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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 981

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| In the Matter of the Petition for Extended Area |) | |
| Service by the CHEMULT TELEPHONE |) | ORDER |
| EXCHANGE. |) | |

DISPOSITION: (1) COMMUNITY OF INTEREST FOUND BETWEEN CHEMULT AND THE GILCHRIST, CHILOQUIN, AND KLAMATH FALLS EXCHANGES;

(2) NO COMMUNITY OF INTEREST FOUND BETWEEN CHEMULT AND THE LA PINE AND BEND EXCHANGES.

On July 12, 2000, the customers of the Chemult telephone exchange petitioned the Commission for extended area service (EAS) to the Gilchrist, La Pine, Bend, Chiloquin, and Klamath Falls telephone exchanges. A map of the affected exchanges is attached as Appendix A. The petition is unique, in that a portion of it seeks EAS across a LATA boundary.¹ The Chemult exchange is located in the Eugene LATA, while the Gilchrist, La Pine, and Bend exchanges are located in the Portland LATA.

The Commission docketed the request as UM 981 for investigation. On March 27, 2001, Michael Grant, an Administrative Law Judge for the Commission, held a hearing on this matter in Chemult, Oregon. Approximately 45 people appeared in support of the petition.

Based on a preponderance of the evidence in this matter, the Commission makes the following:

¹ LATAs, or Local Access Transport Areas, are long distance calling regions created pursuant to the divestiture of the Bell system. Under federal law, former Bell Operating Companies, such as Qwest Corporation, are prohibited from carrying traffic across LATA boundaries.

FINDINGS

Geography and Demography

The Chemult, Gilchrist, La Pine, Bend, Chiloquin, and Klamath Falls telephone exchanges are located in south-central Oregon and serve communities that lie along U.S. Route 97. The petitioning exchange, Chemult, consists of approximately 271 access lines and is served by CenturyTel. The exchange is comprised of three unincorporated communities: Chemult, Beaver Marsh, and Sand Creek. The Chemult exchange currently has no EAS to any other telephone exchange.

The Gilchrist, La Pine, and Bend telephone exchanges lie north of Chemult. The Gilchrist exchange, located about 20 miles north of Chemult, consists of about 1,087 access lines and is served by CenturyTel. Qwest Corporation serves the La Pine and Bend exchanges, located about 35 and 65 miles respectively north of Chemult. The La Pine exchange consists of about 5,000 access lines, while the Bend exchange consists of 57,000 access lines.

The Chiloquin and Klamath Falls exchanges lie south of Chemult. The Chiloquin exchange, located about 40 miles south of Chemult, consists of about 1,600 access lines and is served by CenturyTel. The Klamath Falls exchange, located some 60 miles from Chemult, consists of some 30,000 access lines and is served by Qwest Corporation.

The Chemult exchange has little centralized businesses to serve its local residents. The area is known by most as a roadside stop on the way between Bend and Klamath Falls. Accordingly, the area's businesses offer roadside amenities, such as fuel, food, and overnight accommodations. Outside these few gasoline stations, restaurants, and hotels, however, there are few local businesses to meet the basic needs of Chemult exchange residents. Consequently, Chemult exchange customers rely on neighboring communities for essential goods and services. The city of Gilchrist is the closest town to offer some basic services. It has a bank, general store, grocery, a real estate office, and auto repair. For a wider variety of goods and services, Chemult exchange residents look to the cities of Klamath Falls and Bend. Both cities are relatively large urban areas that offer a wide range of professional and retail services, including banking, accounting, legal, insurance and medical services, as well as groceries, hardware supplies, auto maintenance, and consumer goods.

Schools

Children that live in the Chemult exchange primarily attend schools in Gilchrist. Currently, approximately 90 children attend K-12 classes in Gilchrist. However, children that live in the southern portion of the exchange in Sand Creek attend schools in Chiloquin.

Government and Jurisdictional Issues

The Chemult, Gilchrist, Chiloquin, and Klamath Falls exchanges are located in Klamath County and served by county governmental offices located in Klamath Falls. These include offices for Planning, Circuit Court, District Attorney, Juvenile Department, Taxation, and Sheriff. The La Pine and Bend exchanges are located in Deschutes County and served by county governmental offices in Bend.

