicants conditioned on their filing price lists designating the specific services and areas in which they will be offered prior to providing the services. Because the services and specific areas have not been specified until after the certificate was granted, it has not been practical to deal with issues related to pricing flexibility for Qwest during the course of certificate proceedings. In addition, Qwest has never objected to our grant of a certificate. Therefore, we have designated these proceedings as informal. This eliminates the necessity for a hearing. Qwest has accepted this designation subject to an understanding that its requests for pricing flexibility would be dealt with in this docket. Based upon the foregoing, we have not granted pricing flexibility in certificate proceedings.

The parties to this case have deeply divided views regarding the meaning and application of Section 54-8b-2.3(2) and Rule R746-351. These disputes also extended to the meaning and application of Utah Code Ann. § 54-8b-2.2 dealing with interconnection and Rule R746-365 dealing with intercarrier service quality. The parties were not even able to agree on the threshold issues of same or substitutable services or defined geographic areas. Therefore, it appeared that litigation of this docket would have consumed substantial time and resources of the Commission and the parties. We had a hint of this when Qwest's cross examination of a NEXTLINK witness in the merger proceeding, Docket No. 99-049-41, with respect to just one aspect of the issues involved took several hours. To further complicate the issues, the parties regard much of the essential evidence in the case to be highly confidential. This fact caused significant problems for the Division in compiling the information which ultimately resulted in the list of same or substitutable services and confidential exhibit which led to the Division's entry into the Stipulation. Each of the CLECs regards information regarding its individual customers and facilities as highly confidential and would not wish that information disclosed to its competitors. Qwest has significant concerns about its disclosure of information regarding its provision of services and facilities to individual CLECs because much of this information may be customer proprietary network information. Thus, not only would the litigation have been extended, it would have been conducted *in camera* with only certain parties allowed to be present during certain portions of the hearing.

Settlement of matters before the Commission is encouraged at any stage of proceedings. Utah Code Ann. § 54-7-1. *See also Utah Dept. of Admin. Services v. Public Service Commission*, 658 P.2d 601, 613-14 (Utah 1983). The Commission may approve a stipulation or settlement after considering the interests of the public and other affected persons if it finds the stipulation or settlement in the public interest. *Id.* Parties to a proceeding not joining in a stipulation or settlement shall be entitled to oppose the agreement in a manner directed by the Commission. Utah Admin. Code R746-100-10.F.4 & 5.

Accordingly, we must determine whether the Stipulation in this case is in the public interest. In making this determination, we are guided by the definition of public interest factors which the Division is to consider in Section 54-4a-6 and, in the new telecommunications environment, more particularly by the statement of legislative intent in Section 54-8b-1.1. The policy of this state enunciated by the Legislature in the latter section includes allowing flexible and reduced regulation as competition develops. Utah Code Ann. § 54-8b-1.1(4). The fact that the Stipulation in this case was reached after extensive proceedings, including discovery, technical conferences, argument and arms length negotiations between parties with such deeply divided views, weighs heavily in our determination. The parties to the Stipulation represent the interests of Qwest, its competitors and the public interest, including the interests of the customers of Qwest and the CLECs. If these parties can agree that there is a sufficient level of competition in the central offices identified in the Stipulation to justify pricing flexibility for retail business services, this is strong evidence that we should allow flexible and reduced regulation for these services in these areas.

In addition, we rely on the testimony of Mr. Henningsen, Ms. Marshall and Ms. Egbert. These individuals testified regarding the Division's analysis and reasons for supporting the Stipulation. They provided a confidential exhibit showing, for each Qwest central office included in the Supplements filed by Qwest, the number of collocations (separately identifying situations where only data local exchange carriers ("DLECs") were collocated), the number of customers served by CLECs, the number of CLEC access lines, the number of Qwest business lines, total lines, percentage of total lines served by CLECs and the number of unbundled network element ("UNE") lines provided by Qwest to CLECs. They also presented the list of same or substitutable services that they had compiled based on information provided by Qwest and CLECs and testified that the services on the list were provided by CLECs in the central offices which are the subject of the Stipulation. They testified that the Division had utilized a multi factor analysis in determining whether pricing flexibility should be granted. First, the Division considered whether CLECs were collocated in the central office. Second, the Division considered the number of customers and the percentage of total business access lines served by CLECs and whether the percentage was likely to be understated because of reporting problems. Third, the Division considered the number of UNE lines provided by Qwest to the CLECs in the central offices. Fourth, the Division considered geographic location of the central office relative to other central offices. Finally, the Division reviewed route maps of CLECs to determine whether service in the central office was dispersed or concentrated in only one portion of the area served by the central office. They also testified regarding the Division's analysis of Qwest's compliance with Commission rules and orders adopted or issued under Utah Code Ann. § 54-8b-2.2. Based upon all of the foregoing, the Division witnesses testified that they supported the Stipulation and believed pricing flexibility was justified as provided in the Stipulation. We agree.

