ORDER NO. 09-253

ENTERED 07/02/09

# BEFORE THE PUBLIC UTILITY COMMISSION

# OF OREGON

UT 157

| In the Matter of<br><br>QWEST CORPORATION<br><br>Establishes a Percent Interstate Usage floor for unidentified Feature Group D terminating traffic. | ORDER |
|---|---|

DISPOSITION: STIPULATION ADOPTED WITH MODIFICATION; QWEST DIRECTED TO FILE COMPLIANCE FILING

## I. INTRODUCTION

On November 25, 2008, Qwest Corporation (Qwest) filed tariff sheets in Advice No. 2075, in which it proposed amending its Oregon Access Service Tariff to introduce a Percent Interstate Usage (PIU) floor for unidentified Feature Group D terminating traffic. Qwest's proposal was intended to reduce unidentified traffic by penalizing carriers for providing insufficient calling party information; interexchange carriers (IXCs) who exceeded Qwest's proposed 5 percent floor for unidentified traffic would be charged the higher intrastate access rate. MCI Communications Services, Inc., dba Verizon Business Services (Verizon), opposed Qwest's proposed modifications to its tariff, stating that they would result in a higher percentage of traffic being billed at intrastate rates, thereby increasing the amounts billed to Verizon and other access purchasers. Qwest's tariff was suspended by the Public Utility Commission of Oregon (Commission) on January 7, 2009, to permit investigation into the propriety and reasonableness of the tariff. After extensive negotiations, the parties to this docket have reached a stipulation resolving all issues in the docket, and the parties now request that the Commission permit Qwest's amendments to its access tariff to go into effect.

## II. PROCEDURAL HISTORY

Qwest filed proposed amendments to its Oregon Access Service Tariff No. 32. on November 25, 2008. On December 10, 2008, Verizon filed a letter opposing and protesting Qwest's proposed modifications, citing lack of evidence, concerns with implementation, and objections to the increased rates that Verizon believed would result. On December 24, 2008, Commission Staff (Staff) recommended that the Commission suspend

Qwest's filing for investigation.[1] At its January 6, 2009 public meeting, the Commission found good and sufficient cause to investigate the propriety and reasonableness of the tariff, and ordered suspension of the advice pending investigation. On January 7, 2009, Advice No. 2075 was suspended for six months.

On February 19, 2009, a prehearing conference was held in this proceeding and a procedural schedule was adopted to provide for settlement negotiations. The parties commenced with discovery, and the Commission granted Verizon's and Qwest's joint motion for a protective order to permit confidential discovery. After the prehearing conference, the Oregon Telecommunications Association (OTA) was granted permission to intervene as a party to the proceeding. On May 18, 2009, Qwest filed the opening testimony of William R. Easton, Director for Wholesale Advocacy. The parties continued with settlement negotiations and ultimately reached a resolution of all issues. On June 25, 2009, Qwest, Verizon, Staff, and OTA filed a Stipulation to Permit Qwest's Amendments to its Access Tariff to Go into Effect. The parties requested expedited consideration, and that the tariff amendments go into effect July 1, 2009.

## III. THE STIPULATION AND SUPPORT FOR THE STIPULATION

The Stipulation is attached as Appendix A. Pursuant to Exhibit A to the Stipulation, Verizon has withdrawn its protest to Qwest's tariff in exchange for Qwest's agreement to change the PIU floor set forth in the tariff from 5 percent to 7 percent. With Verizon's withdrawal of its protest, no opposition remains to the tariff.

The amended tariff and advice letter are attached to the Stipulation as Exhibit B. The tariff has been amended in two ways. First, the PIU floor set forth in the tariff has been raised to 7 percent. Second, pursuant to an order from the Minnesota Public Utilities Commission, language has been inserted clarifying the phrase "sufficient call detail" and setting forth a dispute resolution process.

In support of the tariff, the parties refer the Commission to the testimony of Qwest witness William R. Easton, which explained the basis and justification for a PIU floor. The testimony is attached to the Parties' Stipulation as Exhibit C, and a Declaration attesting to the veracity of Mr. Easton's testimony is attached as Exhibit D, respectively.[2]

## IV. DISCUSSION

The Commission encourages parties to a proceeding to voluntarily resolve issues to the extent that settlement is in the public interest. The active parties to this docket entered into a Stipulation that resolves all outstanding issues. No party has filed an objection to the Stipulation.

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[1] *See* Staff Report (Appendix to Order No. 09-002).

[2] The Testimony and Declaration of Mr. Easton, Exhibits C and D to the Parties' Stipulation, are not included in the Appendix to this Order.

