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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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| In the Matter of the Petition of QWEST CORPORATION for Arbitration of an Interconnection Agreement with UNION TELEPHONE COMPANY d/b/a UNION CELLULAR under Section 252 of the Federal Telecommunications Act | Response of the Division of Public utilities to Union's Petition for Rehearing, Reconsideration and Review<br><br><b>Docket No. 04-049-145</b> |
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The following is a response by the Division of Public Utilities (DPU) to portions of the Petition for Reconsideration, Review and Rehearing filed by Union Telephone Company, dba, Union Cellular, in this Docket.

**INTRODUCTION**

The Division does not see any reason for the Commission to grant rehearing on its decision to reject the Union cost study. That cost study was developed to serve as the basis for Union to meet its burden of proof that its network components are cost sensitive to increasing call traffic<sup>1</sup> and to overcome the presumption in favor of symmetric reciprocal rates. Union failed to meet its burden of proof and this Docket should not serve as the basis for correcting problems with the cost study. That should occur, if ever, in some future proceeding.

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<sup>1</sup> CC Docket No. 95-185, FCC 03-215 September 3, 2003

## **TELRIC DOES REQUIRE THE BUILDING OF A HYPOTHETICAL NETWORK AND NOT JUST MODELING THE COST OF UNION'S EXISTING NETWORK**

Union asks for rehearing on the portion of the Commission's Order that claims there is no requirement for optimization of the network as part of a TELRIC study. They claim such a study would be costly for a small company like theirs. Union claims that TELRIC does not require optimization to be TELRIC compliant. A TELRIC study does not just place the cost of an existing network into a cost study, but instead of using embedded costs, creates a study based on TELRIC principles<sup>2</sup> of an efficient hypothetical network to estimate forward looking economic costs to meet current demand. The Union study did not meet that requirement. The Commission's Order in 01-049-85 defined a TELRIC study as one that creates a "theoretical least-cost, most-efficient, forward-looking network designed to provide for current demand." (See DPU Initial Brief p. 6). This concept seemed to also be adopted by the Colorado Commission when it rejected the Union cost study. (See DPU Initial Brief p. 5).

## **THE COMMISSION'S FINDINGS ON THE UNION COST STUDY ARE ACCURATE**

Union in its Petition for Rehearing claims that the Commission's findings that Union's costs study assumed that all costs were traffic sensitive is inaccurate. (Petition for Rehearing p. 6). Union acknowledges that it assumed that its entire network is traffic sensitive but claims the factors can be changed to reflect something other than a 100% traffic sensitive network. The Colorado Commission also rejected the Union model because it assumed its network was entirely traffic sensitive and it also did not provide needed detail. (See DPU Initial Brief p. 5). Likewise, neither the Commission nor the DPU, nor any other investigator to Union Cellular's model can provide an "alternative allocation" percentage based on the data provided by Union Cellular. Union's cost study does not have sufficient granularity to determine percentages of

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<sup>2</sup> 47CFR51.505

component traffic sensitivity. The model data must be granular so that costs can be determined by individual component and an allocation can be made by what network elements are traffic sensitive. Simply applying a percentage of what is believed to be traffic sensitive to all the equipment costs or cell site costs is less of a valid approach than separating the component's costs into categories that are either traffic sensitive or non-traffic sensitive.

### **THE DIVISIONS'S POSITION ON TRAFFIC SENSITIVITY WAS BASED ON ITS EXPERT'S OPINION**

Union in its Petition for Rehearing (p. 8) is critical of the DPU testimony on what is traffic sensitive claiming it relied solely on hearsay. Experts often rely on articles to help develop their expert opinion. Mr. Anderson was presented to the Commission as an expert witness. In the development of the Division's opinion, he and other Division personnel investigated the Union Cellular network independently. The Division made an on site visit to Union facilities, visiting cellular switch and base station controller equipment, and interviewing Union's engineers. The Division sent out numerous data requests in addition to the on site visit. Beside its own analysis, the Division sought to examine industry opinion on the subject and what the Commission has ordered in the past. The Division did not solely rely on Dr. Moon-Soo Kim's article, but used it as a data source. Mr. Anderson used a combination of Dr. Kim's approach, field visits and his own 35-year telephone industry experience in determining traffic sensitivity of a cellular system's components to develop the Division's position.

### **CONCLUSION**

As stated earlier the DPU does not see any reasons for the Commission to grant Rehearing in this case. As in Colorado now both state Commissions have found that Union did not meet its burden of proof to show that the state should deviate from symmetric rates. If at

some future point a new cost study is presented by Union in another docket the Division will re look at that study to determine to what extent TELRIC costs warrant asymmetric pricing.

Respectfully submitted this \_\_\_\_\_ day of May, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the **Response of the Division of Public utilities to Union's Petition for Rehearing, Reconsideration and Review** was transmitted electronically (email) on this the \_\_\_\_ day of May, 2008 to the following:

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