

June 21, 2007

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF QWEST) UTILITY DIVISION
CORPORATION, Public Service)
Commission Investigation and) DOCKETNO. D2005.6.105
Direction on Use of Federal)
Universal Service Funds)

**MONTANA TELECOMMUNICATIONS ASSOCIATION
FIRST SET OF DATA REQUESTS
TO THE MONTANA PUBLIC SERVICE COMMISSION**

MTA 001 RE: PSC Testimony
Witness: Larry Blank

With respect to your testimony generally:

- A. What is the legal basis that authorizes the Commission to redirect Qwest's universal service fund ("USF") support? Please cite specific statutory and regulatory authority.
- B. If the Commission has certified that "all federal high cost support provided to rural and non-rural carriers in Montana will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with section 254 (e) of the Communications Act of 1934, as amended," then doesn't a mandate to *redirect* the expenditure of such funds, if implemented by the Commission, violate the Commission's own certification that such funds will be used for universal service only, and not some other "credit" purpose? (See Certification of Support for Rural and Non-Rural High-Cost Carriers Pursuant to 47 C.F.R. Sections 54.313-314, CC Docket Nos. 96-45 and 00-256. Montana Public Service Commission. September 21, 2006.)
- C. If the Commission proposes to mandate how Qwest may or may not spend revenues, how is that different than ratemaking? How can the commission determine how revenues are to be spent without first prosecuting a general rate case?

- D. If a credit is applied to a price, shouldn't the price of the product reflect the actual pre-credit amount before the credit is applied? For example, a universal service credit is applied in Wyoming, but the price of the product shows the non-credit amount, from which a credit is applied, leaving the consumer's charge, after credit. Why don't you recommend the same process in your recommendation on behalf of the Commission?

MTA 002 RE: PSC testimony
 Witness: Larry Blank

With respect to your testimony generally:

- A. What effect would a mandatory reduction in Qwest's rates, as recommended by the Commission and if implemented, have on other carriers' wholesale or retail rates in Montana?
- B. What rates charged by other carriers in Montana "mirror" Qwest's rates in Montana? How would "mirrored" rates in Montana be affected, or not, by the Commission's recommendation, if implemented?
- C. What statutory authority does the Commission have to force other companies whose rates may mirror Qwest's to reduce or alter their rates without a specific ratemaking process?
- D. How will your "credit" recommendation, if implemented, affect existing interconnection agreements involving Qwest and other carriers in Montana which have entered into interconnection agreements with Qwest?

MTA 003 RE: PSC testimony
 Witness: Larry Blank

With respect to rate comparability, the Commission has designated both wireline and wireless competitive eligible telecommunications carriers ("CETCs") and competitive local exchange carriers ("CLECs"), serving non-rural study areas in Montana. CETCs annually certify, among other things, that they offer comparable rates under 47 U.S.C. 254.

- A. Specifically, which Qwest rates must the CETC's rates be comparable with? In what way do your recommendations for rate "credits," if implemented, affect the "comparable rates" doctrine of the Telecommunications Act as it applies to CETCs in Montana?
- B. Is your recommendation to implement rate "credits" with respect to Qwest's rates intended to confer a competitive advantage, through regulatory fiat, for Qwest *vis a vis* CETCs or other CLECs operating in Qwest's service areas?
- C. If the Commission mandates Qwest to lower its retail rates (while Qwest's wholesale rates remain unchanged as you recommend) what

- A. Has any other commission, state or federal, mandated a carrier's use of USF support as you recommend in this docket?
- B. Has any party ever litigated a state commission's attempt to mandate how a carrier may spend universal service funds received by the carrier?
- C. What is the legal basis for mandating rates to ensure that all (residential) consumers in a state pay exactly the same rate for service regardless of their location?

MTA REQUEST FOR PRODUCTION 001:

If answer to MTA 006 A. or B. is yes, please produce copies of all pleadings and decisions in such cases.

MTA 007 RE: PSC testimony
 Witness: Larry Blank

Regarding "calculation of appropriate amount available for credit in 2006." (Page 9 of testimony.)

- A. Why did you choose an interest rate of 6% when market-based interest rates are substantially less than 6% today?
- B. Why is the Commission using 2006 as a starting point?
- C. What analysis have you performed on market and consumer effects of rate variability that results from the annual rate changes reflecting the amount of credit calculated by the formula you recommend? That is, your recommendation, if implemented, would result in different rates each year, according to the amount of universal service support Qwest receives. What affect does this variability have on Qwest and other carriers in the market?

MTA 008 RE: PSC testimony
 Witness: Larry Blank

Regarding your discussion of Qwest's tax liability. (Page 10 of testimony.)

- A. What is the legal basis for your rejection of Qwest's argument that taxes need to be accounted for in determining the amount of universal service revenues received by the company?
- B. What is your expertise with Montana's Tax Code?
- C. Please provide specific Montana statutory and regulatory citations to justify your theory that Qwest's revenues are not subject to tax in Montana.

Respectfully submitted this 21st day of June, 2007.

JARDINE, MORRIS & TRANEL, PLLC

By _____

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