DECISION MEMORANDUM

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

FROM: **DON HOWELL**

DATE: **SEPTEMBER 8, 2003**

RE: **QWEST AND STAFF'S JOINT APPLICATION FOR APPROVAL OF THE PARTIES' AGREEMENT REGARDING TOLL RESTRICTION SERVICE, CASE NO. QWE-T-03-15**

On July 30, 2003, Qwest Corporation and the Commission Staff (the parties) filed a Joint Application to approve their agreement concerning toll restriction service. "Toll restriction" service prohibits a Qwest customer from accessing a long-distance carrier on any line on which the service is installed. As set out in greater detail below, the parties proposed that toll restriction in Qwest's southern Idaho operating territory be removed as a Title 62 service and placed under the Commission's Title 61 jurisdiction. In addition, the parties proposed that the monthly rates for toll restriction be increased but these rate increases would be mitigated by elimination of the non-recurring (installation) charge for residential customers in both northern and southern Idaho. The parties requested an effective date of October 1, 2003.

In Order No. 29314 issued August 7, 2003, the Commission issued a Notice of Application and Notice of Modified Procedure requesting public comment on the Joint Application. The Commission requested written comment be filed no later than September 4, 2003. The Commission received seven public comments, most objecting to the proposed rate increase.

THE JOINT APPLICATION

A. Procedural History

In their Joint Application, the parties observed that the regulatory status of toll restriction has been in conflict since 1997. App. at 2. In a 1997 rate case, Qwest's predecessor (U S WEST) argued that toll restriction should be a price-deregulated service offered under the

Commission's Title 62 authority, *Idaho Code* §§ 62-601 *et seq.* Conversely, the Staff argued that the service should be price regulated under the Commission's traditional regulatory authority found in Title 61 of the Idaho Code. In Order No. 27100, the Commission concluded that toll restriction should be regulated under Title 61. Qwest subsequently appealed this determination to the Idaho Supreme Court. *Id.*

While the appeal was pending, Qwest and the Staff entered into a settlement Stipulation regarding the appropriate regulatory status for toll restriction. The parties agreed that toll restriction should remain a Title 62 service but that it should be offered under fixed rates and terms for a period of three years. The monthly residential rate was proposed to be $0.25 and the monthly single-line business rate was proposed to be $1.00. Customers in the Idaho Telecommunications Service Assistance Program (ITSAP) would receive toll restriction at no charge. Residential and single-line business customers ordering the service in southern Idaho would be assessed a non-recurring installation charge of $13.50 except that this charge would be waived on the first line for residential customers requesting toll restriction service at the time they initiated local service.

In October 1998, a majority of the Commission approved the terms of the Stipulation in Order No. 27785. *Id.* at 4. That Order provided that the terms of the Stipulation should run for a period of three years. In addition, Qwest voluntarily dismissed its appeal.

Near the end of the three-year period, Staff discovered that Qwest had inadvertently assessed the non-recurring charge on new residential customers ordering toll restriction and had misbilled some of its ITSAP customers. Consequently, the parties executed another Stipulation in September 2001. The second Stipulation required Qwest to refund money to affected customers and extended the terms of the original Stipulation through the end of calendar year 2002. This latter Stipulation was approved by the Commission in Order No. 28862 in October 2001. *Id.*

B. The Present Settlement

In an attempt to settle the ongoing controversy regarding the appropriate regulatory treatment of toll restriction service, the parties entered into settlement negotiations. These negotiations culminated in a new agreement, the terms of which are presented in the Joint Application. As set out on pages 5-6 of the Application, the new agreement contains the following provisions:

1. In southern Idaho Qwest will file appropriate tariff revisions to move toll restriction service for residential and business customers with five or fewer lines from a Title 62 service to a Title 61 service. Toll restriction service in Qwest's northern Idaho service territory will remain under Title 61.

2. The Parties propose that the monthly rates for toll restriction for residential customers be increased from $.25 per line to $.75; and from $1.00 to $2.00 per business line. Residential and business customers in both northern and southern Idaho will be charged the same monthly rates.