The Chemult exchange has a local post office that serves residents of Chemult and Beaver Marsh. Sand Creek residents are served by the post office in Chiloquin. Chemult exchange residents obtain services from state agencies through offices in Klamath Falls and Bend.

Medical and Dental Services

There are no permanent medical or dental providers that practice within the Chemult exchange. Currently, one medical provider based in Chiloquin maintains a part-time practice in Chemult and sees patients there three hours per week.

Due to the lack of local providers, Chemult exchange customers rely on the cities of Klamath Falls or Bend to obtain medical and dental services. Both communities offer numerous medical and dental providers, as well as a hospital. Overall, community residents rely on both cities equally for these services. Those needing specialized medical care generally seek care in Bend.

There are no pharmacies located in the Chemult exchange. As a result, local residents must travel to La Pine, Bend, or Klamath Falls to get prescriptions filled.

Emergency Services

The Chemult exchange has a local fire department and ambulance service. Both work in conjunction with affiliates located in Gilchrist. Local residents must call Gilchrist to contact the State Police, and Klamath Falls for the county Sheriff.

Employment and Commuting Patterns

The Chemult exchange is a rural logging area that once offered a variety of employment opportunities in the forest product industry. The closure of lumber mills and the decline of forest service activities, however, have greatly affected the local economy. Many residents are unemployed, or can only find seasonal work during the summer. Other residents commute to neighboring communities, or work in the few local roadside businesses.

Toll Avoidance and Calling Pattern Data

Chemult exchange residents engage in a variety of toll avoidance activities. Most residents try to reduce their long distance charges by using alternative toll carriers or prepaid calling cards. Others use cellular telephones or simply avoid calling by combining a trip with their telephone activities.

Due to these toll avoidance activities, it is difficult to determine the calling habits of the Chemult exchange petitioners. At the Commission's request, Qwest Corporation and CenturyTel provided monthly telephone usage data for the Chemult and target exchanges. Staff reviewed the data, and summarized the results in Appendix B. The toll data showed an insignificant amount of calling between the Chemult exchange and the Gilchrist, La Pine, and Chiloquin exchanges. The Chemult petitioners made some calls to the Bend exchange, placing an average of 1.55 calls per line per month there. In addition, just over 17 percent of the customers made at least two toll calls per month to the Bend exchange. The Chemult petitioners made the most calls to the Klamath Falls exchange. Customers made an average of 3.12 toll calls per line per month to that exchange, and almost 30 percent of customers made two or more toll calls to Klamath Falls per month.

DISCUSSION

Commission Policy

The Commission has long recognized the problem with out-dated telephone exchange boundaries. In many parts of the state, original exchange territories no longer relate to community boundaries. Improved roads and highways, changes in local economies, and the growth or decline of cities and towns have greatly modified what local residents view as their community.

To address this problem, the Commission allows telephone customers to request EAS to other nearby exchanges to increase their toll-free calling area. EAS is important to many customers, because it allows them toll-free access to family, friends, neighbors, and businesses, as well as emergency, medical, educational, and governmental services, not located in their local calling area.

EAS is not a cost-free service, however. EAS merely changes the way telephone companies are compensated for interexchange telephone service. Per-minute toll charges are replaced with a flat or measured EAS rate. Large toll charges faced by a relatively small number of customers are replaced with smaller charges to many customers. The implementation of new EAS routes, therefore, may create new problems as telephone companies try to recover lost toll revenues.

Community of Interest

Due to these competing concerns, the Commission has established a review process designed to balance the need to avoid rate increases on low volume users with the benefits customers may desire from toll-free rates. In an EAS investigation, the Commission first requires that a community of interest exist between the petitioning exchange and target exchange(s). A community of interest exists where there is a “social, economic, or political interdependence between two areas, or where there is a heavy dependence by one area or another area for services and facilities necessary to meet many of its basic needs.” *See Forest Grove EAS Investigation*, Order No. 87-309, at 8.

