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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE)
APPLICATION OF QWEST)
CORPORATION FOR PRICE) CASE NO. QWE-T-02-25
DEREGULATION OF BASIC LOCAL)
EXCHANGE SERVICES) REQUEST FOR INTERVENER
) FUNDING
)
)
)
_____)

COMES NOW the Interveners Meierotto who pursuant to the Rules of Procedure of the Idaho Public Utilities Commission 161 -170, and specifically Rule 162, IDAPA 31.01.01 who request Funding as provided therein for the reasonable costs of intervention in this matter.

(01) Itemized list of Expenses

1. Attached hereto as Exhibit A is an itemized list of expenses and attorneys time spent in this proceeding and the amounts claimed.

(02) Statement of Proposed Findings

Interveners propose the following findings by the Commission in connection with this case:

A. Cell phones do not offer the functional equivalent technology because the technology cannot be reasonably used by small business or residential home phone systems and therefore wireless is not effective competition.

B. Cell phone transmissions are not reasonably available because they cannot be reasonably used by small business or residential phone systems and therefore wireless is not effective competition.

C. Qwest has failed to meet its burden of proof that cell phone technology is competitively priced because cell phone technology cannot be used by small business or residential phone systems. Further, there is no evidence of the full value of wirelines vs wireless in this case.

D. If deregulation is approved, the public interest requires that any deregulation approval should include mandatory, informal arbitration of billing and service disputes because the majority of small business and residential customers will have to continue land line service and Qwest has had serious problems in this area which justify such protections.

E. Whenever possible, it is in the public interest that the land line and wireless system should be subject to the same taxes and fees as a matter of public policy so that the land line system prices are not placed at a disadvantage as a result of governmental action.

In addition, Interveners post hearing memorandum, our witnesses, and evidence presented and elicited from other witnesses, provide additional suggested findings for the decision in this case.

(03) Interveners costs claimed are reasonable.

A. Interveners filed 60 pages of prefiled testimony and exhibits.

Each person identified as a witness received approximately 10 interrogatories from Qwest to answer or a total of around 70 interrogatories from Qwest. All were answered and even those which were clearly outside the issues in this proceeding were answered after an objection was made.

Interveners participated in the legal hearing on May 22, 2003, and submitted a 7 page memorandum addressing Legislative Intent and other issues not raised directly in Staffs memorandum.

Interveners and counsel participated in the full two day hearing held June 4-5, 2003, and submitted a 14 page post hearing memorandum.

In connection with the hearing, counsel reviewed all of the testimony of the 5 witnesses for Qwest and prepared cross examination for Mr. Teitzel; Mr. Souba and Dr. Lincoln because their testimony related directly to Interveners concerns and issues.

Interveners presented 6 witnesses and two interveners (Meierotto and Moyer) submitted written comments to the Commission.

Exhibit A fully describes all of the work performed in connection with this participation.

B. In determining the reasonableness of the attorneys fees Interveners counsel believes that the requested fee of \$12,500 for 149.5 hours of work is reasonable especially in view of the awards in other cases in which counsel has been involved.

Interveners counsel has been awarded attorneys fees in other cases in amounts ranging from \$100 - \$130 per hour. Interveners counsel has been awarded fees

at rate of \$100 or more in a half dozen cases in the past two years and in connection with a half dozen default judgments.

1. For example on December 6, 2002, Judge Edward Lodge awarded Interveners Counsel \$2000 at the rate of \$130/hour in connection with a default Judgement entered against Monogram Credit Card Bank of Georgia. (See Griffiths v Monogram CV 02-474-S-EJL at US District Court of Idaho web site)

2. In January, 2001, Ada County Judge Duff McKee awarded Interveners Counsel \$13,000 at the approximate rate of \$110/hour in connection with a 3 day jury trial involving commission disputes. (See Sales v Valley Glass CV OC 99-06152D)

Therefore, Counsels request for an award of attorneys fees at a rate of around \$90/hour is reasonable and probably very low.

(04) Interveners would not have participated unless they were represented by counsel who was willing to put together the issues and evidence. Interveners and their witnesses would not normally have participated, because realistically, the amount of money at stake for them far exceeds the expenses and time they have to spend on a case such as this. For example, Gary Neal points out how unhappy he and his wife were with the outrageous Zero Plus Dialing charge of \$17.10 for a 4 minute phone call, and how realistically they had no choice but to pay it. This is true for intervening in a case such as this also, but in this case an attorney was willing to put together the work and take the risk of getting paid if the Commission felt the attorney and his clients contributed as required by the rules.

There is no way that the interveners could afford to pay for and hire an attorney and

there is really no way to present their views without one.