The Commission has examined the Stipulation, Verizon's withdrawal of objection, and the testimony of witness William R. Easton. The Commission concludes that the Stipulation is an appropriate resolution of all the pending issues in this docket. The Commission adopts the Stipulation in its entirety, with the exception of the tariff amendments' proposed effective date.

**ORDER**

IT IS ORDERED that:

1. Advice No. 2075, filed by Qwest Corporation on November 25, 2008, is permanently suspended.

2. The Stipulation, attached as Appendix A, dated June 25, 2009 and executed by Qwest Corporation; MCI Communications Services, Inc., dba Verizon Business Services; Staff of the Public Utility Commission of Oregon; and the Oregon Telecommunications Association, is adopted.

3. Qwest Corporation is directed to file new tariff sheets consistent with the terms of this order, to be effective no sooner than July 6, 2009.

Made, entered, and effective JUL 02 2009.

**Lee Beyer**
Chairman

**John Savage**
Commissioner

**Ray Baum**
Commissioner

PUBLIC UTILITY COMMISSION OF OREGON

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 by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**UT 157**

| | |
|---|---|
| In the Matter of QWEST CORPORATION<br>Establishes a Percent Interstate Usage floor for Unidentified Feature Group D Terminating Traffic | **STIPULATION BETWEEN QWEST CORPORATION, VERIZON BUSINESS, COMMISSION STAFF AND OTA TO PERMIT QWEST'S AMENDMENTS TO ITS ACCESS TARIFF TO GO INTO EFFECT** |

This Stipulation is entered by and between petitioner Qwest Corporation ("Qwest"), MCI Communications Services, Inc., dba Verizon Business Services ("Verizon Business"), the Staff of the Public Utility Commission of Oregon ("Staff") and the Oregon Telecommunications Association ("OTA") in resolution of Qwest's November 15, 2008 tariff filing to establish a percent interstate usage ("PIU") floor for unidentified Feature Group D terminating traffic in Qwest's access tariff, PUC Oregon No. 32, section 2.3.10, and Verizon Business' objections to Qwest's tariff filing, which was docketed as UT 157. This Stipulation seeks to resolve the issues in this docket, and to vacate the procedural schedule. Thus, the parties seek Commission approval of such stipulation, and seek expedited consideration, and that the tariff amendments go into effect on July 1, 2009.

## RECITALS

**WHEREAS,** the parties to this docket and to this Stipulation are Qwest, Verizon Business, Staff and the OTA.

**WHEREAS,** Verizon Business was the only party that objected to Qwest's proposed tariff as filed. Pursuant to the attached notice of withdrawal labeled Exhibit A, Verizon Business has withdrawn its protest in this docket in exchange for Qwest's agreement to change the PIU



floor set forth in the tariff to 7%.

**WHEREAS,** attached to this stipulation and labeled Exhibit B are the amended tariff and advice letter. The tariff amendments not only raise the PIU floor set forth in the tariff to 7%, but also include language the Minnesota Public Utilities Commission ordered to be inserted into the tariff clarifying the phrase "sufficient call detail," and language setting forth a dispute resolution process. These changes are set forth below in boldface type:

Definition of Sufficient Call Detail (as ordered by Minnesota Commission):

**To determine the jurisdiction of a call, the Company compares the originating number information with the terminating number information. Traffic without sufficient call detail shall be that traffic for which the originating number information lacks a valid Charge Party Number (ChPN) or Calling Party Number (CPN).**

Dispute Resolution Language:

When a customer orders terminating FGD, if the Company has sufficient call details to determine the jurisdiction for the call, the Company will bill the call minutes of use according to that jurisdiction, **unless the parties agree on a more accurate methodology.**

**In the event that the Company applies the intrastate terminating access rate to calls without sufficient call detail as provided in this tariff, the customer will have the opportunity to request backup documentation regarding the Company's basis for such application, and further request that the Company change the application of the intrastate access rate upon a showing of why the intrastate rate should not be applied. (See also Section xx, billing disputes.)**

**WHEREAS,** the parties have reviewed these changes and have no objections to the language being inserted into the tariff.

**WHEREAS,** with Verizon Business's withdrawal of its protest, there exists no opposition to Qwest's tariff.

**WHEREAS,** on May 18, 2009, Qwest filed the testimony of William R. Easton in support of the tariff amendments that are the subject of this docket, and which provides the facts that adequately support the filing.[1] Mr. Easton's testimony is attached to this stipulation and labeled Exhibit C.



**WHEREAS,** attached to this stipulation and labeled Exhibit D is Mr. Easton's declaration which states that the matters contained in his testimony filed on May 18, 2009 are true and correct to the best of his knowledge, information and belief.