3. Qwest will individually notify each customer who subscribes to toll restriction service of the proposed rate changes.

4. As part of its rate adjustments, Qwest will file changes to its northern and southern Idaho schedules to eliminate the respective $24.00 and $13.50 non-recurring (installation) charges for residential customers ordering the service. In addition, the non-recurring charge for northern Idaho business customers will be reduced from $24.00 to $13.50. Business customers in both northern and southern Idaho will be assessed the same $13.50 non-recurring charge.

5. ITSAP customers will not be charged for toll restriction.

6. The Staff will not seek a rate reduction in Title 61 toll restriction rates outside a general rate case in either northern or southern Idaho.

The parties agreed that adoption of the Joint Application will settle the regulatory controversy. They also maintained that the proposed rates are reasonable and approval of the Joint Application is in the public interest. Each party supported the Application by including a witness declaration.

As part of the Joint Application, Qwest submitted proposed price lists/tariff schedules incorporating the proposed terms and conditions set out in the Joint Application. Pursuant to Telephone Customer Relations Rule 102, Qwest individually notified approximately 38,000 customers who subscribed toll restriction in northern and southern Idaho.[1] IDAPA 31.41.02.102.

C. Declarations

1. Qwest. In support of the Application, Qwest offered the declaration of John F. Souba, Idaho Regulatory Affairs Manager. Mr. Souba explained that Qwest supports the

[1] Qwest reports that there are 35,233 residential customers and 676 business customers that subscribe to toll restriction in southern Idaho. In its eight northern Idaho exchanges, 1,728 residential and 362 business customers subscribe to toll restriction.

adoption of the Application for several reasons. First, he observed that proposing toll restriction be subject to the Commission's Title 61 jurisdiction "is a big concession on Qwest's part...." Declaration at ¶ 7. He notes that Qwest has long advocated that toll restriction is not properly characterized as a Title 61 "basic local exchange service." In addition, the Company argued toll restriction was not subject to the "claw-back" provisions under *Idaho Code* § 62-605(5) because it was not offered prior to the effective date of the 1988 Telecommunications Act codified in Title 62. He stated that approval of the Joint Application would lay this controversy to rest and avoid further litigation before the Commission or the Courts. *Id.*

Second, he asserted the approval of the Joint Application will allow Qwest to offer toll restriction under the same terms and conditions for all Idaho customers whether they are located in northern or southern Idaho. This offers efficiencies to both the Company and the Staff, as well as minimizing customer confusion. Third, he declared that Qwest has installed new central office switching equipment in Lewiston at an investment of $7 million. *Id.* ¶ 8. Qwest has not sought to recover this investment but the proposed rate increase will offset the investment.

Finally, he stated that despite the proposed monthly increase, the rates are reasonable. He noted toll restriction rates in effect prior to the 1997 rate case were $1.00 per month for residential customers. *Id.* at ¶ 6. Although the Application proposes increases for both residential and business customers, the suggested rates "are very low compared with other states...." *Id.* at 6. *See* attached chart. In addition, he maintained the increases are mitigated by elimination of the non-recurring installation charge of $24.00 and $13.50 for residential customers in northern and southern Idaho, respectively. The non-recurring charge for business customers in northern Idaho will be reduced from $24.00 to the level of the southern Idaho business non-recurring charge of $13.50. Moreover, ITSAP customers will continue to receive toll restriction service without charge. *Id.* at ¶ 8.

He concluded that the Joint Application presents a reasonable and appropriate resolution of these toll restriction issues. "Granting the relief requested by the Joint Application will allow the Company and Staff to focus on other issues and avoid the further expenditure of time and expenses on this issue." *Id.* at ¶ 11.

2. Staff. Also attached to the Application was the declaration of Staff member Beverly Barker, supervisor of the Consumer Assistance Section. Without repeating the toll

restriction history, she noted Staff's primary goal is to promote universal service by preserving the Commission's jurisdiction over toll restriction once and for all. She explained toll restriction service promotes universal service by allowing customers to obtain local exchange service without paying a deposit. "It also allows customers to obtain or retain local exchange service while making payments on past due or prior bills." Declaration at ¶ 1. She also insisted toll restriction limits prevents toll calls, thereby providing customers a greater degree of control over the ultimate amount of their telephone bills.