(05) Interveners positions differed from the Staffs in many respects:

A. In the original Petition to Intervene, which was granted by the Commission, Interveners pointed out that they could not use the technology especially for extension phones. This has been the consistent theme of Interveners evidence throughout this case.

Interveners presented 6 witnesses who focused primarily on the impossibility of using wireless technology in their business or residences. Interveners presented witnesses who had hands on involvement with wireless/wireline technology and were familiar with the needs and uses of wireless/wireline in this area. Each witness was familiar with the needs of a particular industry or profession, and interveners submit, know their own needs and what works better than any of the expert witnesses who testified. Several witnesses presented local lists of those in their business showing that land lines were the overwhelming choice for their business. Their testimony was largely unrefuted.

B. Interveners believe their testimony was more credible and persuasive than evidence contained in much of the testimony that was based upon double hearsay and outside the personal knowledge of the witness. Some of the "expert" witnesses strayed from their area of expertise when discussing double hearsay in newspaper articles and quoting from persons who may or may not have had credentials. Even Staff's witness Ben Johnson, for example, is an economist, and probably not as qualified as an expert on ergonomics, cell phones causing cancer and the specific communication needs of a Boise, Idaho small business person, even though his summary testimony touched on these issues and most of his testimony was very valuable.

Qwest witness David Teitzel made general statements about “misconceptions” by interveners regarding wireless technology, but he could not direct interveners to reasonably available products which would allow them to use wireless technology for their needs as interveners defined them, not as Qwest or even Staff defined them.

C. Interveners did not address or even become involved in a principal issue presented by Staff and Qwest concerning competitive pricing and the comparison of wireless to wireline costs. For one thing Staff did an excellent job of dealing with this issue and there was no reason for interveners to duplicate that work.

But in addition, Interveners believe that even if wireless technology was free, it cannot be used by them and therefore it is not competitively priced and to that extent the price doesn't matter. And, Interveners believe that any price comparison must include a value for the services that the wireline provides, and that wireless does not provide. This was not presented by Qwest.

D. Legal issues: Interveners agree with Staff that “local service” means local service and not something else. But Interveners did not spend time duplicating Mr. Stutzman's excellent brief, or responding to Ms Hobson's excellent brief, because Staff was completely covering this issue.

Interveners did point out at the Hearing on May 22, 2003, though, that for purposes of evidence presented at the June 4-5 Hearing a decision on this issue didn't matter because the evidence would probably be admissible on the “competitive price” issue or even the “functional equivalent” issue, and the Commission did decide to reserve its ruling. Interveners also did not support Staff's request to vacate the June 4-5 Hearing.

Intervenors disagreed with Staff's interpretation of "reasonably available." We presented evidence that the technology cannot be used, so therefore how can a "voice to voice" transmission, or even "local service" be reasonably available? Intervenors believe the term "reasonably available" is much broader and more inclusive than the Qwest position, which Staff really didn't challenge.

E. Intervenors focused on billing dispute issues several times throughout the Hearing, and also brought up the tax/fee equity issue between cell phones and land lines.

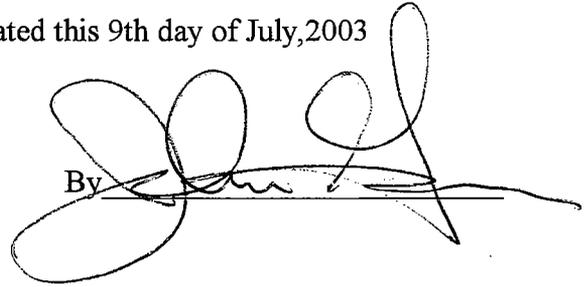
F. Intervenors also focused on the conjunctive nature of "small business and residential" in the statute. Staff did not really focus on the fact that small business in particular cannot possibly use cell phone technology to replace land lines. When Qwest presented such evidence through Dr. Lincoln, Intervenors pointed out the lack of follow up questions and a serious methodology problem in the survey of small business. Staff and their witnesses spent little time on the Small Business customer, and in the end, Intervenors provided evidence that very few 1-5 line customers can replace their land lines, or even reduce their land line service, in favor of cell phone technology. Intervenors were the only party to point out that it didn't matter how much their 1-5 lines cost: They have to have them.

(06). Intervenors position addressed the phone system needs of small business and residential customers and the fact that not only would wireless technology not work for them, it would not work for others in their class either. Intervenors position was not narrowly focused just on intervenors and their witnesses. It would be impossible to do that even if intervenors wanted to do so.

(07). Interveners believe they represented the small business (1-5 lines) class of customer and to a lesser extent, the residential class of customer.