To determine whether a community of interest exists between the communities, the Commission relies on an analysis of demographic, economic, financial, or other evidence submitted by petitioners in support of the petition. In this examination, the Commission has identified several factors for consideration:

- (1) geographic and demographic information;
- (2) location of schools;
- (3) governmental and jurisdictional issues;
- (4) emergency services;
- (5) social services;
- (6) medical and dental providers;
- (7) employment and commuting patterns;
- (8) business and commercial dependence or interdependence;
- (9) transportation patterns;
- (10) the calling patterns between telephone exchanges; and
- (11) other factors deemed relevant by the Commission. *See In the Matter of the Consolidated Applications for Expansion of the Portland Extended Area Service Region*, Order No. 93-1045, at 12.

Critical Needs

As noted above, this petition is unique because it seeks EAS across a LATA boundary. The Chemult exchange is located in the Eugene LATA, while the Gilchrist, La Pine, and Bend exchanges are located in the Portland LATA. This fact is important, because Qwest is currently prohibited under federal law from providing telecommunication services across LATA boundaries. Consequently, to allow this interLATA EAS route, Qwest must obtain a waiver of the LATA restriction from the Federal Communications Commission (FCC).² Because of this fact, the petitioners must show that the proposed interLATA EAS routes to Gilchrist, La Pine, and Bend are necessary to meet the critical needs of residents due to the lack of essential services in their own exchange, or neighboring exchange located within the same LATA.

This “critical needs” showing is also required to establish a community of interest with any non-contiguous exchange. Generally, the Commission limits a community of interest determination to exchanges that share common boundaries. In Order No. 99-038, however, the Commission

² This restriction does not apply to CenturyTel, which provides local service to the Gilchrist exchange.

adopted standards to allow a community of interest finding between non-contiguous exchanges if the petitioners also establish that the proposed EAS route is necessary to meet their critical needs. Like a proposed interLATA EAS route, petitioners must demonstrate that EAS to a non-contiguous exchange is necessary to meet the critical needs of local customers due to the lack of essential goods and services in their own exchange or a neighboring exchange. In evaluating critical needs, the Commission considers the customers' access to emergency, medical, dental, professional, business, educational, and governmental services.

COMMISSION RESOLUTION

The Chemult exchange serves an isolated community that provides roadside amenities to travelers but little else to meet the basic needs of its residents. For this reason, exchange customers rely heavily on neighboring communities for essential goods and services. However, because the exchange currently lacks any EAS, local residents are required to pay long distance charges for non-discretionary calls to areas of need.

The Chemult exchange customers filed this petition in an attempt to eliminate toll charges to five nearby exchanges. Their petition is somewhat complex, because it seeks interLATA EAS to three exchanges to the north, and intraLATA EAS to two exchanges to the south. To help avoid confusion, we divide the petition by north-south, and address each part separately.

South (IntraLATA EAS)

The Chemult exchange customers seek EAS to two southern exchanges: Chiloquin and Klamath Falls. Petitioners presented little evidence, however, with regard to Chiloquin. While petitioners that live in the Sand Creek area rely on the Chiloquin area for schools and post office, most customers relied more heavily on the Klamath Falls exchange. The Klamath Falls exchange, however, is not contiguous to the Chemult exchange. Accordingly, in order for the Commission to find that a community of interest exists, the Chemult petitioners must show that the proposed EAS route to the Klamath Falls exchange is necessary to meet the critical needs of area residents due to the lack of essential goods and services in their own exchange or a neighboring exchange.

The Commission concludes that the Chemult petitioners have met that burden. As noted above, the Chemult exchange serves an isolated community with insufficient resources to support the needs of local residents. The only neighboring exchange, Chiloquin, similarly serves a small community with little centralized businesses. Accordingly, Chemult exchange residents look to Klamath Falls for essential goods and services. This reliance is reflected in the calling pattern data, which showed that Chemult exchange residents placed more toll calls to the Klamath Falls exchange than any other nearby exchange.

The city of Klamath Falls is a large community that offers Chemult exchange residents reasonable access to a variety of professional, medical and business services, as well as retail and other commercial activities. In addition, Klamath Falls is the county seat of Klamath County and, as such, provides essential governmental services to residents of the Chemult exchange. These services include all aspects of county government, including the County Sheriff, District Attorney, and Circuit Court.

