

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Comcast)	<u>DOCKET NO. 04-2383-01</u>
Serving Area)	
)	<u>REPORT AND ORDER</u>

ISSUED: September 20, 2004

By The Commission:

BACKGROUND

This Docket was opened to investigate Comcast’s provisioning of Local Only Phone Service. Whether Comcast was offering telephone service, pursuant to its price lists filed with the Commission, was raised by the Committee of Consumer Service in PSC Docket 03-049-49, relative to Qwest Corporation’s application for pricing flexibility in that docket. In this docket, the Division of Public Utilities (Division) has provided the results of its investigation through two Memoranda, one dated June 29, 2004, the other dated July 30, 2004. The principal substance of the Division’s report and information is contained in the July 30, 2004, Memorandum. As stated in the July 30, 2004, Memorandum, the Division “has investigated Comcast to verify and confirm, as indicated within their tariff, that a Local Only service is offered. The Division submits this report to explain the investigation done and the basis for the conclusion that Comcast does offer Local Phone Service. Further proceedings are unnecessary.”

TENTATIVE ORDER PROCEEDING

Qwest Corporation (Qwest) filed its Petition to Intervene and Response to Division Memorandum on August 19, 2004. Qwest supports the Division’s conclusions and requests that the Commission issue an order confirming the Division’s conclusions. No other responses to the Division’s July 30, 2004, Memorandum report have been submitted and the time for filing, whether pursuant to Utah Code §62-46b-6 or Administrative Rule 746-100-4, has run. Pursuant to Administrative Rule 746-110, the Commission will proceed informally and will issue this Report and

Order in tentative form; it will become effective 20 days from its issuance date without further Commission action. Any person may file a protest hereto prior to its effective date. If the Commission finds such protest meritorious, the effective date will be suspended pending further proceedings.

INVESTIGATION RESULTS

In PSC Docket 03-049-49, Qwest was granted pricing flexibility in the geographic areas where Comcast was offering phone service. The Committee questioned whether Comcast actually offered basic residential telecommunications service, pursuant to Comcast's price list Section 5.2.2.A. The Committee identified a number of instances where individuals had sought phone service from Comcast, but were unable to obtain telephone service. The Commission determined that it would explore or investigate the availability of Comcast's alternative telephone services in Comcast's serving area in a docket other than PSC Docket 03-049-49. This docket was opened to receive the information from the investigation.

The apparent conflict between Comcast's price list offering and the ability to obtain basic telephone service is driven by reliance upon zip code information and Comcast's ordering process. The Division's investigation confirms our understanding that Comcast's telephone service offerings are not available in as extensive a geographic area as that in which Comcast offers cable television services. We granted Qwest pricing flexibility only in the geographic areas in which Comcast was providing telephone service. The Division's investigation has established that Comcast's telephone service areas may or may not coincide with zip code areas.

Comcast's automated ordering process, used to order Comcast services (including telephone service), asks for customer information, including the customer's zip code through an interactive voice response process. The Division's investigation shows that a number of the instances identified by the Committee are in zip code areas where Comcast may offer cable television services, but not ubiquitous telephone services. In these instances, the Division's investigation shows that Comcast's ordering system would play a non-serviceable message if the caller was calling from a zip code in which only a portion of homes, passed by Comcast's cable television network, could receive telephone

service. This explains why those Committee-identified individuals may have been informed that they had subscription access to some Comcast services, but not been able to obtain Comcast telephone service. The Division's investigation shows that Comcast has further refined its ordering process, enabling more individuals to be aware of the availability of and subscribe to the telephone services Comcast does offer. In those zip code areas in which Comcast may have telephone service available in only a part of the zip code area, but not the entirety, Comcast now uses a more discrete ordering process to screen customer orders. Comcast has changed its automated interactive system so that callers within zip codes that do have some areas of telephone service availability are now connected to a service representative. This permits the customer and service representative an opportunity to definitively determine whether telephone service is or is not available at the customer's location.

The Division's investigation also shows there may be other reasons for which a customer may be told that telephone service is not available to the customer, even though Comcast does have telephone service available in the area. Comcast has informed the Division that there may be instances involving multi-tenant buildings where the building owner may not grant Comcast access to the building, in order install plant or facilities to provide service to a customer's individual location within the building. We note that other telecommunications service providers face similar possibility of denied access from a building owner. Comcast also identifies situations where a customer may be denied subscription to Comcast available services where Comcast considers the customer is delinquent in payment or the customer is disputing charges. We note that other telecommunications service providers also experience their own credit-worthiness evaluations for customers.

We find that Comcast does offer telephone services in those areas in which Comcast represents telephone service is available. We find that customers who have Comcast telephone service available to them are capable of obtaining information which informs them of Comcast's telephone service and adequate opportunity to obtain such service if desired. We conclude that the findings of the Division's investigation have no impact upon our determination regarding Qwest pricing flexibility. We did not base the grant upon geographic areas defined by postal zip code, but

specifically where Comcast offered telephone service.

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. This docket is converted to an informal administrative proceeding pursuant to Administrative Rule 746-110. This order will become final and effective, without further Commission action, 20 days from its issuance date, unless meritorious protest is submitted to the Commission during the 20 period.

2. This docket will be closed on the effective date of this order, unless the order is suspended by the Commission. The Commission concludes that no further proceedings are needed as it has determined that Comcast is providing telephone services in those areas in which it represents telephone service is available.

DATED at Salt Lake City, Utah, this 20th day of September, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

GW#40360