Dated this 9th day of July, 2003

By

A handwritten signature in black ink, consisting of several large, overlapping loops and a long horizontal stroke at the bottom.

EXPENSES

Date	Description	Amount
1/10/03	Copies of Petition to Intervene (16 copies at 16 pages each) 256 copies at 5 cents/page	\$12.80
1/15/03	Paralegal bill for gathering literature/prices from all cell phone companies in Boise area (3 hours at \$17/hour)	51.00
3/19/03	Copies of Pre Filed Testimony (19 copies at 60 pages each) 1140 copies at 5 cents/page = \$57.00	57.00
3/19/03	Postage 7 sets at \$2.44	17.08
6/4/03	Testimony Enlargements for Hearing at Kinkos	14.47
6/27/03	Copies of Post Hearing Memorandum 375 pages x 5 cents = 18.75 15 pages x 8 for Commission 15 pages x 8 for parties 15 pages x 9 for clients and witnesses	18.75
6/27/03	Postage 8 copies at 83 cents each (parties) Postage 8 copies at 83 cents each (clients and witnesses)	13.28
	TOTAL EXPENSES:	\$184.38

ATTORNEYS TIME

12/19/02	Initial review of application and Dr. Lincoln Testimony (1.25)
12/20/02	Read application & consider again, research local rate Deregulation

- including review other jurisdictions status on internet (12:15-1:15) (1.0)
(2:30 - 3:45) (1.25)
- 12/21/02 Review local rate deregulation issues in Calif on internet at various Websites; Review Portland Oregonian article and get more background (1:30 - 4:00) (2.0)
- 12/22/03 Review Souba, Shooshan & Teitzel testimony and consider whether cell phones can be used (11:15 - 1:00) (1.75)
- 1/02/03 Discuss parameters of intervening with clients (.3) Consider multiple member households issues. T/C Cricket representative (.75)
- 1/03/03 T/C & review price comparison information (1.0)
- 1/04/03 Further review of database information for articles on deregulation and competition for local phone service; locate Boston Globe article for background (12-1) (1.0); Review Michigan Utility Comm Website including orders and information; Locate Detroit Free Press article; Paralegal advises of Wall Street Journal article (1:15-3) (1.75)
- 1/06/03 Research on Petition to Intervene and requirements (.75) T/C attorney who has done so before and figure out competition issue - followup on Detroit Free Press article and check with Commission to see if there are any public interveners yet and review paralegal work (1.75)
- 1/10/03 Show materials to clients (.2) T/C PUC Draft and finalize affidavit & petition and include Detroit Free Press Article and WSJ Article (1-1:45) (3-4) (1.75)
- 1/13/92 R/R article in Statesman (.1) T/C Free Press to locate author and locate possible expert (.2) Organize file; reread Petition to Intervene (1.0)
- 1/14/03 T/C Free Press personnel who will have author call me (.2)
- 1/15/03 T/C Mary Hobson re: confidentiality & participation (.2)

- 1/21/03 R/R interrogatories and generally the responses and particularly the survey methodology material (1.0)
- 1/30/02 R/R & sign Protective Agreement and send to Joe Miller (.4)
- 2/19/03 Locate and review census data for Boise MSA and research Fax usage research (1.0)
- 3/04/03 Discuss affidavit w/Neal, review IPUC rules and discuss procedure (1.25) T/C Steve Chattin & interview and send article (.5); Try to locate CPA (.5) Try to locate person with wireless sales knowledge (7-8) (1.0)
- 3/5/03 Review, organize & prep Neal & Chattin Testimony (1.5)
- 3/07/03 McManamon Testimony; review law and applicable statutes thoroughly prepare outline of proof required and legal issues; consider data transmission issue and note phone feature on fax machines; review carefully & organize Teitzel testimony (8 - 11:20) (3.4) Review Int Mountain Gas SC case and figure out dismissal standard (12-1) (1.0); Work on Phone book issues (.75) Review Rules of Procedure (3:15-4:15) (1.0); Consider requirements for prefiled testimony (4:15-4:30) (.25)
- 3/14/03 Interview and review witness testimony (.75) Neal affidavit & Ex's T/C Commission secretary (9-1) (4.0)
- 3/15/03 Work on McManamon; T/C review Qwest testimony and exhibits (11-2) (3.0) Review Exhibit rule & Judicial Notice (2:30 -3:15) (.75) T/C Joel Sales (.2) T/C Steve Chattin (.1)
- 3/16/03 Continue prep of testimony ; tax equity issue & review cell phone 911 tax issue (9:30 -12:15) (2.75)
- 3/17/03 Prep finalize McManamon; Chattin; corrections as requested figure out issues; Meet with Chattin again (4.5) Continue preparation (4-5) (1.0); Hearing Preparation (6:30 -8:30) (2.0)
- 3/18/03 Work on Boyce; Review MLS list; T/C Commission regarding prefixes; Conference Meierotto; 3 T/C's witnesses; Review Exhibit rule again; Work on exhibits and witness testimony (10-12) (2.0); 1:30- 6:30 (5.0)