The only party raising an issue with respect to the Stipulation was the Committee. The Committee did not present its own witness and did not participate in settlement discussions until the Stipulation was in the final stages of drafting. Rather it relied on cross examination of Division witnesses and argument to raise its concern that competition did not focus on single line business customers, that absent the Stipulation these customers would likely have received a price reduction under application of the price index and that a price cap for these services should have been included in the Stipulation. The Committee offered no evidence or analysis of what an appropriate price cap would be other than a suggestion in argument that perhaps the price of basic single line business service should be capped at its current tariff rate.

In response to questions from the Committee and the Commission, Mr. Henningsen testified that the Division had initially considered recommending a price cap, but had determined not to seek one at this time for several reasons. First, imposing a price cap may be an effort to remedy a problem that may never exist. Second, a price cap at current tariffed rates defeats the purpose of pricing flexibility. Qwest can already lower its tariffed prices. Pricing flexibility assumes that prices may go up or down. Third, the Division could not determine what an appropriate price cap would be in the absence of a specific problem. Fourth, Utah Code Ann. § 54-8b-2.3(8) allows the Commission to impose a price cap on services that are flexibly priced if it is determined necessary to protect the public interest. The Division intends to closely monitor Qwest's use of its pricing flexibility and to recommend imposition of a price cap or caps if it believes it is necessary to protect the public interest. Fifth, the ability of Qwest to obtain further pricing flexibility under the Stipulation would be impaired if it made price increases without good cause. Therefore, the Division does not believe Qwest has an incentive to abuse the pricing flexibility that would be granted under the Stipulation. In addition, Ms. Marshall's testimony was that the services for which pricing flexibility is to be granted are provided in the areas served by the central offices in which pricing flexibility is to be granted by CLECs and that the CLECs include single line business service in their price lists. Thus, single line business service is actually being provided by CLECs in these central office areas and is available to other customers from the CLECs. In addition, because of collocation, CLECs have the capability to purchase an unbundled loop from Qwest serving any single line business customer and to provide service to that customer.

We share the Committee's concern about how potential abuses of pricing flexibility could affect basic single line business customers. However, we believe that the Legislature intended incumbent telephone corporations to receive pricing flexibility for services such as basic single line business service when competitors are providing the same or a substitutable service in the same area and when the other conditions in Section 54-8b-2.3(2)(b)(iii) are satisfied. The Committee has presented no evidence that these conditions are not satisfied. In fact, the Committee has not even argued that the conditions are not satisfied. While we recognize that we have authority to impose a price cap to alleviate the concern regarding potential abuse, the Committee has not suggested any price cap other than the current tariff rate. We

agree with the Division that pricing flexibility contemplates both increases and decreases in prices and that pricing flexibility is somewhat meaningless if a price cap is imposed at the current tariff rate. We also have no basis in this record to impose some other price cap. Qwest argued that protection to customers under pricing flexibility regulation should be provided by competition. Clearly, that is what the Legislature intended because it required rates for services for customers without competitive choice to remain tariffed, but directed that prices for services being provided by competitors be subject to pricing flexibility. Therefore, we believe it is in the public interest to approve the Stipulation and to grant Qwest pricing flexibility without imposing a price cap on basic single line business service at this time.

Nonetheless, we intend to closely monitor Qwest's use of its pricing flexibility, particularly with respect to prices for basic single line business service. In Qwest's last general rate case in 1997, we set the tariffed rate for basic single line business service at an amount that fully covered the cost of providing that service. Although no new cost evidence has been presented in this docket, we believe that productivity improvements since that time have at least offset inflation in prices for underlying goods and services. Therefore, we assume that the tariff rate continues to fully cover the cost of providing the service and may be providing a larger contribution than it was at the time of the last general rate case. While we recognize that Qwest is no longer subject to traditional rate of return regulation, Utah Code Ann. § 54-8b-2.4(2)(a), and that its prices are therefore no longer based on cost of service, we will closely scrutinize any increase in the price of basic single line business service and will take action to impose a price cap if we believe it is necessary to do so to protect the public interest in accordance with Section 54-8b-2.3(8).

