

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Phyllis A. Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Petition by US WEST  
Communications, Inc. Requesting Approval of  
an Alternative Regulation Plan

ISSUE DATE: November 26, 2003

DOCKET NO. P-421/AR-97-1544

In the Matter of the Petition of Qwest  
Corporation for Approval of its Revised  
Alternative Form of Regulation (AFOR) Plan

DOCKET NO. P-421/AR-03-1688

ORDER ADOPTING PROCEDURES FOR  
AFOR RENEWAL PROPOSAL AND  
SETTLEMENT CONFERENCE

**PROCEDURAL HISTORY**

On January 1, 1999, U S WEST Communications, Inc. (USWC), began operating under an Alternative Form of Regulation (AFOR) plan approved by the Commission under Minnesota Statutes §§ 237.76 through 237.772.<sup>1</sup> Under its terms, this plan (the Current Plan) is scheduled to expire on December 31, 2003.

On June 28, 2000, Qwest Corporation (Qwest) merged with USWC and assumed its obligations under the Current Plan.<sup>2</sup>

On June 30, 2003, Qwest asked the Commission to extend the Current Plan for an additional year. In its ORDER DENYING EXTENSION AND REQUIRING FILING (September 4, 2002), the Commission denied the request and directed Qwest to file a revised AFOR Plan as provided for in the Current Plan.

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<sup>1</sup> See *In the Matter of the Petition of U S WEST Communications, Inc. for Approval of its*

*Alternative Form of Regulation Plan*, Docket No. P-421/AR-97-1544 Modified Alternative Form of Regulation Plan for the State of Minnesota (January 11, 1999).

<sup>2</sup> *In the Matter of the Merger of the Parent Corporations of Qwest Communications Corporation, LCI, International Telecom Corp., USLD Communications, Inc., Phoenix Network, Inc., and U S WEST Communications, Inc.*, Docket No. P-3009, 2052, 5096, 421, 3017/PA-99-1192 ORDER ACCEPTING SETTLEMENT AGREEMENTS AND APPROVING MERGER SUBJECT TO CONDITIONS

On October 31, 2003, Qwest filed a Revised Alternative Form of Regulation Plan (Revised AFOR Plan) and Request for Extension of Time, seeking to extend the Current Plan until the parties complete negotiations regarding Qwest's Revised AFOR Plan.

The Commission met to consider this matter on November 13, 2003.

## **FINDINGS AND CONCLUSIONS**

### **I. AUTHORITY**

Minn. Stat. § 237.766 states that "Within six months prior to the termination of the plan, the plan must be reviewed by the commission, and with the consent of the company, revised or renewed."

Section III.C of the Current Plan contains the following provisions related to the Plan's Duration and Renewal:

Six months prior to the termination of the Plan, USWC shall file its recommendations with the Commission to continue the Plan in its approved form or to modify the Plan in some respect. USWC shall serve a copy of its proposal on all parties to this proceeding and such other persons as the Commission shall designate.

Interested parties shall have such time as the Commission shall designate to file comments on the proposal submitted by USWC. The Commission shall establish such procedures as it deems necessary to make a determination on the proposal. The Commission shall conduct any proceedings to make a final determination on USWC's proposal pursuant to Minn. Stat. § 237.61. If the Commission is unable to render a decision on USWC's recommendation before the expiration of the Plan, USWC may allow the Plan to expire according to its terms. If USWC agrees, and after receiving comments from the Department of Public Service and interested parties, the Commission may extend the Plan for up to twelve (12) additional months, on the same terms and conditions as the existing plan, to enable it to arrive at a decision.

### **II. PROCEDURES FOR REVIEW AND ADOPTION OF QWEST'S AFOR RENEWAL**

Minnesota Statutes § 237.764 sets forth general procedures and guidelines for adopting, renewing and modifying AFOR plans. These general procedures include the conduct of a proceeding under section 237.61, the conduct of public meetings the Commission may deem necessary, a six-month timeline for a decision on the AFOR petition unless the petitioner and the Commission agree to a time extension, and other AFOR-related requirements and deadlines.

At the Commission's November 13, 2003 meeting, the parties agreed that the procedural framework and schedule set forth in this Order's Ordering Paragraphs are reasonable and supported their adoption. The Commission finds that these provisions are appropriate and will adopt them. The Commission will use them as guidance for its activity in this matter and in the Ordering Paragraphs will also identify the specific actions that these procedures require of the parties or authorize them to do.