**WHEREAS,** Qwest's tariff filing, the testimony of William Easton, Verizon Business' notice of withdrawal and the parties' agreements in this stipulation provide the Commission with the information it needs to resolve this docket and allow Qwest's tariff filing to take effect.

**WHEREAS,** the parties seek an order vacating the procedural schedule in this docket.

**WHEREAS,** because there are no other parties to the docket, the parties assert that there need be no response to this stipulation, and thus they seek expedited consideration of this stipulation to permit the tariff to go into effect on July 1, 2009.

**NOW, THEREFORE, THE PARTIES EXECUTING THIS STIPULATION** agree to the following terms to settle the following specified issues as allowed by OAR 860-014-0085:

## AGREEMENT

### 1. General Terms

This Stipulation is entered into to resolve and settle certain disputed issues for the Commission in UT 157. It does not represent a statement or agreement by any party that the provisions herein can or should be used in any other jurisdiction for any purpose. Rather, it is an agreement to settle the request raised in Qwest's tariff filing and Verizon Business' objections

[1] Mr. Easton testified that the 5% floor reflected in the tariff was reasonable. See Direct Testimony of William R. Easton, pp. 8-9. Qwest is now proposing that the floor be raised to 7%. Mr. Easton's testimony that a 5% floor was reasonable provides support for the reasonableness of the higher floor set forth in the amended tariff.

and in order to avoid the expense of further litigation, and to expeditiously implement Qwest's



tariff filing. A party's agreement to this Stipulation is for purposes of this docket only and shall not be used or construed as a statement that such party endorses any methodology, analysis or legal interpretation.

Should the Commission fail to adopt the Stipulation, or should the Commission materially modify the Stipulation, any party hereto shall have the right to withdraw from the Stipulation and proceed with a resolution of all issues in this proceeding through hearings.

This Stipulation sets forth the entire agreement between the parties hereto and supercedes any and all prior communications, understandings, or agreements, oral or written, between the parties pertaining to the subject matter of this Stipulation.

This Stipulation may not be modified or amended except by written agreement between all parties who have executed it.

This Stipulation may be executed in counterparts, all of which when taken together shall constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart. The parties further agree that any facsimile copy of a party's signature is valid and binding to the same extent as an original signature.

**2. <u>Qwest's tariff may go in effect on July 1, 2009</u>**

Verizon Business has agreed to withdraw its protest in this docket in exchange for Qwest's agreement to change the PIU floor set forth in Qwest's access tariff to 7% and to make the other changes to its tariff as reflected above. Staff and the OTA have no objections to Verizon Business' withdrawal of its objections or to Qwest's amendments to its tariff and

Staff believes the tariff is reasonable. The parties agree that with these changes, the tariff is



reasonable and thus that Qwest's tariff may go in effect as amended effective July 1, 2009.

IT IS SO STIPULATED.

**SIGNATURES**

QWEST CORPORATION

By: ______________________________
Dated: June 25, 2009
Its: Attorney

MCI COMMUNICATIONS SERVICES, INC.,
DBA VERIZON BUSINESS SERVICES

By: ______________________________
Dated: June __, 2009
Its: Attorney

PUBLIC UTILITY COMMISSION OF OREGON STAFF

By: David B. Hatton

Dated: June 25, 2009
Its: Attorney

OREGON TELECOMMUNICATIONS ASSOCIATION

By: ______________________________
Dated: June __, 2009
Its: Attorney

Staff believes the tariff is reasonable. The parties agree that with these changes, the tariff is reasonable and thus that Qwest's tariff may go in effect as amended effective July 1, 2009.

IT IS SO STIPULATED.

**SIGNATURES**

QWEST CORPORATION

By: ______________________________
Dated: June __, 2009
Its: Attorney

MCI COMMUNICATIONS SERVICES, INC.,
DBA VERIZON BUSINESS SERVICES

By: ______________________________
Dated: June 25, 2009
Its: Attorney

PUBLIC UTILITY COMMISSION OF OREGON STAFF

By: ______________________________

Dated: June __, 2009
Its: Attorney

OREGON TELECOMMUNICATIONS ASSOCIATION

By: ______________________________
Dated: June __, 2009
Its: Attorney

Staff believes the tariff is reasonable. The parties agree that with these changes, the tariff is ORDER NO. 09-253

reasonable and thus that Qwest's tariff may go in effect as amended effective July 1, 2009.

IT IS SO STIPULATED.

