

Decision No. C03-0842

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-311T

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IN THE MATTER OF THE APPLICATION BY QWEST CORPORATION FOR APPROVAL OF STIPULATION AND SETTLEMENT AGREEMENT UPON SHORTENED ALTERNATIVE NOTICE AND SHORTENED RESPONSE TIME, AND CORRESPONDING APPROVAL OF ADVICE LETTERS REGARDING CHANGES IN QWEST CORPORATION TARIFFS AND PRICE LIST REFLECTING ELIMINATION OF ZONE CHARGES ON LESS THAN STATUTORY NOTICE AND ALTERNATIVE NOTICE.

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DOCKET NO. 97A-540T

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IN THE MATTER OF THE APPLICATION OF U S WEST COMMUNICATIONS, INC. FOR SPECIFIC FORMS OF PRICE REGULATION.

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**DECISION GRANTING APPLICATIONS,  
REOPENING DOCKET, AND MODIFYING STIPULATION**

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Mailed Date: July 30, 2003  
Adopted Date: July 30, 2003

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of: (1) the Application for Approval of Stipulation and Settlement Agreement Upon Shortened Alternative Notice; (2) the motion to reopen Docket No. 97A-540T for the purpose of modifying the current Local Number Portability (LNP) Stipulation; and (3) the verified application for alternative notice and for permission to file tariffs on less than 30 days' notice filed by Qwest Corporation (Qwest), Staff of the Commission (Staff), and the Colorado Office of Consumer Counsel (OCC). The pleading, filed on July 21, 2003, essentially requests that we approve the parties' proposal to eliminate zone charges for Qwest's customers, and, in order to offset the revenue loss from

elimination of zone charges, approve various methods that will allow Qwest revenue recovery from other sources. We issued notice of the Application for Approval of Stipulation and Settlement Agreement on July 23, 2003. That notice allowed interested persons to intervene in this matter on or before July 29, 2003. No such requests for intervention were filed, and, as such, this matter is noncontested. On July 25, 2003, the parties filed their Supplemental Information Addressing Concerns Raised by the Commissioners at the July 23, 2003 Weekly Meeting. Now being duly advised in the premises, we grant the parties' requests.

### **B. Discussion**

2. The current requests for relief by the parties are similar to requests made in the Joint Motion to Reopen Docket and to Approve Stipulation and Settlement Agreement filed by the parties on June 27, 2003. We denied the Joint Motion for procedural reasons. *See* Decision No. C03-0829 (released July 25, 2003). The parties filed the current pleading to correct the procedural defects in the Joint Motion.

3. In this pleading, the parties request that we approve their Stipulation and Settlement Agreement (Stipulation) dated July 21, 2003. The Stipulation provides for the complete elimination of zone charges<sup>1</sup> by Qwest. The elimination of those charges will result in an annual revenue loss to Qwest of \$21.7 million. The Stipulation then proposes three methods for Qwest to recover the revenues lost from elimination of zone charges: (1) the increased funding from the 2003 Colorado High Cost Support Mechanism (HCSM) ordered in Decision No. C03-0709; (2) redirecting LNP funds from the uses approved in the currently effective LNP Stipulation; and (3) beginning April 1, 2004, to the extent additional HCSM funding is

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<sup>1</sup> Qwest's tariff currently provides that it bill and collect Exchange Zone Increment Charges (zone charges) based upon a customer's approximate distance from the serving central office.

available, using such funds to offset any remaining annual revenue shortfall, or, alternatively if increased HCSM funding is not available, permitting Qwest to request recovery of any remaining annual revenue deficiency with an offsetting rate increase. Qwest will absorb, and not seek recovery of, the initial eight-month shortfall of approximately \$ 6.4 million. We address each of the offsets individually.

4. In Decision No. C03-0709 (released June 27, 2003), the Commission increased the 2003 HCSM to \$56.0 million effective upon Qwest filing an appropriate offsetting rate decrease. This represented an increase of \$10.7 million to the HCSM and reflected recent changes to the HCSM Rules, 4 *Code of Colorado Regulations* (CCR) 723-41, ordering that all access lines, not just primary access lines, be eligible for HCSM support. In order for Qwest to receive the additional \$10.7 million available from the 2003 HCSM fund, it must decrease some of its rates by an equal amount. (*See* HCSM Rules, 4 CCR 723-41-8.8.) The Stipulation proposes that, to comply with the Commission's directives in Decision No. C03-0709 (to decrease some rates by \$10.7 million), Qwest will eliminate its zone charges effective August 1, 2003. As explained above, elimination of all zone charges constitutes a rate reduction in excess of that required in Decision No. C03-0709 (*i.e.*, \$21.7 instead of \$10.7 million). The revenue losses not covered by the availability of increased funds from the 2003 HCSM budget will, under the Stipulation, be offset by the proposals discussed below.

