

ORDER NO. 04-464

ENTERED AUG 16 2004

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1159

In the Matter of)	
)	
Inclusion of Yellow Pages revenues in the)	ORDER
calculation of the annual Public Utility)	
Commission of Oregon fee by Qwest)	
Corporation.)	

**DISPOSITION: MEMORANDUM OF UNDERSTANDING
ACCEPTED**

At the August 3, 2004 Public Meeting, Utility Staff (Staff) presented to the Public Utility Commission of Oregon (PUC) a Memorandum of Understanding (MOU) between Qwest Corporation (Qwest) and Staff, for purposes of calculating the annual PUC fee, pursuant to ORS 756.310. Order No. 99-734 concluded that Yellow Pages revenues should be imputed and included in the fee base. The MOU simplifies and memorializes the Yellow Pages imputation. It will set the amount of Yellow Pages revenues to be included in Qwest's annual PUC fee bases at \$52.39 million per year, for PUC fee payments due on and after April 1, 2005. The MOU provides Qwest's commitment not to challenge the calculation of the PUC fee for any year through calendar year 2002 (payable on April 1, 2003).

The Commission adopted the MOU for purposes of including Yellow Pages revenue in the calculation of Qwest's annual PUC fee. Staff's Report and the MOU are attached as Appendix A, and incorporated by reference.

ORDER

IT IS ORDERED that the Memorandum of Understanding between Qwest Corporation and Staff, as presented in Appendix A, is accepted.

Made, entered and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
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.

ITEM NO. CA1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 3, 2004**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** Upon Commission Order

DATE: July 27, 2004

TO: Commissioners Lee Beyer, Ray Baum, and John Savage

THROUGH: Lee Sparling, Phil Nyegaard, and Cynthia Van Landuyt

FROM: Terry Lambeth

SUBJECT: UM 1159: Inclusion of Yellow Pages Revenues in the Calculation of the Annual PUC Fee by Qwest Corporation.

STAFF RECOMMENDATION:

The Commission should approve the attached Memorandum of Understanding (MOU) between Qwest Corporation and staff for purposes of calculating the annual PUC fee. If adopted, the MOU would simplify and memorialize the yellow pages imputation. It would set the amount of yellow pages revenues to be included in Qwest's annual PUC fee bases at \$52.39 million per year for PUC fee payments due on and after April 1, 2005. The MOU provides Qwest's commitment not to challenge the calculation of the PUC fee for any year through calendar year 2002 (payable on April 1, 2003).

DISCUSSION:

ORS 756.310(6)(a) requires telecommunications providers to pay annual PUC fees based on their gross retail intrastate revenues. Commission Order No. 99-734 concluded that yellow pages revenues should be imputed and included in the fee base. An annual imputation for Qwest has been based on the yellow pages imputation in UT 125.

In UT 125, the Commission readopted the method and ratio from UT 80/85.¹ As a result, Qwest has obtained gross revenues from its yellow pages affiliate (Qwest Dex) and applied the retention ratio to derive the yellow pages revenues imputation for the PUC fee.

Staff and Qwest believe a change is needed to recognize Qwest's sale of Dex in September

¹ "Order No. 89-1807 adopted a revenue retention ratio for determining the amount of directory revenues to impute to U S WEST [Qwest]. The ratio is derived by determining directory expenses as a percentage of [Qwest Dex]'s net revenues (i.e., gross revenues less uncollectibles) and then imputing the remaining percentage of [Qwest Dex]'s net revenues (directory profits) to [Qwest]." (Order 97-171, p. 40)

2003. The sale rendered the current retention ratio impossible for Qwest to continue without some modification, because Qwest no longer has access to the revenue data it needs. Therefore, staff believes that the Commission should revise Qwest's directory imputations for years after the sale.

The attached MOU uses the UT 125 revenue amount of \$52.39 million, which was the sum of two adjustments: \$49,225,200 was the amount using the retention rate from UT 102, in effect from June 1992; and \$3,165,000 was a growth adjustment. (Order No. 97-171, p. 43, as modified by Order No. 00-191, p. 18)

The MOU does not include growth after the UT 125 test year. The UT 125 test year was 1995, which was a time of high demand for Internet access, and access lines had reached a record high before the conclusion of UT 125. Further, an inflation factor would be subjective, controversial, and not recognize recent *reductions* in access lines. Using a fixed annual growth rate would eventually cause the imputed revenues to exceed Qwest's earned revenues. A goal of the MOU was to minimize arguments about the computation.

An alternative to the agreement in the MOU would have been to determine and amortize Oregon's share of the gain on the sale of Qwest Dex over some period. The yellow page ownership issue has a long history of litigation, and staff does not recommend revisiting the issue.

The MOU provides Qwest's commitment not to challenge the calculation of the PUC fee for any year through calendar year 2002 (payable on April 1, 2003). This assures the Commission that Qwest will not seek refunds of prior years' PUC fees, which protects the Commission's past fee collections (approximately \$130,000 per year). Qwest has not agreed to give up its right to appeal the inclusion of yellow pages revenues in the calculation of future PUC fee assessments. Thus, Qwest will have this right regardless of the Commission's decision regarding the MOU.

The MOU does not address the amount Qwest paid for calendar year 2003 (due on April 1, 2004). If Qwest were to challenge that payment on the basis that some lesser amount should have been included in the period after the sale or for all of 2003, the effect on the PUC fee would be a potential refund to Qwest of \$10,000-\$36,000.

The PUC fee collection for April 1, 2005, would be about \$36,000 less than the current method produces, if the Commission adopts the attached MOU. Thereafter, only Qwest's operating revenues would cause the changes in its PUC fee, because the yellow pages revenues would be constant.

PROPOSED COMMISSION MOTION:

The Commission adopt the attached Memorandum of Understanding for purposes of including yellow pages revenues in the calculation of Qwest's annual PUC fee.

APPENDIX A

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Attachment
UM1159 Qwest.doc