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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UX 28

In the Matter of	)	
	)	ORDER
QWEST CORPORATION	)	
	)	
Petition to exempt intraLATA toll, operator	)	
services, and 800 ServiceLine from	)	
regulation	)	

DISPOSITION: PETITION SUSPENDED FOR FURTHER INVESTIGATION

On May 10, 2002, the Public Utility Commission of Oregon (Commission) received a petition from Qwest Corporation for an order exempting its intraLATA toll services, operator services and 800 ServiceLine from regulation. The basis for the current request is detailed in Staff's recommendation memo, attached as Appendix A.

At its public meeting on June 18, 2002, the Commission adopted Staff's recommendation.

**ORDER**

IT IS ORDERED that Qwest Corporation's petition to exempt its intraLATA toll services, operator services and 800 ServiceLine from regulation is suspended for further investigation.

Made, entered, and effective \_\_\_\_\_.

BY THE COMMISSION:

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**Becky L. Beier**  
Commission Secretary

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.

**PUBLIC UTILITY COMMISSION OF OREGON**  
**STAFF REPORT**  
**PUBLIC MEETING DATE: June 18, 2002**

**REGULAR**   X   **CONSENT**        **EFFECTIVE DATE**       July 9, 2002      

**DATE:** June 11, 2002

**TO:** John Savage through Marc Hellman and Bryan Conway

**FROM:** Jim Stanage and Stefan Brown

**SUBJECT:** QWEST CORPORATION: (Docket No. UX 28) Petition to exempt intraLATA toll, operator services, and 800 ServiceLine from regulation

**STAFF RECOMMENDATION:**

The Commission should suspend and further investigate Qwest's petition.

**DISCUSSION:**

Qwest Corporation (Qwest) filed a petition on May 10, 2002, for an order exempting some of its services from regulation. Pursuant to ORS 759.030(7), the Commission has 60 days from the filing date to either determine the appropriateness of the filing or determine that further investigation is necessary. The Commission has until July 9, 2002, to take action on this petition.

Specifically, Qwest is proposing to exempt its intraLATA toll services, operator service charges, and 800 ServiceLine Option of Wide Area Telecommunications Service (WATS) as described in its Exchange and Network Services Tariff, P.U.C. Oregon No. 29, section 6 (sheets 1 through 13, 18-22, 30-31, 37-43, 46-50, 52) and section 7 (sheets 1 through 12, 27) from regulation. Because the services in Qwest's petition are "non-basic services" under ORS 759.410, they are price capped at their current rates. The company, therefore, has pricing flexibility to adjust prices ranging from the current rates down to their respective price floors. ORS 759.410(7) provides that Qwest may still seek deregulation of its services despite the fact that it elected to opt out of rate of return regulation as allowed by ORS 759.405. Qwest may not raise the rates above current levels, or, absent Commission approval, abandon the services, unless the services were exempted from regulation.

The company represents that the specific services impacted by this petition are:

1. Two-Point Message Telecommunications Service
2. 1-800 Calling Service
3. Operator Service Charges (including Operator Handled Surcharges and BusyVerification/Interrupt Service)
4. Competitive Response Program
5. Optional Service Offerings (including Prime Saver Service, Calling Connection Plans)
6. 800 ServiceLine Option

#### Descriptions of the Services Proposed for Price Listing

The services can be combined into three general service groupings. In 2001, Qwest captured approximately \$27 million in revenues in Oregon. These groupings are described below.

*IntraLATA Toll Services and related services (MTS)* – Qwest has provided intraLATA toll through its tariff since divestiture of the Bell System more than 15 years ago. IntraLATA toll is also referred to as "local long distance".

*Operator Services* – Operator Services provide live or mechanized assistance to customers in completing Toll calls and are priced on a per call basis, including Customer-Dialed Station-to-Station Calling Card calls, Operator-Handled Station-to-Station calls, and Operator-Handled Person-to-Person calls.

*WATS* – This tariff includes the various WATS service lines, which are access lines dedicated to toll calling only, along with all of Qwest's 800 services.

Qwest currently provides the services included in this petition to subscribers in its Oregon exchanges as well as to all of the exchanges served by twenty-nine local exchange companies and cooperatives across Oregon. That is, Qwest is the default itraLATA toll carrier for all local exchanges in Oregon except those of Verizon northwest, Inc. and Sprint/United of the Northwest, Inc.<sup>1</sup>

#### Procedures for Reviewing Service Exemptions

ORS 759.030(a) requires the Commission to exempt a telecommunications service from regulation if "*price and service competition exist.*" Under ORS 759.030(4), prior to making these findings, "the Commission is required to *consider*:"

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<sup>1</sup> See Order No. 93-1133 (issued August 12, 1993), Attachment, p. 8.

- a) The extent to which services are available from alternative providers in the relevant market.
- b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions.
- c) Existing economic or regulatory barriers to entry.
- d) Any other factors deemed relevant by the Commission.

### **Staff Analysis**

#### **Long Run Incremental Costs**

Qwest cites cost study results that have been accepted by the Commission relevant to the long run incremental cost (LRIC) of providing the petition services. Qwest represents that each of the petition services is currently priced above its respective service LRIC. Therefore, Qwest appears to have met a basic requirement that its service(s) recovers its long-run incremental cost. Staff may further investigate this issue in the requested investigation.

#### **The Existence of Price And Service Competition**

ORS 759.030 and OAR 860-032-025 require that the Commission consider the extent to which services are available from alternate providers in the relevant market and the extent to which the services of alternate providers are functionally equivalent or substitutable at comparable rates, terms and conditions.

In its petition, the company presents the names of several companies that it claims are providers of the petition services in Oregon. However, Qwest does not adequately quantify the market shares of the companies that may provide the petition services. Staff believes it would be prudent to examine this assertion carefully. Qwest also points to a general decline in intraLATA toll volumes and claims that it is experiencing declining market share. Qwest asserts that there are no economic or regulatory barriers to entry but a thorough analysis has not been completed.

To consider the merits and drawbacks of deregulating these services, given that they are widely used in Oregon, Staff recommends a more thorough analysis of the issues be conducted, including identifying the relevant market and analyzing market shares and power. Lastly, an analysis of other issues such as the potential for abandonment of service and unjust price discrimination should be conducted.

### **Conclusions**

Staff's analysis outlined above has led to the following conclusions:

- 1) Qwest's petition does not provide information sufficient to make a finding that "price and service competition exist" for the petition services to the extent that regulation is no longer necessary to protect the public interest.
- 2) Further investigation would likely produce more complete information that is important in making a decision concerning the petition's merit.

### **Alternatives for Commission Consideration**

The Commission has the following decision alternatives:

- 1) Suspend and further investigate Qwest's petition to exempt the three services from regulation.
- 2) Allow the petition to go into effect.

### **PROPOSED COMMISSION MOTION:**

Qwest's petition to exempt its petition services from regulation be suspended and further investigated.