Based upon the foregoing analysis, the Commission makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. CLECs provide the retail business services listed in Appendix A in the areas served by the Qwest central offices listed in Appendices B and C.
2. The Stipulation is an appropriate resolution of the issues in this docket and is in the public interest.
3. Granting pricing flexibility to Qwest for the retail business services listed in Appendix A in the ten central offices listed in Appendix B is in the public interest without imposing a price cap on basic single line business service at this time.
4. Granting pricing flexibility to Qwest for the retail business services listed in Appendix A in the six central offices listed in Appendix C in accordance with the procedures and subject to the conditions set forth in the Stipulation is in the public interest without imposing a price cap on basic single line business service at this time.

CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction in this docket.
2. All proceedings in this docket were appropriately held pursuant to proper notice.
3. Qwest is an incumbent telephone corporation as defined in Utah Code Ann. § 54-8b-2(5).
4. It is appropriate for the Commission to accept the Stipulation of the parties to this docket as the basis for a decision to grant pricing flexibility. Settlement of disputed issues is to be encouraged. Utah Code Ann. § 54-7-1. *See also Utah Dept. of Admin. Services v. Public Service Commission*, 658 P.2d 601, 613-14 (Utah 1983). After examining the Stipulation, the Commission concludes that it is in the public interest.
5. It is in the public interest to grant Qwest pricing flexibility for the retail business services listed in Appendix A in the central offices listed in Appendix B effective five days after the later of: (1) the effective date of this Order or (2) the filing by Qwest of a price list for the services in Appendix A which indicates that the price list is applicable within the designated geographic area served by the wire centers in Appendix B and any necessary tariff revisions.
6. It is in the public interest to grant Qwest pricing flexibility for the retail business services listed in Appendix A in

each of the central offices list in Appendix C in accordance with the procedures and subject to the conditions set forth in the Stipulation.

7. Pursuant to Utah Code Ann. § 54-8b-2.3(8), the Commission has authority to set an upper limit on the price that may be charged for any of the services listed in Appendix A if it determines that it is necessary to do so to protect the public interest. The Commission concludes that it is not necessary to set an upper limit on the prices that may be charged for any of the services listed in Appendix A to protect the public interest at this time.

8. A party's entry into the Stipulation in this case and the Commission's acceptance and approval of the Stipulation in this case shall not be cited or construed as precedent or as indicative of the party's position on a resolved issue, or asserted or deemed to mean that the party agreed with or adopted another party's legal or factual assertions in this or any other proceeding. The limitation in this paragraph shall not apply to any proceeding to enforce the terms of this Order adopting and approving the Stipulation.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Stipulation of Qwest, the Division, NEXTLINK, ELI, McLeodUSA

and AT&T in this docket dated July 31, 2000 is approved and is incorporated in this Order.

2. Qwest is granted pricing flexibility for the retail business services listed in Appendix A in the ten central offices listed in Appendix B. This pricing flexibility will be effective five days after the later of:

a. The effective date of this Order.

b. The filing by Qwest of a price list for the services in Appendix A which indicates that the price list is applicable within the designated geographic area served by the central offices in Appendix B and any necessary tariff revisions.

3. Qwest may obtain pricing flexibility in one or more of the in Appendix C in accordance with the procedures and subject to the conditions set forth in paragraph 8.b of the Stipulation.

4. The Division shall update the information it has compiled in this docket regarding the number of access lines served by Qwest and all CLECs in the six central offices in Appendix C semiannually. To facilitate this updating, Qwest and all CLECs shall provide the number of access lines, on a DS0 equivalent basis, served with any service in Appendix A in each of the six central offices in Appendix C to the Division on the following schedule:

a. Information current as of June 30, 2000 shall be provided to the Division not later than September 1, 2000.

b. Information current as of December 31, 2000, shall be provided to the Division as part of the annual reports required to be filed with the Division.

c. Information current as of June 30, 2001, shall be provided to the Division not later than September 1, 2001.

d. In the event the Commission adopts a rule requiring provision of this information on a different schedule, the rule shall govern over the foregoing schedule following its effective date.

5. If a CLEC cannot provide the information required by the foregoing paragraph because it does not have the number of access lines, on a DS0 equivalent basis, served with any service in Appendix A by central office, it shall provide the number of DS0 equivalent access lines served with any service in Appendix A for switched services by NPA-NXX and the number of private line/special access lines used for access by originating and terminating municipality, along with an identification of the private line/special access lines that are self-provisioned or provisioned with facilities leased from Qwest.