5. In Docket No 97A-540T, Qwest, Staff, the OCC, and other parties entered into a stipulation that became the basis for Qwest's Price Regulation Plan. That stipulation was approved by the Commission in Decision Nos. C99-222 and C99-407. However, that stipulation was modified by the subsequent LNP Stipulation approved by the Commission in Decision No. C00-989 (LNP Stipulation). The LNP Stipulation modified the original stipulation in the

97A-540T docket by using funds for business rate reductions to offset an underestimate in the amount of LNP credits provided to all retail customers. Currently, the LNP Stipulation would result in reductions in Qwest's business basic exchange rates of approximately \$4.4 million annually, \$2.1 million to be implemented on October 15, 2003 and \$2.3 million to be implemented on February 9, 2004.<sup>2</sup> The Stipulation now under consideration would redirect that \$4.4 million. Specifically, Qwest would use approximately \$.7 million to offset the annual revenue requirement from expansion of local calling areas either already approved by the Commission or now under consideration before the Commission.<sup>3</sup> The Stipulation proposes to use the remaining \$3.7 million of the LNP funds to partially offset the revenue loss from elimination of zone charges. Reallocating the \$4.4 million means that the previously stipulated rate reduction for business basic exchange service of approximately \$.18 per line, per month, will not occur. The parties assert that this foregone rate decrease is more than offset by the public benefits of eliminating zone charges. Business customers themselves will benefit by the elimination of zone charges.

6. The use of the additional funds from the 2003 HCSM (\$10.7 million) and reallocation of the LNP funds (\$3.7 million) does not completely offset the revenue loss from eliminating zone charges (\$21.7 million). The parties, however, point out that the operation of the HCSM Rules will increase the size of the fund an additional \$11.4 million due to the elimination of zone charges. This is because high cost support is based on the difference

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<sup>2</sup> The Commission expanded the local calling areas for Garfield (Docket No. 02A-010T), Bijou (Docket No. 01A-124T, and Eastern Slope (Docket No. 03A-124T). Expansion of the local calling area for Strasburg is presently under consideration (Docket No. 03A-102T).

<sup>3</sup> If the local calling area expansion for Strasburg is not granted, Qwest should deduct the estimated revenue loss for this expansion from the \$.7 million and instead increase the amount applicable to the elimination of zone charges.

between the cost of serving high cost wire centers and the associated revenues received from customers, including zone charge revenues. However, due to statutory restrictions on the HCSM *see* § 40-15-208, C.R.S.), such additional support from the fund cannot be implemented by the Commission before March 31, 2004. The Stipulation now proposed by the parties would allow Qwest to recover the remaining shortfall (from eliminating zone charges) through the anticipated increase in the 2004 HCSM fund. In the event the 2004 HCSM fund is insufficient to cover the shortfall, the Stipulation will allow Qwest to request an increase in other rates in the amount of the shortfall.

**C. Decision**

7. We grant the Application for Approval of Stipulation and Settlement Agreement. As part of our approval of the Stipulation, we reopen Docket No. 97A-540T for purposes of modifying the LNP Stipulation and modify that stipulation. In addition, in order to allow Qwest to eliminate zone charges effective August 1, 2003, we approve the parties' request that Qwest be permitted to file proposed tariffs, attached to the July 21, 2003 pleading as Exhibit E, on one day's notice to the Commission.

8. The parties point out that there is widespread and continuing customer dissatisfaction with zone charges. The retail zone charge structure no longer matches the corresponding wholesale structure, and competitive considerations, such as the difficulty competitors face in determining zone boundaries for market entry and retail billing purposes, persuade us that good reason exists for eliminating zone charges.

9. Furthermore, elimination of zone charges is appropriate because it is difficult to maintain equity in the current zone charge structure over time due to changing growth patterns and customer densities across Qwest's service territory. Zone charges have generated a high

number of customer complaints. For these reasons, we find it to be in the public interest to eliminate zone charges. The remaining portions of the Stipulation which offset Qwest's revenue loss as a result of eliminating zone charges are appropriate. We emphasize that use of 2004 HCSM funds to offset any shortfall in revenues from eliminating zone charges is contingent on the availability of funds, and any statutory or regulatory charges that affect the HCSM may affect such availability.

10. Finally, we will require Qwest to certify to the Commission that it will use the funds received from the HCSM solely for the purpose of providing services supported by the HCSM.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Verified Application for Alternative Notice by Qwest Corporation, Staff of the Commission, and the Colorado Office of Consumer Counsel filed on July 21, 2003 is approved.

2. The Application for Approval of Stipulation and Settlement Agreement filed on July 21, 2003 by Qwest Corporation, Staff of the Commission, and the Colorado Office of Consumer Counsel is approved. The Stipulation and Settlement Agreement attached to the Application as Exhibit A is approved.

3. Qwest Corporation is required to certify its use of the High Cost Support Mechanism funds consistent with the above discussion.

4. Docket No. 97A-540T is reopened, and the Local Number Portability Stipulation approved in Decision No. C00-989 is modified consistent with the above discussion.

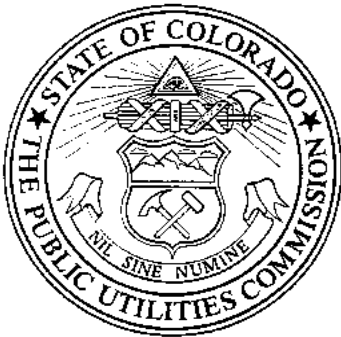
5. Qwest Corporation is authorized to file, on one day's notice to the Commission, an Advice Letter with attached tariffs eliminating zone charges (or a Transmittal Letter with attached price lists, as appropriate). The proposed tariff sheets shall be in the form attached to this Order and as appended to the Application as Exhibit E.

6. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING  
July 30, 2003.**

(S E A L)



**ATTEST: A TRUE COPY**

**Bruce N. Smith  
Director**

**THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO**

**GREGORY E. SOPKIN**

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**JIM DYER**

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Commissioners