

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

DOCKET NO. 01-049-85

In the Matter of the Determination of)
the Cost of the Unbundled Loop of)
QWEST CORPORATION)

ORDER ON QWEST'S AMENDED
COMPLIANCE FILING ON SWITCHING
ELEMENTS

ISSUED: March 15, 2004

By The Commission:

On January 15, 2004, Qwest Corporation (Qwest) filed its Compliance Filing on Switching Elements.

This filing was made in advance of the compliance filing on loop related elements, which were then under reconsideration, based on the Commission's Order Regarding AT&T's Motion to Require Qwest to Implement Commission Ordered Switching Rates issued November 17, 2003.

On February 25, 2004, the Commission was informed that there was a dispute between Qwest and AT&T Communications of the Mountain States, Inc. (AT&T) and XO Utah, Inc. (XO) regarding one aspect of the compliance filing, the rates for End Office Call Termination, per Minute of Use, which is Section 7.6.1 in Exhibit A to Qwest's Utah Statement of Generally Available Terms and Conditions ("SGAT"). The Commission was also informed that the parties had agreed that the dispute could be submitted to the Commission for resolution informally through a telephone conference conducted either by the Commission or by Commission Staff. The reason for the informal resolution was that Qwest was already in the process of implementing the switching rates set forth in its compliance filing when it learned of the dispute and that expeditious resolution of the issue would assist in avoiding significant delays with implementation. A telephone conference was established for February 27, 2004, to be conducted by Commission Staff. The parties were invited to submit brief written statements of position on the issue via e-mail prior to the conference. Written statements were submitted by Qwest, AT&T and XO and the Division of Public Utilities (Division).

The telephone conference took place as scheduled on February 27, 2004, under the direction of John

Harvey, Commission Telecommunications Specialist, and Sandy Mooy, Commission Legal Counsel. Counsel for Qwest, Gregory B. Monson of Stoel Rives LLP, and AT&T and XO, Gregory J. Kopta of Davis Wright Tremaine LLP, participated. In addition, Robert Brigham of Qwest, Natalie Baker of AT&T, Rex Knowles of XO, Curt Hutsell of Electric Lightwave, Inc. (ELI), and Peggy Egbert and Jonathon Lee of the Division participated in the conference. The parties presented their positions and responded to each other and questions from Messrs. Harvey and Mooy. Following the telephone conference, Messrs. Harvey and Mooy explained the parties' positions to the Commission.

Qwest contended that local end office switching usage costs have always applied to both the usage portion of the switching unbundled network element and end office call termination because there is no functional difference between these elements. Qwest contended that the Procedural Order dated June 11, 2002, contemplated that both elements would be at issue and that its direct testimony in the case addressed both elements. Because the Commission determined in its Report and Order that local end office switching costs were not usage sensitive and should be recovered from a flat port rate, Qwest contended that the only conclusion consistent with setting rates based on total element long-run incremental costs (TELRIC) is that the end office call termination rates are also zero. Qwest did not believe that the Commission's failure to address this issue after Qwest requested that it be clarified in its petition for reconsideration amounted to a decision by the Commission that the end office call termination rates should not be zero.

AT&T and XO contended that the Procedural Order did not contemplate that End Office Call Termination reciprocal compensation rates would be addressed in this proceeding. XO and ELI stated that had they known reciprocal compensation was an issue in the case, they would have participated or participated more vigorously in the docket. AT&T and XO also contended that the Commission's denial of reconsideration on other issues in its Final Order dated July 25, 2003, was a denial of Qwest's request for clarification on this issue.

The Division contended that the Commission should determine whether it intended to establish End Office Call Termination rates in this docket and decide the matter accordingly.

The Commission reviewed the matter and concluded that it did not intend to address the rates for End Office Call Termination in its Report and Order issued in this docket on May 5, 2003. Therefore, the Commission did not intend, by the Report and Order or subsequent orders in this docket, for the rates for End Office Call Termination to be modified from those rates set forth in Section 7.6.1 of Qwest's currently effective Exhibit A to its Utah SGAT. The Commission informed the parties of its decision, and Qwest made an Amended Compliance Filing consistent with this decision on March 10, 2004. Specifically, the rates for End Office Call Termination in the amended compliance filing are \$0.001427 per minute in Zone 1 (Urban), \$0.001654 in Zone 2 (Suburban), and \$0.001798 in Zone 3 (Rural). Other rates for switching elements in the original compliance filing were not contested and were as set forth in the original compliance filing. Therefore, we conclude that we may approve the amended compliance filing and that Qwest may implement the switching rates without further delay.

We recognize that Qwest was already in the process of implementing switching rates based on its original compliance filing before it knew of a dispute regarding the End Office Call Termination rates and before the Commission provided clarification on March 2, 2004. The Commission does not wish Qwest to delay implementation, but rather wishes Qwest to make any adjustments necessary resulting from the difference between its original and amended compliance filings as soon as is reasonably possible consistent with its normal practices and procedures. Qwest should provide notice to carriers of this change, but may otherwise make changes in rate sheets in connection with implementation of the changes in rates ordered for loop elements. The Commission is hopeful that Qwest may be able to take steps to avoid billings based on a zero rate for End Office Call Termination, but recognizes that it may not be possible for Qwest to avoid billings based on a zero rate because implementation was already in process before the Commission provided clarification on March 2, 2004. If such billings cannot reasonably be avoided, Qwest should make adjustments as soon as is reasonably possible consistent with its normal practices and procedures.

Based upon the foregoing, the Commission makes the following order:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Qwest's Amended Compliance Filing on Switching Elements is approved.
2. Qwest shall proceed with implementation of the switching rates established in this docket as set forth in its compliance filing and shall adjust the End Office Call Termination rates set forth in its amended compliance filing as soon as is reasonably possible consistent with its normal practices and procedures. Qwest should provide notice to carriers of the change in End Office Call Termination rates from its original compliance filing, but may otherwise make changes in rate sheets in connection with implementation of the changes in rates ordered for loop elements. Qwest should take reasonable steps to avoid billings based on a zero rate for End Office Call Termination. If such billings cannot reasonably be avoided because Qwest was in the process of implementation of its original compliance filing before the Commission provided clarification on March 2, 2004, Qwest should make adjustments as soon as is reasonably possible consistent with its normal practices and procedures.

DATED at Salt Lake City, Utah this 15th day of March, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#37388