Ms. Barker listed several other reasons supporting the adoption of the Joint Application. First, placing toll restriction under the Commission's Title 61 regulatory authority assures customers that the Commission will have full regulatory oversight with respect of the rates, terms and conditions of this service. Second, adoption of the parties' agreement will provide for regulatory certainty and will allow both the Staff and Qwest to focus their resources on other matters. Third, moving toll restriction to Title 61 for both residential customers and business customers with five or fewer lines in southern Idaho is consistent with Commission Order No. 27715. In that Order, the Commission designated the nine core universal services as Title 61 basic local exchange services including "toll limitation." *Id.* at ¶ 2. Fourth, adoption of the Application makes the terms and condition for toll restriction in both northern and southern Idaho consistent. This regulatory symmetry will avoid customer confusion and be more efficient for both the Staff and the Company. *Id.* at 3.

Finally, Ms. Barker acknowledged the Application proposes to increase the monthly charge for residential and business toll restriction service. She noted that the elimination of the non-recurring residential charge and the reduction in the northern Idaho non-recurring charge for business customers is a substantial benefit the new customers. *Id.* at 4. She concluded that the reduction or elimination of non-recurring charges mitigates to some degree the impact of the increase in monthly rates for this service. In summary, the Staff argued that the rate proposal is only one component of a comprehensive resolution of the toll restriction controversy. *Id.* at ¶ 5.

PUBLIC COMMENTS

As previously indicated, the Commission received seven public comments. None of the comments address the regulatory realignment of toll restriction but six comments oppose the proposed monthly rate increases. One customer asked why he should be charged for a service (access to the toll network) that he does not want. He characterized the proposed increase as

"nothing more than another 'money grab.'" Another customer with income "well below the poverty level," questioned whether the proposed increase was cost justified.

A customer with rental properties stated he had numerous "problems with this service. Perhaps Qwest should be required to make the service work properly before they increase the price by [200%]." Another customer from Caldwell indicated that Qwest does not deserve an increase in this price "considering the way they do business. They give the customers the run-around when the customer calls for help on a particular concern…." The comments are attached for your review. Staff has contacted or attempted to contact those customers who indicated that they had experienced problems with their toll restriction service in order to resolve any remaining issues.

COMMISSION DECISION

What is the Commission's decision regarding this Joint Application?

Don

Don Howell

Vld/M:QWET0315_dh2

TOLL RESTRICTION
STATE RATES

STATE	USOC	Res Mo. Rate	Res NRC	Bus Mo. Rate	Bus NRC
Colorado E&NS Tariff & Price List 10.4.4	RTY	2.00	6.00	5.00	20.00
Idaho No. E&NS Tariff 10.4.4	RTY	.25	24.00	1.00	24.00
Idaho – So. E&NS Catalog 10.4.4	RTY	.25	No NRC on main line; 13.50 applies on add'l lines and 1 chrg p/order	1.00	13.50
Iowa E&NS Tariff 10.4.4	KX9	1.94	Low NRSC applies 13.00	4.41	29.10 plus low NRSC 22.00
Montana E&NS Tariff 10.4.4	RTY	2.00	No Charge	5.00	27.50
Nebraska E&NS Catalog 10.4.4	KX9	2.00	12.50	2.00	27.50
New Mexico E&NS Tariff 10.4.4	RTY	1.00	No Charge	3.50	17.00
No. Dakota E&NS Price Schedule 10.4.4	KX9	.85	NRSC applies curr rate 12.26	.85	33.75 plus NRSC curr rate 17.61
Oregon E&NS Tariff 10.4.4	RTY	2.00	No Charge	2.00	24.00
South Dakota E&NS Catalog 10.4.4	KX9	3.00	25.00	3.00	25.00
Utah * E&NS Tariff 10.4.4	RTY	1.86	No Charge	2.88 3.00 for zone C	26.40 27.50 for zone C
Washington E&NS Tariff 10.4.4 (price list for bus)	RTY	2.00	No Charge	2.00	24.00
Wyoming E&NS Price Schedule 10.4.4	RTY	5.00	27.50	5.00	27.50

Note: Telephone Assistance Plan qualified customers are provided Long Distance Restriction at no charge.

