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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1072

In the Matter of)
)
QWEST CORPORATION)
)
Public Utility Commission of Oregon Staff)
complaint for imposition of service quality)
penalties for the year 2002.)

ORDER

DISPOSITION: SERVICE QUALITY PENALTIES IMPOSED

On March 11, 2003, the Commission convened a Special Public Meeting to consider Commission Staff’s complaint against Qwest Communications (Qwest) for violation of statutory service quality standards between January and December 2002.

Commission Staff prepared a memorandum for the Commission’s consideration in this matter. Staff recommended that Qwest statutory service quality penalties for 2002 be directed to the targeted investment of increasing the remote testing capabilities at selected digital loop carrier locations.

Background. In 1999, the Legislature enacted Senate Bill 622, Section 30 (Section 30). That section has not been codified. *See* Or Laws 1999, ch 1093, § 30. In relevant part, Section 30 delineates minimum service standards for a telecommunications carrier that elects to be subject to the alternative form of regulation set out in ORS 759.405 and 759.410. *See* Section 30(1). The Commission may file a complaint under ORS 756.500 to ORS 756.610 against an electing carrier to impose a penalty for violation of the Section 30 service quality standards. Section 30(4). The complaint must be filed within 90 days of each anniversary of the telecommunications carrier’s election date. *Id.* Qwest elected to be subject to ORS 759.405 and 759.410 on December 30, 1999. Pursuant to Section 30(3), Qwest submitted quarterly reports for the year 2002 relative to the Section 30(1) service quality standards.

Commission Staff reviewed Qwest’s reports and determined that Qwest violated the Section 30(1) service quality standards for the year 2002 and is liable for penalties. Specifically, in Quarter 1, Qwest violated the trouble report rate (incurring a

penalty of \$25,000) and the network blockage standard (incurring a penalty of \$10,000). In Quarter 2 and Quarter 3, Qwest violated the repair center access standard and incurred a penalty of \$15,000 in each quarter. In Quarter 4, Qwest again violated the network blockage standard and incurred a penalty of \$30,000. The total penalty for the year 2002 amounted to \$95,000.

Section 30(4) allows the Commission discretion to order that Qwest's penalties be paid in the form of bill credits to Qwest's customers in a manner approved by the Commission or to apply the penalty to Qwest's investment to address specific issues of service quality.

On February 20, 2002, the Department of Justice on behalf of the Public Utility Commission filed a complaint against Qwest Corporation. The filing date was within the required 90 day anniversary date of Qwest's becoming subject to regulation under ORS 759.405 and 759.410. The Department of Justice asked the Commission to issue an order imposing a penalty on Qwest in the amount of \$95,000 for the service quality violations described above and specifying how the penalty should be paid, as provided in Section 30(4).

Staff's Recommendation. In its memorandum for the March 11, 2003, Special Public Meeting, Staff proposed three options for the Commission's consideration. Under Option 1, Staff's preferred option, Staff proposed that the penalty could be applied to a Qwest proposed network improvement proposal. The proposal is a continuation of the project started with the 2001 statutory penalty and relates to Qwest's digital loop carrier (DLC) system. This option, as well as the two other options Staff proposed, are fully developed in Staff's Public Meeting Memorandum, attached to this order as Appendix A and incorporated herein.

The second option Staff put forth was that the Commission waive the penalty payment, taking into account the voluntary efforts of Qwest to improve the network during the last year and the additional money spent on the years 2000 (\$240,523.09) and 2001 (\$8,340.60) penalty projects. During 2002, Staff noted, Qwest service quality has improved statewide due to increased capital spending. Staff's third option was to distribute the \$95,000 penalty to some or all Qwest customers in the form of bill credits. The credit amounts for two distribution patterns are set out in Appendix A.

Commission Decision. At the Special Public Meeting on March 11, 2003, the Commission discussed and evaluated Staff's options. The Commission noted that service quality fines against Qwest dropped dramatically in 2002. The fine for 2002 was \$95,000, while fines in 2001 amounted to \$255,000 and in 2000 totaled \$270,000. The Commission emphasized that the 2002 results were overwhelmingly positive. The Commission unanimously agreed that the \$95,000 in fines for 2002 should be spent to target investment for Qwest's network and adopted Staff's first option.

ORDER

IT IS ORDERED that:

1. The penalty in the amount of \$95,000 for violation of statutory service quality standards between January and December 2002 be assessed against Qwest.
2. The penalty is to be directed to adding remote testing capability to Salem-Main (8 locations and 11 remotes) and Lake Oswego (1 location and 4 remotes) digital loop carrier systems.
3. Work is to be completed by December 31, 2003.
4. The details of the digital loop carrier project will be contained in a memorandum of understanding between Staff and Qwest that will be submitted for Commission approval.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
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.