DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: DONOVAN E. WALKER

DATE: JUNE 6, 2005

SUBJECT: PIC/LPIC CHANGE CHARGES – CASE NO. GNR-T-05-1

On March 28, 2005, the Commission issued a Notice of Investigation and Notice of Modified Procedure, Order No. 29743, in this matter to investigate whether the LPIC change charges established by the Commission should coincide with the PIC change charges established by the FCC. Additionally, the Commission requested information from Idaho ILECs on their capabilities and actual usage levels of electronic processing for PIC/LPIC changes. Comments were filed by Qwest Corporation, Verizon Northwest Inc., Citizens Telecommunications Co., CenturyTel, and Commission Staff.

BACKGROUND

On March 15, 2005, the FCC issued a Report and Order (47 C.F.R. Chapter I, CC Docket No. 02-53, FCC 05-32) revising its PIC charge policies. On April 8, 2005, the FCC extended its previously set deadline for the filing of revised federal tariffs for interstate PIC change charges from April 14, 2005 to October 17, 2005 in response to petitions from many local carriers expressing difficulties complying with the April 14 deadline. PIC change charges are federally tariffed charges imposed by incumbent local exchange carriers (ILECs) on end-user subscribers when these subscribers change their long distance carriers. The Report and Order requires ILECs to create separate PIC change charges based on the method used to process the request. Based on cost information submitted in the record of the proceeding, the Report and Order adopts safe harbors below which PIC change charges will be considered reasonable. These safe harbors are $1.25 for electronically processed PIC changes and $5.50 for manually processed PIC changes. Additionally, ILECs must also revise their federal tariffs to reflect a rate that is equal to 50 percent of the full PIC change charge rate when a customer requests a PIC change in conjunction with an intraLATA Primary Interexchange Carrier (LPIC) change. These federal tariff revisions must be filed on or before April 14, 2005.

The FCC's previous safe harbor was set at $5.00. Under the safe harbor, companies could tariff a charge of up to $5.00 without providing cost studies. If a carrier desired to tariff a higher charge, they had to provide cost support to justify the higher amount. The FCC's new safe harbor applies only to PIC changes for interstate long distance. IntraLATA PIC (LPIC) change charges are tariffed at the state level. Although the Idaho Commission has not formally established a safe harbor rate for LPIC change charges, it has established a precedent of approving a rate that is within the FCC's safe harbor of $5.00 without requiring the company to submit detailed cost support. When the new rates for interstate PIC change charges become effective there will be a lack of consistency between the charges for changing PICs and LPICs. The consumer impact of any changes are difficult to identify without information on the extent to which Idaho's ILECs can process such change orders electronically.

The Commission opened this docket to investigate whether the LPIC change charges established by the Commission should coincide with the PIC change charges established by the FCC. Additionally, the Commission requested information from Idaho ILECs on their capabilities and actual usage levels of electronic processing for PIC/LPIC changes.

COMMENTS

1. <u>Qwest Corporation</u>. Qwest recommended and requested that the Commission refrain from requiring any changes to intrastate tariffs until the FCC grants or denies Qwest's pending Petition for Reconsideration regarding the 50% rule from the FCC Order. Additionally, Qwest requested that, in the event the Commission orders changes, that it also grant the affected LECs a reasonable period of time to implement any changes to their billing and other internal systems that may be required.

In its comments Qwest stated that under its existing tariff and catalog provisions, it charges $5.00 to process a change to the LPIC. If a customer requests simultaneous changes of both the PIC and LPIC, Qwest's tariff and catalog refers to the FCC tariff and imposes a single charge at the level permitted by the interstate tariff. Once the new FCC provision takes effect, Qwest will only be permitted to collect 50% of the interstate tariff amount from the interstate jurisdiction. Qwest stated that without a change to the Idaho tariff and catalog provisions, it "will be left with only half the compensation it would receive for processing a change to the PIC on a standalone basis."

Qwest described implementation concerns it has with complying with the ordered FCC changes. Qwest stated these problems involve changes to the billing and ordering systems, redesign of internal processes, testing, and employee training. Qwest further discussed changes that would be required to its Customer Record Information System (CRIS), Universal Service Order Codes (USOCs), Regional Subscription System (RSS), Billing and Receivables Tracking (BART), as well as the required new programming logic, testing, and training. Qwest stated that it is because of these difficulties that the FCC granted an extension of the compliance deadline for the filing of new federal tariffs to October of this year.

Qwest further stated that on April 14, 2005, it filed a Petition for Reconsideration with the FCC with regard to the FCC's PIC Change Order. In this Petition, Qwest asked that the FCC modify its Order to abandon the policy of splitting the federal rate in half (50% rule) where simultaneous PIC and LPIC changes are requested. Qwest requested "the requirement that state regulators establish individual cost-recovery mechanisms to cover the intrastate portion of the costs would be eliminated." Qwest states that this change would allow its state tariffs to continue to reference the federally tariffed rate in situations of simultaneous changes to both the PIC and the LPIC.

With regard to the Commission's request for information on the actual usage of electronic processing for PIC/LPIC changes, the Company states, "while Qwest does not have Idaho specific numbers, Qwest estimates the volume of electronic requests to be almost 20% of all requested PIC/LPIC changes."

2. Verizon Northwest Inc. In Verizon's comments it stated that its understanding is that the Commission's intentions are to mirror the safe harbor rates of $1.25 for electronically processed PIC changes and $5.50 for manually processed PIC changes. Verizon stated that if this is the Commission's intention, then it does not have an objection. However, Verizon requested that the Commission make a decision as soon as possible as it is currently modifying its systems to implement the new FCC rates by October 1. Verizon requested that if the Commission decides to mirror the FCC safe harbor rates, that it be allowed to modify its state access tariff to refer to the rates in the FCC Tariff No. 14.

