

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
Marshall Johnson
LeRoy Koppendrayer
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner

In the Matter of Qwest Corporation's Proposed
Rate Change to Business Premium Listings

ISSUE DATE: November 7, 2002

DOCKET NO. P-421/AM-02-1213

ORDER APPROVING RATE INCREASE
AND DELAYING EFFECTIVE DATE

PROCEDURAL HISTORY

On July 12, 2002, Qwest filed a proposal to increase the rate for business premium listings from \$1.50 to \$3.00 for Minneapolis/St. Paul and Duluth customers and from \$.70 to \$1.40 for customers outside the twin cities metropolitan area (other than Duluth). The filing was made pursuant to Qwest's Alternative Form of Regulation (AFOR) plan.¹ The proposed effective date was August 1, 2002.

On August 2, 2002 the Department of Commerce (DOC) filed its comments objecting to the proposed rate increases.

On August 12, 2002, the Commission issued a Notice establishing August 22, 2002, as the deadline for filing comments and September 3, 2002 as the deadline for filing reply comments.

On August 21, at the request of the DOC, the Commission issued a Notice of Extended Comment Period establishing September 5, 2002 as the deadline for filing initial comments and September 17, 2002 as the deadline for filing reply comments.

On September 5, 2002, the DOC filed its comments further objecting to Qwest's proposal on the grounds that the rate increase was not fair and reasonable, the rate increase was discriminatory, and the notice was inadequate.

On September 17, 2002, Qwest filed reply comments.

On October 3, 2002, this matter came before the Commission.

¹ Section IV.G(2).

FINDINGS AND CONCLUSIONS

I. Background

A. Summary of Qwest's Proposal

Qwest proposed raising the monthly rates for business premium listings from \$1.50 to \$3.00 for Minneapolis/St. Paul and Duluth customers and from \$0.70 to \$1.40 for customers outside the twin cities metropolitan area. Its proposal called for an August 1, 2002 effective date.

Qwest indicated that the increase to the business premium listings reflected the value of the directory listing to businesses.

Qwest provides basic as well as premium listing services. The basic listing is an alphabetical directory of names of customers, including information that is essential to the identification of the listed party, and facilitates the use of the telephone directory. Business premium listings include extra embellishments such as additional listings, temporary listings, cross-reference listings, foreign listings², alternate listings and informational listings.

Qwest stated that it faces competition from businesses advertising in flyers, newspapers, television and radio. The white page directory listing is just one means, albeit a cost effective one, by which a business can provide additional information to its existing customers or increase its exposure to attract new customers.

Qwest indicated that customer notification would be done by an insert in the July bill. Reseller notification had been provided to Qwest's wholesale markets on April 29, 2002.

B. Qwest's AFOR

Qwest's AFOR classifies premium listings as flexibly priced services. Qwest may increase the rates for a flexibly priced service 20 days after filing the rate increase with the Commission, provided that notice is given to affected customers. Any party may object to a proposed price increase by filing an objection within 20 days of the Company's filing.

If an objection is filed the Commission must make a final determination within 90 days of the Company's filing. The Commission may reject or modify the change if it finds that the proposal is not fair or reasonable under Minn. Stat. § 237.06.³

² The rate for foreign listings is not subject to an increase in this filing.

³ Qwest AFOR plan, Section IV.G(2).

The AFOR required Qwest to give notice to customers for, among other things, rate or price increases. It was to give such notice by bill insert using simple and clear language notifying customers of the changes.

II. DOC's Comments

The DOC recommended that the Commission deny Qwest's proposed increase on the grounds that the increases sought were not fair and reasonable, the rates do not compare favorably with the rates of other telephone companies, Qwest's notice was inadequate and the proposal was discriminatory.

The DOC argued that Qwest provided no cost justification for its proposed rate increase. In a DOC review of the monthly business rates for business listings for other large ILECs (Sprint, Frontier, and Citizens), it found that the other ILECs' rates were significantly below the rates proposed by Qwest.

Although Qwest asserted that there were other competitive alternatives to Directory Listings service available to its customers, the DOC argued that the demand for business premium directory listings was highly inelastic, and that the service was not subject to competitive pressures.

The DOC also argued that the timing of the notice relative to the close dates of several directories was problematic. While Qwest provided notice to affected customers 20 days prior to the effective date of the rate increase, depending on the close date for their area directory, many customers received notice after the date for applying for, or declining, a premium listing for the coming year. It was the DOC's position that for the notice to be considered fair and reasonable, notification should be provided customers a minimum of 20 days in advance of the close date for the directory in which the listing appears. This would allow customers the choice of continuing the premium listings at the higher price or discontinuing the listing and seeking alternatives.

