

Decision No. C03-1266

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-102T

IN THE MATTER OF THE APPLICATION OF STRASBURG TELEPHONE COMPANY,
INC. FOR APPROVAL OF ITS PLAN FOR MODIFICATION OF ITS LOCAL CALLING
AREA.

ORDER GRANTING EXCEPTIONS

Mailed Date: November 13, 2003

Adopted Date: November 5, 2003

I. BY THE COMMISSION

A. Statement

1. By Decision No. R03-1069-I in this docket, Administrative Law Judge (ALJ) Jennings-Fader accepted a stipulation filed by Strasburg Telephone Company, Inc. (Strasburg), the Office of Consumer Counsel (OCC), Qwest Corporation (Qwest), and Staff of the Commission (Staff), but made certain modifications. In that stipulation, the parties agreed to an expansion of Strasburg's local calling area to include all Metro Denver (area codes 303 and 720) except the Roggen Telephone Company exchange. Also, in that stipulation, the parties agreed that the confidential information supplied by both Qwest and Strasburg regarding revenue and cost impacts due to loss of revenue and increased infrastructure networking costs was complete and accurate. Further, the parties agreed to support Qwest's recovery of its lost revenues and increased costs by: a) reopening the Local Number Portability stipulation (LNP stipulation) approved by Decision No. C00-989 in Docket No. 97A-540T; and b) using the approved revenue requirement deficiency as an offset to reductions in business rates which would otherwise occur pursuant to the terms of the LNP stipulation.

2. The ALJ did not approve these terms of the stipulation, specifically paragraph 7, and instead deleted and replaced that paragraph with her own language. The ALJ stated in her decision that Qwest did not give notice in the instant proceeding to any of its customers.¹ The ALJ also stated that “[t]he Commission–issued Notice of Application Filed does not mention Qwest or otherwise put a Qwest customer on notice that the outcome of this proceeding might result in a change in the LNP stipulation or might affect the rates paid by Qwest customers.”²

3. On September 26, 2003, Qwest filed a Notice of Withdrawal from the Stipulation because of the material modification of paragraph 7. Qwest states in its Notice of Withdrawal that it intends to file Exceptions, and will reconsider its withdrawal depending on the outcome of those Exceptions.

4. On October 14, 2003, Qwest, Strasburg, OCC, and Staff filed Joint Exceptions to the ALJ’s Decision No. R03-1069. In these Joint Exceptions, the parties state that the original paragraph 7 of the stipulation set forth the parties’ understanding of Qwest’s costs and resulting rate impact associated with the expansion of the local calling area. It included an explanation that Qwest will recover its costs associated with this expansion along with three other expansions by seeking modification of the LNP stipulation.

5. The parties state that the new paragraph 7 as drafted by the ALJ is diametrically opposed to the intent of the original paragraph. It completely ignores the Qwest cost study, as well as how Qwest will recover its revenue deficiency. Therefore, the parties take exception with and seek clarification of the replacement of paragraph 7.

¹ *Decision No. R03-1069-I* at ¶ 30.

² *Id.* at ¶ 32.

6. The parties state in their joint exceptions that Qwest was not obligated to notify its customers of the expanded local calling area in this docket. Qwest is an affected party in this docket because it will be required to alter its network to accommodate the expansion and will lose revenues as a result. However, according to the parties, since there is no rate increase, there are no notice requirements.

7. The parties also assert that the ALJ's decision states that "...rejection of ¶ 7 *does not mean* that the Parties are prevented from pursuing the course of action outlined in that paragraph"³ but that Qwest must notice its customers and seek recovery of its revenue impact in a separate docket. The parties state in the joint exceptions that this has been accomplished through Docket No. 03A-311T, wherein the Commission issued Decision No. C03-0842 approving the parties' modification of the LNP stipulation and allowing Qwest to recover its deficiencies for three prior local calling area expansions and Strasburg's if approved. Also in that docket, Qwest provided notice to all of its customers by placing a newspaper notice on July 21, 2003 in *The Denver Post*.

8. The parties present two alternatives in their joint exceptions to clarify Qwest's cost recovery: 1) reinstate original paragraph 7 and approve the stipulation as executed by the parties; or 2) leave paragraph 7 as modified by the ALJ, but confirm that Qwest's revenue requirement from the Strasburg expansion is to be included in the modified LNP stipulation implementation.

9. We will grant the joint exceptions, and accept the parties second alternative. By Decision No. C03-0842 in Docket No. 03A-311T, we allowed Qwest to recover its revenue

³ *Id.* at ¶ 34 (emphasis in original).

deficiencies and network costs associated with three prior local calling area expansions and also the Strasburg expansion, if approved. That expansion has now been approved. We do agree with the ALJ that notice of the recovery of Qwest's costs was not given in the instant docket, and that notice before modification of the LNP stipulation and recovery of those costs is required. However, that notice was given in Docket No. 03A-311T, where we accepted the modification of the LNP stipulation.

10. We agree with the ALJ's finding, therefore, and do not order original paragraph 7 to be put back in the stipulation. Rather, we clarify that Qwest can recover its costs and revenue deficiencies as provided in both Docket No. 03A-311T and the instant docket, through the modified LNP stipulation.

II. ORDER

A. The Commission Orders That:

1. The Joint Exceptions to Recommended Decision of Administrative Law Judge Mana Jennings-Fader, Decision No. R03-1069 filed by Qwest Corporation, Strasburg Telephone Company, Inc., the Colorado Office of Consumer Counsel, and Staff of the Commission are granted consistent with the above discussion.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 5, 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

POLLY PAGE

JIM DYER

Commissioners