### **III. SETTLEMENT CONFERENCE PROCEDURES**

Minnesota Statutes § 237.764, subdivision 2, authorizes the Commission to convene a settlement conference to encourage settlement or stipulation of issues. In filing its Revised AFOR Plan, Qwest asked the Commission to direct interested parties to begin negotiating the terms of its proposal immediately, and asked that the Current Plan be extended in the interim.

At the Commission's November 13, 2003 meeting, parties agreed to extending the Current Plan to July 30, 2004 or until a revised AFOR Plan is in effect, whichever is earlier; to pursuing negotiations until concluded or until May 15, 2004, whichever is earlier; to reporting on the results of those negotiations; and to filing comments by June 1, 2004.

The Commission finds that these procedures are appropriate and will adopt them.

### **IV. FUTURE PROCEEDINGS**

Eventually the Commission will convene a hearing on the Revised AFOR Plan, or a settlement, in accordance with Minnesota Statutes § 237.61. The parties to the proceeding may present oral arguments to the Commission, and their respective experts and representatives shall be available for questions. The Commission will then deliberate and issue an order on the appropriateness of the Revised AFOR Plan.

In accordance with Minnesota Statutes § 237.764, subdivision 2, if a stipulation or settlement is submitted to the Commission by all the parties, or even a substantial number of the parties, the Commission may accept, reject or modify it in lieu of accepting, rejecting or modifying Qwest's Revised AFOR Plan.

## **ORDER**

### **PROCEDURES FOR REVIEW AND ADOPTION OF QWEST'S REVISED AFOR PLAN**

1. Interested persons may obtain copies of the proposed AFOR Renewal by contacting Qwest.
2. Any person who wishes to intervene as a party must file a petition under Minnesota Rules part 7829.0800 within 20 days of the Order.

3. Any person who wishes to be included on the service list for this proceeding must so indicate on the Declaration of Interest form (Attachment A) and return it to the Commission within 20 days of the date of the Order.

4. An original and 15 copies of all documents in this docket shall be served on the Commission by submitting them to:

Burl Haar, Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, Minnesota 55101-2147

5. After the service list is distributed, every document submitted to the Commission in this docket must be filed with proof that the document has been served (proof of service) on all other persons on the service list.

6. Proposed protective orders (orders to deal with any protection of trade secret and privileged data in this docket) must be submitted to the Commission within 20 days of the issue date of the Order.

7. After May 15, 2003, public meetings shall be convened on this matter. Within 30 days of this Order, Qwest shall submit a schedule of proposed public meetings. Qwest shall publicize the exact date, time, and location of each public meetings in the appropriate local newspaper.

8. Qwest shall notify its customers of the Revised AFOR Plan. Within 30 days of this Order Qwest shall submit its proposed customer notice to the Commission.

9. Qwest shall publish a public notice about the Revised AFOR Plan in newspapers of general circulation in all county seats in Qwest's service area and send notices to city clerks and/or city administrators in all cities within its service area. Within 30 days of this Order, Qwest shall submit its proposed public notice to the Commission. At least two weeks before the first publication date, Qwest shall submit to the Commission a list of the newspapers, the date of publication and a list of city clerks and administrators that will be notified.

10. Parties shall answer information requests issued by the Commission staff, the Department, the Office of the Attorney General's Residential and Small Business Utilities Division (OAG-RUD) or any other party within 10 days of receipt.

- A copy of each information request must be served on the Commission and on the service list developed for this proceeding.
- Subject to the protective order described above, answers to the information requests shall be served on all parties, and on non-party participants upon request.

11. The Commission delegates to its Executive Secretary the authority to act on subsequent procedural filings and to vary the periods established in the Order, on his own motion or at the request of a party for good cause shown.

## SETTLEMENT CONFERENCE PROCEDURES

12. The parties shall convene a settlement conference as soon as practicable, shall submit a settlement or a statement that no settlement has been reached by May 15, 2004, and shall file comments by June 1, 2004.
13. The Company shall submit a written progress report on the settlement negotiations every 30 days from the date of this Order.
14. The Current Plan is extended to July 30, 2004, or until a revised AFOR Plan takes effect, whichever is earlier.
15. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
Suite 350, 121 Seventh Place East  
St. Paul, MN 55101-2147

In the Matter of a Petition by Qwest Corporation  
Requesting Adoption of a Replacement  
Alternative Regulation Plan

Docket No. P-421/AR-03-1688

**Declaration of Interest**

The person named below would like to remain on the mailing list for the above captioned matter.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PERSON OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_

The person named below would like to be deemed an interested person for purposes of Minn. Stat. § 237.61 in this proceeding.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PERSON OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_