Further, the DOC argued that the increase was discriminatory. The DOC indicated that currently (before the proposed increase) additional listings for both business and residential listings were priced similarly. However, under the increase proposed, customers in such facilities as long-term residential care facilities who list the residential facility's main number as their residential number would be charged the higher business premium listing rate. The DOC stated that in this situation the listing is the customer's primary residential listing and would be more appropriately classified in Qwest's AFOR as a price regulated service.

Since Qwest indicated that this price increase has not yet gone into effect, the DOC's concern that any increase be refunded is moot.

III. Qwest's Reply

Qwest noted that the Commission had denied a similar proposed rate increase in 1999,⁴ when Qwest proposed to increase the rate for business premium listings to \$6.00, due to notice failures. Qwest argued that it has made a good faith effort to comply with the Commission's previous order by improving its notice and lowering the proposed rate increase.

Further, unlike the previous case when there were several objections to the rate increase, in the present case there have been no customer objections.

Qwest objected to the DOC's suggestion that Qwest should have to provide notice to different customers at different times, depending on the date the directory closed for the customer's area. It indicated that this was incompatible with the idea that affected customers should be expected to file objections within a given time and would just produce a multiplicity of filings without any meaningful justification.

Qwest argued, in reply to the DOC's argument that Qwest has not provided any cost justification, that the AFOR does not require cost justification for price increases. Qwest stated that the value to its business customers warrants the price increase and no customers have filed objections.

Qwest also argued that just because the rates of other companies are lower does not make Qwest's proposed rates unfair or unreasonable. Although the DOC argued that six states out of the thirteen (excluding Minnesota) where Qwest offers local service have lower rates for this service, Qwest argued that the remaining states have rates that are the same or higher than the proposed rates in Minnesota.

Further, Qwest argued that each business customer can assess the fairness and reasonableness of the charge from its own perspective. Its business customers can use other methods to get the same information into the marketplace including internet postings, advertisements in print and electronic media, and in other business services listings.

Qwest stated that residents living in a residential care facility should pay only for a residential listing and should not be charged a business premium listing. This would apply to any situation involving residents of a facility. However, if a facility needed extra listings for its business purposes, as opposed to the listings for its residents, the facility would be treated as any other business that needs additional listings. Qwest argued that the DOC's concern stemmed from a misunderstanding and was not an issue of discrimination.

⁴ *In the Matter of U S WEST Communications, Inc.'s Proposed Rate Increase for Its Business Premium Directory*, Docket No. P-421/AM-99-784, ORDER DENYING PROPOSED RATE INCREASE AND REQUIRING REFUND.

IV. Commission Action

The Commission will approve Qwest's request to raise its monthly rates for Business premium Listings. It recognizes that under its AFOR plan Qwest has discretion to set prices for flexibly priced services and finds that Qwest's request is not unreasonable.

However, the Commission will also require that these new rates not be implemented until ten months from the date of this Order and that customers be noticed of the changed circumstances. This will enable all customers to take appropriate action, regarding whether they intend to continue the business premium service at the new rates, before the rates take effect.

The Commission agrees with the DOC that in certain circumstances residents in long-term care facilities could be charged the business premium rate. Clearly, persons residing in such facilities who use the business number as their personal number in the directory should be charged residential rates. For this reason, the Commission will require Qwest to revise its tariff to clarify that residents in facilities such as long-term residential care facilities, retirement complexes, and other like facilities using the business telephone number as their personal listing will be charged residential rates rather than the higher business premium rates.

Finally, it was unclear at hearing whether these business premium listing services are offered under contract or pursuant to tariff, or both. The Commission will require Qwest to clarify this.

ORDER

As required by Minn. Stat. § 237.761, subd. 4(b)(2), the Commission, having made its determination on October 3, 2002, orders the following:

1. Qwest's proposed business premium listings rate increase from \$1.50 to \$3.00 for Minneapolis/St. Paul customers and from \$.70 to \$1.40 for customers outside the twin cities metropolitan area is approved.
2. The rate increase approved in Paragraph 1, above, shall not be implemented until ten months from the date of this Order.
3. Qwest shall provide additional notice to customers of the rate increase and the implementation date.
4. Qwest shall revise its tariff to clarify that residential rates apply to residents in facilities such as long-term residential care facilities, retirement complexes and other like facilities, as discussed herein.

5. Qwest shall clarify whether these services are offered under annual contract or pursuant to tariff, or both.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).