Accordingly, the Commission concludes that the Chemult exchange petitioners have established that a community of interest exists between the Chemult and Klamath Falls exchanges. The evidence presented at hearing establishes a sufficient degree of dependence by the Chemult petitioners on the Klamath Falls area to justify EAS conversion. The Commission further concludes that the

Chemult petitioners have established that the proposed EAS route to Klamath Falls is necessary to meet the critical needs of customers due to the unavailability of essential goods and services located in their own exchange or a neighboring exchange.

Based on these conclusions, the Commission further finds that a community of interest exists between the Chemult and the intervening Chiloquin exchange. In cases where petitioners establish a community of interest with a non-contiguous exchange and demonstrate that the EAS route is necessary to meet their critical needs, the Commission will also declare that a community of interest exists between the petitioning and intervening exchange(s). Establishing new EAS routes to both the target and intervening exchanges will avoid customer confusion as to long distance calling areas. *See* Order No. 99-038.

North (InterLATA EAS)

The Chemult exchange customers seek EAS to three northern exchanges: Gilchrist, La Pine, and Bend. Because all three exchanges lie across the LATA boundary, petitioners must establish that the proposed interLATA EAS route to each exchange is necessary to meet the critical needs of area residents due to the lack of essential services in their own exchange, or neighboring exchange located within the same LATA.

After review, the Commission finds that the petitioners have made a sufficient showing of critical needs for the Gilchrist exchange. Located just 20 miles to the north, the Gilchrist exchange offers Chemult exchange residents the most convenient access to some essential goods and services, such as banking and groceries, not available within the local calling area. More importantly, the children living in the Chemult exchange attend schools located in the Gilchrist exchange. For these reasons, the Commission concludes that the interLATA EAS route between the Chemult and Gilchrist exchange is necessary to meet the critical needs of Chemult exchange customers, especially with regard to their need to access educational services.

The Commission further concludes that petitioners have failed to make a similar showing for the La Pine and Bend exchanges. It is clear that many Chemult exchange residents seek professional services and basic goods in Bend. However, petitioners failed to show that these services are unavailable in their own LATA. To the contrary, petitioners claimed a similar reliance on the Klamath Falls exchange, which is located within the same LATA. In fact, the only thing identified by petitioners that was available in Bend that was not available in Klamath Falls was certain specialized medical services. The Commission is sympathetic to the needs of area residents who require specialized medical treatment not available in their toll-free calling area. That predicament, however, is not uncommon in most parts of the state. Indeed, most Oregon residents living outside the Portland, Bend, and Eugene calling areas must travel beyond their local calling area to obtain certain types of specialized medical treatment. Accordingly, the Commission is reluctant to grant interLATA EAS based solely on

that fact. *See, In the Matter of the Petition for Extended Area Service by the Mitchell Exchange*, Order No. 00-399.

ORDER

IT IS ORDERED that:

1. The petitioners served by the Chemult telephone exchange have established a community of interest with the Klamath Falls exchange, and that the Chemult/Klamath Falls interexchange route is necessary to meet the critical needs of the petitioners because of the lack of essential goods and services located in their own exchange or a neighboring exchange.
2. The Commission further finds that a community of interest exists between the Chemult and the Chiloquin telephone exchange.
3. The petitioners served by the Chemult telephone exchange have established a community of interest with the Gilchrist exchange, and that the Chemult/Gilchrist interLATA EAS route is necessary to meet the critical needs of the petitioners because of the lack of essential goods and services located in their own exchange or a neighboring exchange located within the same LATA.
4. The petitioners have failed to establish that a community of interest exists between the Chemult and the La Pine and Bend telephone exchanges. Those portions of the EAS petition are denied.
5. This completes Phase I for the Chemult/Gilchrist, Chemult/Chiloquin, and Chemult/Klamath Falls portions of the petition. These interexchange routes are now ready to enter Phase II, the rate and cost phase. For Phase II, these routes will be grouped with all other EAS dockets that successfully complete Phase I by August 1, 2001. The telephone companies serving the Chemult, Gilchrist, Chiloquin and Fort Klamath telephone exchanges shall file proposed rates and supporting cost information by October 15, 2001.

Made, entered, and effective _____.

Ron Eachus
Chairman

Roger Hamilton
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.