



RECEIVED
FILED



2003 OCT 22 PM 4:38

IDAHO PUBLIC
UTILITIES COMMISSION

RUL-U-03-02

101 S. Capitol Boulevard, Suite 1900
Boise, Idaho 83702
main 208.389.9000
fax 208.389.9040
www.stoel.com

MARY S. HOBSON
Direct (208) 387-4277
mshobson@stoel.com

October 22, 2003

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702-5983

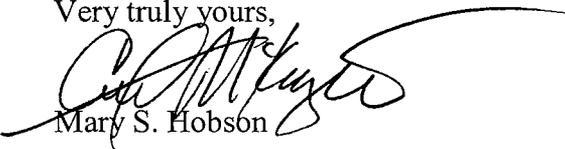
RE: DOCKET No. 31-0101-0301

Dear Ms. Jewell:

Enclosed for filing with this Commission is an original and eight (8) copies of **COMMENTS OF QWEST CORPORATION**.

If you have any questions, please contact me. Thank you for your cooperation in this matter.

Very truly yours,


Mary S. Hobson

:blg
Enclosures
cc: Service List

RECEIVED
FILED

2003 OCT 22 PM 4:38

IDAHO PUBLIC
UTILITIES COMMISSION

Mary S. Hobson (ISB #2142)
Stoel Rives LLP
101 South Capitol Boulevard – Suite 1900
Boise, ID 83702
Telephone: (208) 389-9000
Facsimile: (208) 389-9040
mshobson@stoel.com

Adam L. Sherr (WSBA #25291)
Qwest
1600 7th Avenue - Room 3206
Seattle, WA 98191
Telephone: (206) 723-6263
Facsimile: (206) 343-4040
asherr@qwest.com

Attorneys for Qwest Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE IDAHO PUBLIC
UTILITIES COMMISSION NOTICE OF
PROPOSED RULE (FEE ADOPTION)**

DOCKET No. 31-0101-0301

COMMENTS OF QWEST CORPORATION

Qwest Corporation (Qwest), by and through its undersigned attorneys, files the following comments in response to the Notice of Proposed Rulemaking issued by the Idaho Public Utilities Commission (Commission) to amend its Rules of Procedure, IDAPA 31.01.01 *et. seq.*

COMMENTS

Qwest supports the proposed changes that relate to encouraging utilities to make electronic filings of tariffs and other materials. Such changes not only serve to streamline Qwest's operations but also make use of the Commission's website more valuable as more information may be obtained from that electronic source. Qwest also supports proposed Rule 135, to the extent that it codifies the Commission's existing practices with regard to approval of voluntarily negotiated interconnection agreements.

1. REVISION TO RULE 43

Subsection 5 of Rule 43, IDAPA, 31.01.01.043.05, adopts, with certain modifications, Idaho Bar Commission Rule 222 pertaining to the appearance of out-of-state-attorneys. Qwest fully supports the Commission's efforts to make the Bar Commission's rule more compatible with the kinds of proceedings that take place before the Commission. Accordingly, the

exceptions created to allow out-of-state attorneys to make administrative filings are entirely appropriate. However, Qwest believes that given the special nature of the utility participants in Commission proceedings the exceptions in revised Rule 43 should be expanded.

In many cases, utilities such as Qwest, are routinely represented by employee-attorneys who are not admitted to the Idaho Bar. Nonetheless, these individuals become familiar with the Commission's practices and procedures, and effectively represent their employers on a number of formal complaints, applications and similar "quasi-judicial" proceedings in a single year. In these cases, the employee-attorney's participation is often highly beneficial to the Commission and the other parties, because of his or her access to the client's management and other resources. Under these circumstances, the repetitive submission of applications pursuant to the Idaho Bar Commission rule and payments of the required fees, would be unduly burdensome. Qwest suggests as an alternative that the Commission develop requirement that the utility's employee-attorney present his or her application and pay an appropriate fee on an annual basis. Such an approach would be consistent with the intent of the Idaho Bar Commission Rule, which is geared toward the discrete appearance in a full-blown judicial proceeding, while allowing regulated utilities to appear through their employee-attorneys in the variety of smaller, less formal "quasi-judicial" proceedings that fill the Commission's calendar.