**SIGNATURES**

QWEST CORPORATION

By: ________________________________
Dated: June __, 2009
Its: Attorney

MCI COMMUNICATIONS SERVICES, INC. dba
VERIZON BUSINESS

By: ________________________________
Dated: June __, 2009
Its: Attorney

PUBLIC UTILITY COMMISSION OF OREGON STAFF

By: ________________________________

Dated: June __, 2009
Its: Attorney

OREGON TELECOMMUNICATIONS ASSOCIATION

By: ________________________________
Dated: June 25, 2009
Its: Attorney

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OREGON**

**UT 157**

| | |
|---|---|
| In the Matter of QWEST CORPORATION Establishes a Percent Interstate Usage floor for Unidentified Feature Group D terminating Traffic | **VERIZON BUSINESS'S NOTICE OF WITHDRAWAL OF PROTEST** |

MCI Communications Services, Inc. d/b/a Verizon Business Services ("Verizon Business") provides this notice of its withdrawal of its protest and objection filed in this docket on December 10, 2008. Verizon Business does not object to or protest the revised tariff pages of Qwest Corporation ("Qwest") filed as Exhibit B to the Stipulation between Qwest Corporation, Verizon Business, Commission Staff and OTA to Permit Qwest's Amendments to its Switched Access Tariff to Go into Effect (hereafter "Stipulation").

Verizon Business hereby withdraws its and protest and objection filed in this docket on December 10, 2008, as a result of Qwest's agreement to increase the floor to 7%, as specified in Section 2.3.10A of Qwest's revised tariff pages attached to the Stipulation. In addition, Verizon Business has no objection to the inclusion of additional new and changed language in Section 2.3.10A and 2.3.10B.2.c set forth in Qwest's revised tariff pages.

WHEREFORE, Verizon Business respectfully requests that the Commission accept the within Notice of Withdrawal of Protest and grant the Stipulation.

Dated: June 25, 2009

Respectfully submitted,

MCI COMMUNICATIONS SERVICES, INC.

By: ______________________

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Phone 503-242-5234
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Judith A. Peppler
President – Oregon

ORDER NO. 09-253

Qwest.
Spirit of Service®

June 25, 2009

The Honorable Lee Beyer, Commission Chair
Oregon Public Utility Commission
P. O. Box 2148
Salem, OR 97308-2148

ATTENTION: Vikie Bailey-Goggins, Administrator
Tariffs and Data Analysis

RE: Suspended Advice No. 2075

Dear Commissioner Beyer:

Qwest submits these replacement pages for Advice No. 2075 to increase the floor for unidentified percent interstate usage (PIU) to 7% and to change the effective date to July 1, 2009. Language to clarify the phrase "sufficient call detail" and to provide further detail concerning a dispute resolution process has also been added. Qwest will be filing a related Stipulation in UT 157 seeking approval of the tariff as amended.

Questions concerning this filing may be directed to Mark Reynolds by telephone at (206) 345-1568 or by e-mail at Mark.Reynolds3@qwest.com.

Yours very truly,

Mark Reynolds

By ______________________
Mark Reynolds for
Judy Peppler President - Oregon
Qwest Communications, Inc.

Attachments

# 2. GENERAL REGULATIONS

## 2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

### 2.3.10 JURISDICTIONAL REPORTS REQUIREMENTS

A. Jurisdictional Determinant

Interstate usage is to be developed as though every call that enters a customer network at a point within the same state as that in which the called station (as designated by the called station number) is situated is an intrastate communication and every call for which the point of entry is in a state other than that where the called station (as designated by the called station number) is situated is an interstate communication.

To determine the jurisdiction of a call, the Company compares the originating number information with the terminating number information. Traffic without sufficient call detail shall be that traffic for which the originating number information lacks a valid Charge Party Number (ChPN) or Calling Party Number (CPN). (N)

For purposes of CCSAC ISUP Call Set-up requests, Percent Other Messages (POM) shall be established by dividing the customer CCSAC ISUP Call Set-up requests (originating and terminating) associated with local, EAS, intraMTA, the Local Exchange Company portion of jointly provided Switched Access and Company originated toll by the total number of CCSAC ISUP Call Set-up requests (originating and terminating) and expressing the result as a percentage in a whole number.

