

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Tomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

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

ISSUE DATE: July 27, 2005

DOCKET NO. P-421/AR-05-1081

ORDER ADOPTING PROCEDURES AND REQUIRING SETTLEMENT CONFERENCE

PROCEDURAL HISTORY

On January 1, 1999, U S WEST Communications, Inc. (U S WEST or USWC), began operating under a plan setting forth an alternative form of regulation (AFOR) pursuant to Minnesota Statutes §§ 237.76 - 237.772.¹ The plan was due to expire in 2003.

US WEST subsequently became Qwest Corporation,² and the Department of Public Service became the Department of Commerce (the Department), but the AFOR plan's terms remained in force.

In 2003, the Commission extended the plan's terms until at least June 30, 2004, pending consideration of a replacement plan.³ In 2004 the Legislature extended the plan's terms until December 31, 2005.⁴

¹ 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).

² *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 (June 28, 2000).

³ *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 (November 26, 2003).

⁴ Laws of Minnesota 2004, Chapter 214, § 4.

On June 30, 2005, Qwest filed a proposed Revised AFOR Plan.

On July 8 and 15, 2005, the Commission gave notice of its intent to address this matter.

The Commission met on July 21, 2005, to consider this matter. While Qwest, Integra Telecom and the Residential and Small Utilities Division of the Office of Attorney General proposed various alternative schedules, by the end of the hearing no party expressed opposition to the procedures set forth below.

FINDINGS AND CONCLUSIONS

I. AUTHORITY

Minnesota Statutes § 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. The statute provides for a settlement conference to encourage settlement or stipulation of issues, public meetings as necessary, expedited proceedings under § 237.61, and a six-month timeline for resolution unless the petitioner and the Commission agree otherwise, among other things.

At the Commission's July 21, 2005, 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.

In accordance with Minnesota Statutes § 237.764, subdivision 2, if a stipulation or settlement is submitted to the Commission by all or 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. Qwest may provide copies electronically.
2. Any person who wishes to intervene as a party must file a petition under Minnesota Rules part 7829.0800 by September 1, 2005.
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 by September 1, 2005.
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

Parties may send copies to each other electronically.

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. Any comment on the adequacy of Qwest's filing as to form shall be filed at the same time as comments on the merits of the filing.
7. Parties shall conform to the following schedule:

Initial comments	September 23, 2005
Public meetings in Duluth, Moorhead, Rochester and St. Paul	October 3-10, 2005
Reply to comments	October 12, 2005
Commission proceeding	October 17-28, 2005
Commission order	November 14, 2005
Requests for reconsideration	November 28, 2005
Reply to requests for reconsideration	December 2, 2005
Commission hearing on reconsideration	December 6, 2005
Commission order on reconsideration	December 16, 2005
Qwest acceptance or rejection	December 23, 2005

8. 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.

9. To promote public participation in this process, Qwest shall –
 - A. publish a public notice in newspapers of general circulation in all county seats in Qwest’s service area inviting the public to comment on its proposed Revised AFOR Plan,
 - B. send notices to city clerks and/or city administrators in all cities within Qwest’s service area,
 - C. provide notice of the proposed Revised AFOR Plan to all of Qwest’s customers individually, and
 - D. submit, within 20 days of the Order,
 - the proposed notices described above,
 - a list of the newspapers where the notice will be published and
 - a list of the city clerks/administrators that will be notified.

10. Regarding discovery,
 - A. 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.
 - B. A copy of each information request must be served on the Commission and on the service list developed for this proceeding.
 - C. 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, and by the time Initial Comments are due shall submit a settlement report or recommend a period to extend settlement negotiations.
13. The Company shall submit a written progress report on the settlement negotiations every 15 days from the date of this Order.
14. 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

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for Approval of its Alternative Form of
Regulation (AFOR) Plan

Docket No. P-421/AR-05-1081

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 Minnesota Statutes § 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: _____