* Utah business- $3.00 mo. rate and $27.50 NRC in Competitive Zone

Jean Jewell

From: Ed Howell
Sent: Wednesday, August 20, 2003 10:47 PM
To: Jean Jewell; Ed Howell; Gene Fadness; Tonya Clark
Subject: Comment acknowledgement

WWW Form Submission:

Wednesday, August 20, 2003
9:46:33 PM

Case:
Name: [redacted]
Street_Address: [redacted]
City: meridian
State: ID
ZIP: 83642
Home_Telephone: [redacted]
E-Mail: [redacted]
Company: qwest
mailing_list_yes_no: yes
Comment_description: I recently got a notification from qwest that they were going to triple my monthly rate for having a toll restriction on my line. Have they submitted a Reason for their request to increase this charge Threefold? I can't imagine that it suddenly costs them Three times as much money for me NOT to use their service than it did last month or last year. Being one of the "poor"(well below the poverty level) in our state I am inclined to balk and question any time somebody want to charge me more money for essentially 'nothing'.

Transaction ID: 8202146.33
Referred by: http://www.puc.state.id.us/scripts/polyform.dll/ipuc
User Address: 65.178.113.115
User Hostname: 65.178.113.115

1

Jean Jewell

From: Ed Howell
Sent: Wednesday, August 20, 2003 8:05 AM
To: Jean Jewell; Ed Howell; Gene Fadness; Tonya Clark
Subject: Comment acknowledgement

WWW Form Submission:

Wednesday, August 20, 2003
7:05:18 AM

Case: QWE-T-03-15
Name: [redacted]
Street_Address: [redacted]
City: Idaho Falls
State: ID
ZIP: 83404
Home_Telephone: [redacted]
E-Mail: [redacted]
Company:
Comment_description: From the customers point of view, why should we pay more -or any- money to prevent companies from attaching to my service without solicitation? It seems like backwards enterprise to be induced to pay for the right to not recieve something. If there is a reason for this charge -which I'm sure there is- then it needs to be passed on to those companies that would benefit from those lines without the toll restriction

Transaction ID: 820705.18
Referred by: http://www.puc.state.id.us/scripts/polyform.dll/ipuc
User Address: 198.60.99.194
User Hostname: 198.60.99.194

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NO!-NO!-NO!-

Your Qwest Information Update: For Idaho Residential Customers

At Qwest, we make every effort to keep you well informed about any changes in your products, rates and services. Recently, Qwest has filed a proposal with the Idaho Public Utilities Commission (IPUC) to change the rate for Toll Restriction Service for Qwest Residential Customers in Idaho. If approved, your rate would change as of October 1, 2003.

NOT A SERVICE!

Current Monthly Rate	**$.25**
Proposed Monthly Rate	**$.75**

Plus applicable tax and surcharges

The impact of this rate change will be less than two tenths of one percent increase to Qwest's annual regulated revenues.

Qwest's application is a proposal, which is subject to public review and an IPUC decision. A copy of the application is available at the offices of Qwest and the IPUC or may be viewed on the IPUC's website- www.puc.state.id.us.

If you have any questions, please call the number at the top of the first page of your monthly phone bill, or call 1-800-244-1111. One of our representatives will be happy to help you.

PLEASE SCREW YOUR 'PUC' HEADS ON -GET SOME PEOPLE WITH SCI/ENG'R ABILITY ON THE 'PUC'.

ID Res 08/03

Qwest
Spirit of Service

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Jean Jewell

From: Ed Howell
Sent: Friday, August 15, 2003 8:20 PM
To: Jean Jewell; Ed Howell; Gene Fadness; Tonya Clark
Subject: Comment acknowledgement

WWW Form Submission:

Friday, August 15, 2003
7:20:04 PM

Case: QWE-T-03-15
Name: [redacted]
Street_Address: [redacted]
City: Bountiful
State: utah
ZIP: 84010
Home_Telephone: [redacted]
E-Mail: [redacted]
Company: QWEST
mailing_list_yes_no: no
Comment_description: I have had numerous problems with this service. Perhaps Qwest should be required to make the service work properly before they increase the price by 300%. Absent some fix, they should be required to compensate consumers when we have to wade through their "customer service" organization.