(M)
(D)

(D)

(M) Material moved to Sheet 17.1

APPENDIX A
PAGE 11 OF 14

## 2. GENERAL REGULATIONS

ORDER NO. 09-253

### 2.3 OBLIGATIONS OF THE CUSTOMER

### 2.3.10 JURISDICTIONAL REPORTS REQUIREMENTS (Cont'd)

When mixed interstate and intrastate Access Service is provided on the same Access Service transmission path, all charges between interstate and intrastate are prorated as set forth in 2.3.11, following. (M)

A floor of 7% will be set for a switched access customer's Feature Group D terminating access minutes when they are lacking originating number information needed to determine jurisdiction. The 7% floor will be applied as follows: (N)

- When the percentage of terminating traffic without sufficient call detail to determine jurisdiction does not exceed the 7% floor, the Company will apply the PIU factor as set forth in B.2.c, following or
- When the percentage of terminating traffic without sufficient call detail to determine jurisdiction exceeds the 7% floor, the Company will assess rates from the state jurisdiction on all minutes exceeding the 7% floor. (N)

B. Jurisdictional Requirements (M)

The customer must indicate a projected Percent of Interstate Use (PIU) factor in a whole number (i.e., a number 0 - 100) when ordering Switched Access Service in a LATA, including EF and DTT Facilities. When a customer-provided PIU factor is required and the customer has previously submitted a Jurisdictional Report (i.e., Letter on File [LOF]) as set forth in C., following, the LOF PIU factor is required on each Access Service Request (ASR).

For CCSAC, customers who are third party signaling providers must develop their jurisdictional factors based upon the weighted average of the jurisdictional factors of their customers. (M)

(M) Material moved from Sheet 17.

APPENDIX A
PAGE 2 OF 14

**2.3 OBLIGATIONS OF THE CUSTOMER**
**2.3.10 JURISDICTIONAL REPORTS REQUIREMENTS**

B. Jurisdictional Requirements (Cont'd)

1. CSL, CST1, Feature Group A or Feature Group B

a. CSL or Feature Group A (FGA) to be Resold

Upon ordering CSL or FGA Service to be resold, the customer shall state in its initial order a projected PIU factor as set forth in B., preceding. The PIU factor is reported by LATA. When the customer reports a LATA-level PIU factor, the specified percentage applies to all end offices within the LATA.

The projected PIU factor is used by the Company to apportion the originating and terminating usage between interstate and intrastate until a revised report is received as set forth in C., following. The number of access minutes (either the measured minutes or the assumed minutes) is multiplied by the projected PIU factor to develop the interstate access minutes. The number of access minutes minus the developed interstate access minutes is the developed intrastate access minutes. This PIU factor is in addition to the PIU factor as set forth in 3., following. (T)

b. CSL or Feature Group A (FGA) Not to be Resold

For CSL or FGA Service not to be resold, the customer shall state in its initial order a projected PIU factor of one hundred percent (100%) by line-side termination or access service group.

c. CST1 or Feature Group B (FGB) Service

Upon ordering CST1 or FGB Service, the customer shall state in its initial order a projected PIU factor as set forth in B., preceding. The PIU factor is reported by LATA. When the customer reports a LATA-level PIU factor, the specified percentage applies to all end offices within the LATA.

The projected PIU factor for CST1 or FGB Service used by the Company to apportion the originating and terminating usage between interstate and intrastate is developed in the same manner as in a., preceding. This PIU factor is in addition to the PIU factor as set forth in 3., following.

APPENDIX A
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2.3 OBLIGATIONS OF THE CUSTOMER
2.3.10 JURISDICTIONAL REPORTS REQUIREMENTS
B.2. (Cont'd)

c. Terminating CST3 or FGD Service

When a customer orders terminating FGD, if the Company has sufficient call details to determine the jurisdiction for the call, the Company will bill the call minutes of use according to that jurisdiction, unless the parties agree on a more accurate methodology. (C)

When terminating call details are insufficient to determine the jurisdiction for the call, see A, preceding, the customer may supply the projected PIU factor for a portion of the indeterminate jurisdiction by LATA[1]. The projected PIU factor will be used to apportion the terminating traffic which does not exceed the 7% floor.

When terminating call details are insufficient to determine the jurisdiction, and the customer does not supply a projected PIU factor by LATA, calls will be billed using a PIU of 50 (50% interstate – 50% intrastate). The PIU of 50 will be used to apportion the terminating traffic which does not exceed the 7% floor. (C)

In the event that the Company applies the intrastate terminating access rate to calls without sufficient call detail as provided in this tariff, the customer will have the opportunity to request backup documentation regarding the Company's basis for such application, and further request that the Company change the application of the intrastate access rate upon a showing of why the intrastate rate should not be applied. (See also Section 2.4.1.B.2.c, billing disputes.) (N)
(N)

[1] When the customer reports a LATA-level PIU factor, the specified percentage applies to all end offices within the LATA. (N)
(N)

APPENDIX A
PAGE 4 OF 4