Work with other witnesses (7:45 - 9) (1.25)

3/19/03 Interview and Meierotto again regarding status; exhibit and testimony work; organize and decide on exhibits; conference Chattin and revise again; organize and finalize and supervise filing (8:30 -2); (5.5) 2:45 -4) (1.25)

4/16/03 Work on discovery requests from Qwest (1.5)

4/17/03 Work on discovery; Review Ben Johnson and his testimony (3,0)

4/18/03 Prep for Hearing and finish interrog responses (9-12) (2.5) Further preparation & Discovery (1-3) (2.0) Prep for hearing; Finish Chattin discovery issues (4-5) (1.0)

4/22/03 Read & review rebuttal testimony 11-12:30 (1.5)
Continue Shooshan & Lincoln (1:30 - 2:30) (1.0)

5/20/03 Review Memorandum; consider; Review statutes; Review previous research; write, rewrite and research and finalize memorandum (9-11); 12:15-3:30) (5.25)

5/21/03 Outline argument and review briefs again (10-11:45) (1.75)

5/22/03 Prep for hearing (8:15 -10) (1.75) Hearing (10-11:15) (1.25)
Prep for 6/4 hearing (1-2) (1.0)

5/23/03 Work on Lincoln survey and testimony (2.0); Deal with Ascendent (1.0)

5/24/03 Prep for hearing (9:15 -1) (3.75)

5/25/03 Prep for hearing - Dr. Lincoln testimony (2.0); Souba read and organize (2.5)

5/26/03 Review all documents in first Discovery response; Consider issues and analyze survey (8:30 - 11:30) (3.0)

5/28/03 Prep for hearing; survey, Ascendent issues; Rev rebuttal testimony T/C regarding procedure at hearing (9:45- 11:30) (1.75) 12:30 - 2:15

(1.5); 3:45-4:15 (.5)

5/29/03 Review and consider all exhibits filed in initial filing (2.25)
Work & prep for hearing (2.5)

5/30/03 Qwest Witness and quotes (3.75) R/D Objection to Teitzel testimony
(1.25)Prep (3-5) (2.0);

5/31/03 Preparation for Qwest witnesses (5.5) Review Hart & Johnson
generally (1.5)

6/02/03 Research cell fax machines; Neal surrebuttal; Qwest witness prep;
Organize new Exhibits (7.5)

6/03/03 Hearing preparation (6.5) Prep for hearing (2.75)

6/04/03 Prep for hearing; Exhibits; Blow ups; Organize (6:30 -9) (2.5)
Hearing (2.5) Organize (.5) Hearing (3.75) Contact witnesses
and organize for 6/5 (1.0)

6/05/03 Prep for hearing (1.75) Hearing morning (2.5) Prep for hearing
& organize (.75) Hearing afternoon (.75) Organize materials
and ideas for posthearing brief (2.0)

6/24/03 Work on brief; write intervenor summary part (8:30 -11)(2.5); Review
transcript at PUC (1:30 -4) (2.5)

6/25/03 Organize and write brief; (9:30 -12:15); (2.45); Continue to
organize and write brief (7-9PM) (2.0)

6/26/03 Work on Brief (4.5)

6/27/03 Write final parts of brief and finalize; check citations (11:30 - 2:00)
(2.5)

6/30/03 R/R Qwest and Staff briefs (1.0)

TOTAL ATTORNEYS HOURS: 149.30

ATTORNEYS FEE REQUESTED: \$12,500

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON THE 9th DAY OF JULY, 2003, I SERVED THE FOREGOING PLEADING IN CASE NO QWE-T-02-25. BY MAILING A COPY THEREOF, POSTAGE PREPAID, (UNLESS OTHERWISE INDICATED) TO THE FOLLOWING:

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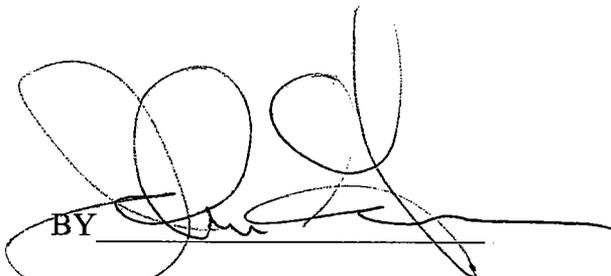
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