3. Frontier Communication of Idaho. Citizens Telecommunications Company of Idaho dba Frontier Communications of Idaho (Frontier) stated that action by the Commission to mirror LPIC change charges with the federal PIC change charges is unnecessary and should not be implemented.

Frontier stated that the rate would not be applicable to Idaho's largest carrier, Qwest, and will not long be applicable to other carriers. It stated "Qwest is regulated under Title 62 of Idaho statutes, so its rates for LPIC are not subject to PSC approval." It further stated that Frontier and numerous other Idaho carriers will elect to move to regulation under Title 62 with recently enacted changes to the statute that become effective in July, and therefore any changes implemented will not apply to the vast majority of Idaho customers.

Frontier stated that in order to mirror the FCC charges that this Commission will have to reduce the LPIC charges currently authorized. The Company stated that the LPIC charge, although relatively low, does provide a source of revenue to a local carrier that should at least cover the cost of implementing the carrier change. If there are any excess revenues, which it stated is not clear, they would contribute to the overall cost of operations of the company. Frontier stated that these lost revenues will have to be made up somewhere else or the company's rate of return will be reduced without a showing, or even an allegation, that current earnings are excessive. Additionally, because the amounts involved are low, companies may not be able to justify a rate proceeding with the Commission to replace the lost revenues from reducing the LPIC charges.

Frontier also stated that both Verizon and Qwest have challenged some of the FCC's ordered rates, and it is therefore possible that the FCC could change its ordered rates prior to implementation. The Company stated that there is no need for the Commission to act now to change rates that may still not match FCC rates when those rates become final.

In response to the Commission's request for information on the capabilities and actual usage levels of electronic processing for PIC/LPIC changes, Frontier stated that it is capable of processing PIC and LPIC change requests electronically, however, the vast majority are processed manually. The Company stated that during January 2005 it processed a total of 636 PIC and LPIC changes. Of that amount 121 were electronic, while the remaining 515 were processed manually.

4. CenturyTel. CenturyTel of the Gem State and CenturyTel of Idaho provided information in response to the Commission's request for information on the capabilities and actual usage levels of electronic processing for PIC/LPIC changes. The Company stated that while it does process PIC and LPIC changes both manually and electronically for Idaho customers, it does not track the amount or percentage of PIC or LPIC changes that are handled one way or the other at this time. The Company stated that it is reviewing its PIC/LPIC processes in hopes of updating or making any changes that may be necessary to comply with the FCC's Order.

5. Commission Staff. Staff recommended that the Commission adopt as a safe harbor the same pricing structure for intraLATA LPIC change charges as adopted by the FCC for interstate PIC change charges, and require that all incumbent local exchange carriers file changes to LPIC change charges in the appropriate Idaho tariffs to become effective at the same time as changes to interstate PIC change charges that are filed at the federal level.

Staff discussed some of the options available to the Commission with regard to the LPIC change charges such as: allowing each company to file its proposed charges without guidance from the Commission, which would require each company to individually justify its proposals; keep the LPIC charges as currently filed; or establish a safe harbor for LPIC change charges at the same level as that set for interstate PIC charges, requiring companies to implement changes at the same time as those to interstate PIC changes.

Staff pointed out that the FCC relied upon cost data submitted in its proceeding, and its analysis indicated essentially no difference in costs when making changes in either the PIC or the LPIC. Therefore, Staff recommended that the safe harbor levels for the PIC and LPIC should be the same. Staff also discussed how the manner in which the customer requests the change of carrier will impact the charges that the customer will incur. For example, if the customer contacts the long distance carrier to initiate the PIC change, the order will most often be placed electronically, with the lower charge. If the customer contacts the local exchange carrier that order will most likely be placed manually and be billed at the higher rate. If a customer wants to change to a "no-PIC" where no carrier is designated, the only option is to place the order with the local exchange company which would result in a manual order change with the higher charge. Staff recommended that the Commission consider whether disclosure or customer education requirements would be appropriate.

SUMMARY OF RECOMMENDATIONS

Qwest recommended and requested that the Commission refrain from requiring any changes to intrastate tariffs until the FCC grants or denies Qwest's pending Petition for Reconsideration regarding the 50% rule from the FCC Order. Additionally, Qwest requested that, in the event the Commission orders changes, it also grant the affected LECs a reasonable period of time to implement any changes to their billing and other internal systems that may be required.

Verizon stated that it had no objection to the Commission mirroring the FCC's PIC change charge Order, but requested that the Commission make a decision as soon as possible as it is currently modifying its systems to implement the new FCC rates by October 1. Verizon also requested that if the Commission decides to mirror the FCC safe harbor rates, that it be allowed to modify its state access tariff to refer to the rates in the FCC Tariff No. 14.

Frontier stated that action by the Commission to mirror federal PIC change charges with the LPIC change charge is unnecessary and should not be implemented.

CenturyTel simply provided information regarding actual usage levels of electronic processing for PIC/LPIC changes.

Staff recommended that the Commission adopt as a safe harbor the same pricing structure for LPIC change charges as adopted by the FCC for interstate PIC change charges, and require that all incumbent local exchange carriers file changes to LPIC charges in the appropriate Idaho tariffs to become effective at the same time as changes to interstate PIC charges that are filed at the federal level.

COMMISSION DECISION

Does the Commission wish to take any action with regard to the LPIC change charges?

If the Commission wishes to order that LPIC change charges are to mirror the FCC's PIC change charges by adopting the same price structure as a safe harbor, does it wish to make LPIC changes effective at the same time, or at some different time, than the federal PIC changes?

If the Commission wishes to order changes to the LPIC charges, does it wish to order any special customer notification and/or education requirements?

Donovan E. Walker