

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF OREGON**

AR 492

In the Matter of the Rulemaking to Amend)
OAR 860-023-0055, 860-032-0012 and 860-) **AT&T's REPLY COMMENTS**
034-0390, Retail Telecommunications Service)
Standards)

AT&T Communications of the Pacific Northwest, Inc. and TCG Oregon (collectively "AT&T") hereby submit these reply comments in the above-captioned rulemaking. AT&T appreciates the opportunity to respond to the participants' initial comments.

GENERAL COMMENTS

AT&T appreciates Staff's thoughtful consideration of AT&T's proposals and would like to make a few general observations before addressing Staff or the other participants' initial comments.

One of AT&T's primary concerns with these retail service quality rules—and others just like them—is that they do not take into consideration differing network configurations or differing customer-class needs. Addressing the first issue of network architecture, it appears Staff would prefer to "adapt" its rules on a case-by-case basis to accommodate the various network configurations and provisioning methodologies rather than draft network-neutral rules that accommodate varying network arrangements.¹ While Staff's approach is less efficient, as long as the Commission really is amenable to examining the problems arising from trying to measure non-legacy type networks under legacy configurations, then Staff's proposal will work. Unfortunately, it will be more

¹ Staff Reply Comments at 2.

costly for the Commission, carriers and their customers because of the additional resources necessary to educate, negotiate and seek waivers.

AT&T's second concern is Staff's apparent desire to apply POTS-type service quality regulation on enterprise business services as though it is easy for carriers to parse out one type of traffic running over complex communications systems and apply POTS installation intervals to them for example. As justification for summarily dismissing AT&T's suggestion to limit the application of the rules to customers with four or fewer access lines, Staff states "Staff does not support selective reporting based on the number of customer lines. Oversight of telecommunications service quality is required by ORS 759.450(1)."² ORS 759.450(1) states:

(1) It is the intent of the Legislative Assembly that every telecommunications carrier and those telecommunications utilities and competitive telecommunications providers *that provide wholesale services* meet minimum service quality standards on a nondiscriminatory basis.³

The statute Staff references clearly discusses carriers providing "wholesale," not retail service and it further instructs those carriers to meet minimum service quality standards related thereto. This statute does not prohibit the Commission from tailoring its "retail" service quality standards to actually address specific retail customer groups.

In fact, with respect to the creation of retail service quality standards the Commission is given ample discretion to tailor its rules to meet specific needs for specific customer groups; the relevant statute states:

(2) The Public Utility Commission shall determine minimum service quality standards that relate to the provision of retail telecommunications services to ensure safe and adequate service. ... [M]inimum service

² *Id.*

³ ORS 759.450(1)(emphasis added).

quality standards adopted under this section shall apply *to all telecommunications carriers*. The commission by rule *shall review and revise* the minimum service quality standards as necessary to ensure safe and adequate retail telecommunications services.⁴

The relevant statute only instructs the Commission to develop minimum standards applicable to “all carriers,” not all customers.

The Legislature further described its intent with respect to the development of minimum standards by instructing the Commission to consider, among other things: “general industry practice and achievement; normal operating conditions; technological improvements and trends;” and “other factors as determined by the commission.”⁵ Based upon this statutory construct, the Commission has considerable latitude in shaping its rules to meet the current trends and needs of the industry and its customers; it is not bound to apply POTS legacy standards to every retail customer’s service regardless of whether such standard actually fits the communications service provided.⁶ As a consequence, AT&T respectfully asks Staff to reconsider its position and work with AT&T and the industry to develop rules that protect adequate service and safety for end-

⁴ *Id.* at 759.450(2)(emphasis added).

⁵ ORS 759.450(3) provides: (3) The minimum service quality standards for providing retail telecommunications services adopted by the commission shall relate directly to specific customer impact indices including but not limited to held orders, trouble reports, repair intervals and carrier inquiry response times. In adopting minimum service quality standards, the commission shall, for each standard adopted, consider the following:

- (a) General industry practice and achievement;
- (b) National data for similar standards;
- (c) Normal operating conditions;
- (d) The historic purpose for which the telecommunications network was constructed;
- (e) Technological improvements and trends; and
- (f) Other factors as determined by the commission.

⁶ In Staff’s Reply Comments, at page 3, Staff states that its “service quality program is focused on ‘retail telecommunications service’ (also called ‘plain old telephone service’).” This statement doesn’t appear contrary to what AT&T is asking when it asks to expressly limit reporting requirements to POTS service or those customers buying four or fewer access lines. Within normal industry practice this is generally POTS service. In contrast, enterprise customers do not buy POTS service; rather, they generally buy communications systems that carry a multitude of traffic types including voice.

user customers by making those rules actually fit the service rendered.

SPECIFIC RESPONSES

A. Definitions 860-032-0012(1)

1. Access Line

Staff's newly revised definition for access lines is as follows:

(a) "Access Line" – A facility engineered to provide retail telecommunications service between a customer's service location, and a telecommunications carrier's switching equipment;

The prior definition was one clearly defining a voice grade connection to the Public Switched Telephone Network ("PSTN"), over which the Commission clearly has jurisdiction. In contrast, the new proposal—whether it's Staff's intent or not—provides the Commission with jurisdiction over all facilities that connect customers to switching equipment, whether it be for telephone service, internet or anything else.