Transaction ID: 8151920.4
Referred by: http://www.puc.state.id.us/scripts/polyform.dll/ipuc
User Address: 69.2.248.138
User Hostname: 69.2.248.138

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Jean Jewell

From: Front
Sent: Wednesday, August 13, 2003 7:57 AM
To: Jean Jewell
Subject: FW: Complaint acknowledgement

-----Original Message-----
From: Ed Howell
Sent: Tuesday, August 12, 2003 6:19 PM
To: Front; Beverly Barker; Ed Howell; Tonya Clark
Subject: Complaint acknowledgement

WWW Form Submission:

Tuesday, August 12, 2003
5:19:02 PM

Name: [redacted]
Street_Address: [redacted].
City: Caldwell
State: ID
ZIP: 83605
Home_Telephone: [redacted]
Work_Telephone: I'm retired
E-Mail: [redacted]
Home_Business: Home
Business_Name:
Business_Street_Address:
Business_Phone:
Complaint_Company: Qwest
Local_Provider: Qwest
Contacted_utility: No
Complaint_description: Hi! I recently received a card from Qwest notifying me of their proposed increase in my rates. They do not deserve a raise, considering the way they do business. They give the customers the run-around when the customer calls for help on a particular concern, and when they finally find someone, nothing ever gets done anyway. Except maybe (depending upon the customer) talk them into buying a service, or a phone, or whatever. Qwest is a greedy company, they are never satisfied with what they have taken from their customers. They have no regards for the poor, if they did they wouldn't be hitting the poor as well as everyone else for more money. You could call them an equal-opportuniist greedy company. This fifty (.50 cent) raise they are asking from you to accept, may not seem much to you, because of your income (s), obviously you can afford it, and you obvioulsy don't understand the hardships it creates on the poor. Some of the poor only receive a yearly cost-of-living raises, and we have no other ways of making up for the loss when a greedy company decided they want a raise in their services. It is even worse, when a company like Qwest only takes from their customers and does nothing in return. All those people in the past who complained about Qwest, and the drop in complaints against Qwest, obviously gave up complaining against Qwest, obviously gave up hope of getting help from the PUC. that's why the drop in complaints. They felt they weren't getting any help from the PUC. i still don't like the way Qwest gives me the run-around. Their high-pressured sales staff won't do anything for the customer unless they buy something they don't want or need, or can't afford. If they are in such need of money, then perhaps they better find a better qualified manager of their money. Thank you!

Transaction ID: 8121719.2

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Jean Jewell

From: Ed Howell
Sent: Tuesday, September 02, 2003 11:18 AM
To: Jean Jewell; Ed Howell; Gene Fadness; Tonya Clark
Subject: Comment acknowledgement

WWW Form Submission:

Tuesday, September 02, 2003
10:17:39 AM

Case: QWE-T-03-15
Name: [redacted]
Street_Address: [redacted]
City: Idaho Falls
State: ID
ZIP: 83404
Home_Telephone: [redacted]
E-Mail: [redacted]
Company: Qwest
mailing_list_yes_no: yes
Comment_description: Why should I be charged for a service that I do not want???

If I choose NOT to have "caller ID" installed on my phone, should I be charged a monthly installment for "opting out" ?

The proposed rate increase (from $0.25 to 0.75 per month) for toll restriction is nothing more than another "money grab". I grew weary of paying $5.00/month for long distance access fees, even when I made no long distance calls. So, I requested that my long distance access be "dropped". I couldn't understand back then why I was charged for "dropping" the service, but I had no choice. Now, more and more people have chosen to "drop" their long distance service. So, what does Quest do? Increase the monthly fee for NOT having long distance on your line.

I guess the next step for me, will be disconnecting my Quest line entirely?

Soooo, to justify this rate increase, what increased costs has Qwest incurred??? Lost customers??

Transaction ID: 921017.39
Referred by: http://www.puc.state.id.us/scripts/polyform.dll/ipuc
User Address: 134.20.174.159
User Hostname: 134.20.174.159

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