6. If Qwest or any CLEC is required to estimate any information provided to the Division under paragraph 4, it shall

provide a detailed explanation of how the estimate was made and shall provide with the estimate the number of customer access lines assigned or ported.

7. It is understood that the individual company information provided to the Division is highly sensitive confidential information and is provided pursuant to the terms of the Protective Order in this docket.

8. The Division shall provide a copy of its aggregated update to each of the parties to the Stipulation in this docket that is entitled to receive confidential information pursuant to the terms of the Protective Order within 15 days after receipt of the information.

9. Qwest shall provide the parties to the Stipulation in this docket with an aggregated wholesale performance monitoring report, including its statistical analyses, semiannually in accordance with the schedule set forth in paragraph 4, above. Qwest and the parties to this Stipulation shall attempt to agree upon a mutually acceptable format for these reports. It is understood that Qwest will not be required to provide information in these reports beyond information required to be provided under Utah Admin. Code R746-365, except for its statistical analyses. These reports shall be provided on a confidential basis pursuant to the terms of the Protective Order in this docket.

10. Qwest shall conduct a joint review with regard to provisioning and repair of interconnection facilities and services with any CLEC that requests such a review. The review will be limited to review of actual experience with the requesting CLEC during a recent and reasonably limited period of time. If, in the course of the review, problems in provisioning or repair are identified, the parties shall attempt in good faith to remedy the problems.

11. Except as otherwise provided in this Order, Qwest shall not seek pricing flexibility for the services in Appendix A in any area within the state of Utah prior to the earlier of:

a. July 1, 2001, or

b. Completion of the region wide OSS test.

12. A party's entry into the Stipulation in this case and the Commission's acceptance and approval of the Stipulation in this case shall not be cited or construed as precedent or as indicative of the party's position on a resolved issue or asserted or deemed to mean that the party agreed with or adopted another party's legal or factual assertions in this or any other proceeding. The limitation in this paragraph shall not apply to any proceeding to enforce the terms of this Order.

13. This Order resolves all pending requests of Qwest for pricing flexibility.

14. Pursuant to Utah Code Ann. § 63-46b-13, an aggrieved party may file, within 20 days after the date of this Order, a written request for rehearing or reconsideration by the Commission. Pursuant to Utah Code Ann. § 54-7-15, failure to file such a request precludes judicial review of the Order. If the Commission fails to issue an order within 20 days after the filing of such a request, the request shall be deemed denied. Judicial review of this Order may be sought pursuant to the Utah Administrative Procedures Act (Utah Code Ann. §§ 63-46b-1 *et seq.*)

DATED at Salt Lake City, Utah this 1st day of September, 2000.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

APPENDIX A

List of Same or Substitutable Services

Access Line Services

Business Line (Individual)

Enhanced Business Line (Includes Features)

Message Business Line (Individual)

Measured Business Line (Individual)

Market Expansion Line

Trunks (Analog Type)

Network Access Register

In-Only

Message

Measured

2-Way

Out-Only

DID

Digital Access Line Services

2-Way

In-Only

Out-Only

DID 1-Way In

DID 1-Way Out

DID 2-Way

Digital Switched Services

ISDN - Primary Rate Interface

Integrated T-1

Uniform Access Solution

Private Line Services

DSO

DS1

DS3

Exchange and Network Services (Tariffed Products)

Foreign Exchange Service

Business Custom Calling Features

Call Forwarding Features

Variable

Busy Line (Expanded)

Busy Line (External)

Busy Line (Overflow)

Busy Line (Programmable)

Don't Answer

Don't Answer (Expanded)

Don't Answer (Programmable)

Busy Line/Don't Answer (Expanded)

Busy Line (External) Don't Answer

Busy Line (Overflow) Don't Answer

Call Transfer

Call Waiting

Call Waiting Cancel

Call Waiting ID

Caller ID Blocking - Per Line

Directed Call Pick-up

Directed Call Pick-up with Barge In

Distinctive Alert

Do Not Disturb

Extended Area Service

High Usage Line

Hot Line

Hunting Service

Message Waiting - Audible

Priority Call

Six Port Conference

Speed Calling 8 number

Speed Calling 30 number

Tenant Solutions

APPENDIX B

Qwest Wire Centers in Which Pricing Flexibility Shall Be Effective

Clearfield

Midvale

Murray

Ogden Main

Orem

Provo

Salt Lake Main

Salt Lake East

Salt Lake South

Salt Lake West

APPENDIX C

Qwest Wire Centers Which May Be Subject to Pricing Flexibility

Bountiful

Cottonwood

Draper

Holladay

Kaysville

Kearns