In fact, this newer proposal becomes even more confusing in light of Staff's assertion that the Commission has jurisdiction over "retail telecommunications service" as opposed to "the transport part of the system."⁷ By way of example, Staff states "if a twisted pair is configured as a Digital Subscriber Line (DSL), the Commission looks at that vehicle of transport as DSL service that is under the jurisdiction of the Federal Communications Commission (FCC)..."⁸ This view seems to run counter to the new access line definition over which the Commission will exercise its authority. That is, Staff—under the new definition—will count DSL connections to the PSTN as access lines and take jurisdiction over the voice traffic that might travel over them regardless of

⁷ *Id.*

⁸ *Id.*

the fact that the FCC, according to Staff, has jurisdiction over DSL service and the VoIP service (the voice service generally provided over DSL).

While AT&T appreciates Staff's struggle to define "access line" in today's telecommunications environment such that it neatly fits within the Commission's jurisdiction, AT&T suggests that the Staff revert back to the original definition with the following slight modification:

(a) "Access Line" – A 4KHz channel with dialing capability that ~~provides connects local exchange telecommunications service extending from a telecommunications carrier's switching equipment to a point of termination~~ at the customer's network interface to the Public Switched Telephone Network for the purpose of sending and receiving voice-grade telecommunications service.

The advantage of this proposal is that it does, as Staff desires, address Plain Old Telephone Service ("POTS") and captures only connections for voice service over which the Commission clearly has jurisdiction (*e.g.*, switched voice-grade telephone calls).⁹

2. Wire Center

While tacitly acknowledging that AT&T's observation is correct—that is, that CLECs do not have wire centers—Staff nevertheless wishes to retain using this legacy network architecture and prefers to "work with various companies to determine the best way to subdivide their operation areas for service quality reporting."¹⁰ For the reasons mentioned above, AT&T continues to believe that creating network-neutral rules with general applicability is more consistent with the Legislative mandate to "develop minimum standards applicable" to all carriers. That said, however, AT&T is not opposed

⁹ The Legislature has defined telecommunications service, in pertinent part, to be: "(g) 'Telecommunications service' means two-way switched access and transport of voice communications" ORS 759.005(g).

¹⁰ Staff Reply Comments at 5.

to working with Staff to create an AT&T-specific subdivision for service quality reporting.

B. Measurements and Reporting Requirements 860-032-0012(2)

AT&T incorporates by reference its comments regarding the definition of “access line” as applicable here and in response to Staff’s Reply. Further, AT&T concurs in MCI’s Initial Comments in regard to deleting the DSL language.

C. Provisioning and Held Orders for Lack of Facilities 860-032-0012(4)

AT&T may not have been as articulate in expressing its concerns in relation to the held order issue and the 6-day installation interval as it should have been in its Initial Comments; nonetheless, AT&T’s example was as follows:

For example, according to Qwest’s Service Interval Guide—under which it provides provisioning intervals for things such as UNE loops to CLECs—Qwest itself has five business days to deliver the UNE loop to the requesting CLEC.¹¹ The CLEC requests the loop from Qwest only after it has taken a customer’s “initial” order for service. Even assuming the CLEC can get the loop order to Qwest early enough on the day it receives the “initial” order and Qwest delivers the loop on time, the CLEC would then be left with a single business day to prepare the loop for service to the newly acquired customer.¹²

Although Staff’s reply suggest that a one-day interval for CLECs is appropriate because resellers only need one day to “exchange information and coordinate” efforts between the ILEC and CLEC,¹³ AT&T’s example actually discusses the CLEC obtaining only the UNE loop to which it may add additional services and other features for its customer. Staff’s Reply goes on to say that it is aware that “special services” added to the loop may take longer, but they are outside the scope of the Commission’s jurisdiction.¹⁴ AT&T

¹¹ *Qwest Service Interval Guide for Resale, UNE and Interconnection Services* V 43.0 at 92.

¹² AT&T Initial Comments at 8.

¹³ Staff Reply Comments at 7.

¹⁴ *Id.*

confesses to some confusion about this statement and looks forward to discussing it orally at the hearing with Staff.¹⁵ In any event, the rule itself is inconsistent with the Legislative mandate to make the “standards” apply to all carriers because facilities-based carriers enjoy 6-day installation intervals, while those carriers leasing loops (which include most competitors) only get 1-day installation intervals.

D. Internet Blockage & Modem Speed Complaints 860-032-0012(5)

AT&T concurs in MCI’s suggestion to delete Internet Service Provider Blockage and Modem Speed complaints. By Staff’s own admission in its Reply comments these provisions are beyond the Commission’s jurisdiction and should, therefore, be deleted.

CONCLUSION

AT&T has enjoyed working with Staff to date on its proposals and looks forward to the hearing wherein it will discuss further its concerns both those addressed here in its Reply Comments and those addressed in its Initial Comments.

Respectfully submitted this 20th day of May, 2005.

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¹⁵ It appears that perhaps Staff is assuming that “non-basic service” is provided to the customer separate and apart—and possibly after—a carrier provides the circuits for basic service. If this is Staff’s understanding, it is inconsistent with industry practice.

CERTIFICATE OF SERVICE

I hereby certify that I sent an original and five copies of AT&T's Reply Comments in Docket No. AR 492 via overnight delivery and a copy via electronic mail this 20th day of May, 2005, to:

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