2. PROPOSED RULE 125

Qwest has several concerns about proposed Rule 125, which contemplates that the Commission Staff (Staff) will conduct "public workshops" at which Staff will "dispense information concerning the utility's application" (seeking a rate increase) and "receive written or oral comments from the public prior to [its] filing testimony or comments in the case." Qwest firmly believes that it is appropriate that the public have a voice in Commission proceedings, but has concerns about the exact nature of the procedure prescribed.

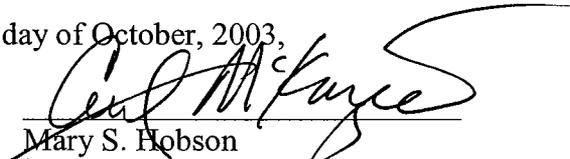
Qwest is concerned about what the proposed Rule 125 suggests about the procedures adopted for these public workshops. Since the language of the proposed rule indicates that Staff "will dispense information concerning the utility's application," it suggests that the utility may not be given the opportunity to present its position to the public. Qwest believes that the utility itself should be accorded the opportunity to "dispense information" to the public about its initiatives at the proposed workshops, if it so chooses. To the extent that anyone is concerned that the utility's position would go "unrebutted" if it were allowed to make a presentation to the public, this argues for postponing public meetings until after the Staff and/or Intervenors have had the opportunity to develop their own positions based on the merits of the case. At such time members of the public could benefit from hearing all sides of the issue before voicing their own comments.

Another procedural concern is whether the public workshops will be transcribed. If they are not, then the possibility presents itself that a factual dispute about what occurred at the public workshop could arise. Further, it is not clear without a transcript how the Commission could resolve such a dispute or how the utility could ever challenge what it considers an inaccurate or unfair characterization of public comment.

Qwest is mindful that if the Commission were to allow the utility and the Staff to make presentations to the public and require that the public workshop to be transcribed, that the procedure would closely resemble the public hearings that it has traditionally conducted. Qwest submits that the comparison is accurate with a couple of notable exceptions. First, as Qwest reads the proposed rule, the Commissioners do not intend to be present at the public workshops. This means that they are not present to weigh the credibility of the persons who choose to speak or to probe the basis for any comment. Furthermore, in the absence of the minimal cross examination conducted at public hearings, the possibility of basic mistakes or confusions coloring a particular person's comments cannot be ignored.

For the various reasons stated above, Qwest respectfully suggests that Rule 125, requiring public workshops, be made consistent with the Commission's practices and procedures for public hearings. The role of public comment, although significant, should not be confused with the expertise provided by Commission Staff. Furthermore public comment will be better informed, and hence more useful to the Commission, if it is taken after the public receive information on the position of the utility, the Staff and any Intervenors. And, the concerns of due process are better served if oral public comment is taken on the record, with Commissioners present and with the right of cross examination. Finally, unless the Commission intends to eliminate public hearings in cases where workshops are conducted, the costs of attending multiple public meetings through the utility's services territory will be increased for both the utility and Commission. At the same time, the overall goal of securing high-quality public input could be thwarted if customers confuse the workshops and hearings and conclude that the hearing is duplicative.

RESPECTFULLY SUBMITTED this 22nd day of October, 2003,



Mary S. Hobson
Stoel Rives, LLP

Adam Sherr
Qwest Service Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 2003, I served the foregoing
COMMENTS OF QWEST CORPORATION as follows:

Ms. Jean Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P.O. Box 83720
Boise, ID 83720-0074
jjewell@puc.state.id.us

- Hand Delivery
- U. S. Mail
- Overnight Delivery
- Facsimile
- Email



Brandi L. Gearhart, PLS
Legal Secretary to Mary S. Hobson
Stoel Rives LLP