

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

**IN THE MATTER OF THE NEBRASKA
PUBLIC SERVICE COMMISSION ON ITS
OWN MOTION TO CONDUCT AN
INVESTIGATION ON INTRASTATE
SWITCHED ACCESS CHARGE
POLICIES AND REGULATIONS
CODIFIED IN NEB. REV. STAT.
SECTION 86-140.**

**Application No.
C-4145/NUSF-74/PI-147**

QWEST CORPORATION'S MARCH 2, 2010 COMMENTS

Qwest Corporation ("Qwest") files the following comments in response to the Commission's Order Issuing Proposed Order and Notice of Hearing in this proceeding dated November 3, 2009 (the "*Proposed Order*"). These comments are filed fourteen days following the submission of initial post-hearing comments, as directed in the Proposed Order. It appears that most other parties filed comments on February 26, 2010, in response to an email from Commission counsel requesting that comments be filed on that date. Qwest's undersigned counsel, Tim Goodwin, did not receive a copy of the email, and relied on the deadlines established in the Proposed Order. Jill Gettman, undersigned counsel, was in trial in New Jersey and had not been aware that the Order had changed. Because Qwest is filing comments after the rest of the parties, however, Qwest has kept its comments brief. Qwest will avoid repeating the arguments it has made in hearing and other comments, and incorporates those comments herein by reference.

Comments

As Qwest noted in its February 16, 2010 comments, Option 3 of the Proposed Order may yield inaccurate conclusions as to whether a particular company's proposed switched access rates are fair and reasonable. Companies should present cost or other financial information to justify switched access rates in response to a complaint or in support of a new rate based on their own results and finances, not on a proxy developed based on a small group of other carriers. Yet the Rural Independent Companies contend this would be the primary method they would use to justify new switched access rate filings (RIC Comments at 9). The Commission should be wary of using such evidence, and this is why Qwest recommended Option 3 be removed and replaced.

At pages 9 and 10 of their Comments, the RIC proposes that if a carrier establishes that a proposed access rate change "will yield annual access revenues from all interexchange carriers that are at least equal to that local exchange carrier's annual costs of access service, then the proposed access charge rates should be deemed presumptively fair and reasonable under § 86-140." This proposal should be rejected, because it would only take into account the floor of reasonableness while ignoring the ceiling. A rate of \$50.00 per terminating minute of switched access would be "at least equal to" any carrier's costs of providing switched access service, but should not enjoy any presumption of fairness or reasonableness.

Conclusion

Qwest believes the Commission is working towards a laudable goal in this case – establishing a competitively neutral method for reviewing and establishing intrastate switched access rates. The Commission should adopt policies that ensure that existing rates do not allow competitive local exchange providers to enjoy competitive advantages that distort the market, and should ensure that future rate changes are considered expeditiously, and on a competitively neutral basis.

Qwest continues to believe that this process should follow formal rulemaking procedures. In the interim, Qwest repeats its suggestion that the Commission first schedule workshops, and then issue interim orders to begin implementing appropriate access policy while formal rules are being considered.

Dated: Tuesday, March 02, 2010

Respectfully submitted,

QWEST CORPORATION

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