BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

The Commission, on its own motion, to investigate and seek comment on cost models for the following: (1) unbundled network element (UNE) pricing; (2) developing zones to deaverage rates on a geographical basis; (3) determining zones for universal service (USF) payments; (4) establishing a permanent funding mechanism for USF payments; and (5) determining whether all subsidies have been removed from access prices.	)	Application No. C-2256/PI-38 FINDINGS AND CONCLUSIONS ORDER DEVELOPING ZONES FOR DEAVERAGING RATES ON A GEOGRAPHICAL BASIS Entered: January 9, 2001

BY THE COMMISSION:

B A C K G R O U N D

On March 28, 2000, the Nebraska Public Service Commission (Commission) opened this docket on its own motion to address the various issues in the above-captioned docket. The most pressing matter in this docket is the requirement that each state establish at least three different zones for which to deaverage rates for interconnection and unbundled network elements (UNEs) to reflect geographic cost differences. Based upon a decision reached by the Supreme Court in AT&T v. Iowa Utilities Board, 119 S.Ct. 721 (1999), the Federal Communications Commission (FCC) ordered each state to geographically deaverage wholesale prices for local telephone service. See *Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Ninth Report and Order and Eighteenth Order on Reconsideration*, FCC 99-306 (rel. Nov. 2, 1999). The Commission requested and subsequently received two waivers from the FCC's deaveraging requirement officially extending this Commission's deadline to February 28, 2001.

On June 6, 2000, this Commission released its first proposal of alternatives labeled *Initial Nebraska Public Service Commission Proposal with respect to Cost Models* (*Initial Proposal*). On October 31, 2000, the Commission released *The Initial Recommendations of the Nebraska Public Service Commission with respect to Interim and Permanent Deaveraging* (*Initial Recommendations*).

Interested parties were given the opportunity to submit comments on the Commission's actions and a hearing in legislative format was held on December 5, 2000 at 11:00 a.m. in the Commission Hearing Room.

O P I N I O N S A N D F I N D I N G S

In this portion of the proceeding, AT&T, Qwest, Citizens and ALLTEL presented comments and testimony as to how the Commission should deaverage UNEs through the creation of at least three price zones. This included evidence in support of their recommended cost models for a permanent pricing mechanism and methods for calculating interim prices.

In the Commission's initial recommendations with respect to deaveraging, we analyzed three ways to establish zones. The first method was to deaverage at the wire center level. The second method was to create zones within each wire center based on density and loop distance. The third method was a combination of the first two.

A. Wire Center Based Zones

Several parties identified the advantages of using wire centers as the basis for creating zones. One advantage was that it is easier to implement. According to the Commission staff, ALLTEL and AT&T, with the wire center approach, any company could easily detect a customer's location simply by using the customer's telephone number. Also with this approach, competitive local exchange carriers (CLECs) would not be forced to search through a database or contact the incumbent local exchange carrier (ILEC) to determine in which zone a potential customer is located. Wire center zones tend to minimize the need for CLECs to rely upon ILEC systems when planning competitive entry.

At the hearing, Mr. Doug Denny from AT&T stated that companies planning entry into a market could easily identify the zone a customer is located in by the NPA-NXX of that customer when zones are based on groups of wire centers. He testified that it would be extremely burdensome for those companies when they are putting together a business plan to have to contact the ILEC to determine whether particular subscribers are in one zone versus another. Moreover, Mr. Denny stated that Qwest charges a lookup fee for inquiries during the pre-ordering stage.

Further, according to AT&T's comments, wire center-based deaveraged zones have other distinct advantages over the sub-wire center zone approach. In its filed comments, AT&T submits that wire centers can be easily expanded, wire centers capture significant cost differences and that all cost models under consideration can develop costs by wire center.

ALLTEL also supported a wire center-based approach. ALLTEL suggested that the Commission create nine zones and group wire centers into cost/density categories that will most accurately reflect cost. ALLTEL argues that zones based on wire center costs would be the most nondiscriminatory of all the recommendations offered and it would be the easiest to implement.

A recognized disadvantage to basing zones by wire center, as presented by the staff, is that it does not reflect the cost differences within the wire center. Therefore, a long loop within a wire center would have the same UNE price as a short loop. The Commission understands however, as Qwest pointed out in its comments, that in all three of the proposed geographic zone alternatives, unbundled loop prices will still be averaged within a given deaveraged zone and none of the currently proposed approaches will perfectly reflect cost causation.

B. Zones Within a Wire Center

The Commission staff described how the second alternative, grouping approximately three different UNE price zones within each wire center, also has its advantages. Since direct loop costs generally vary by distance and density, it makes sense to have the population center as the low cost or the base zone. Zone prices would then increase as customer locations move further from the population center and the population becomes less dense.

This method may be more reflective of costs. However, as the staff and AT&T note, there are a number of problems with dividing wire centers into zones. The first problem is that not all base zones have similar costs. As stated in the Commission's *Initial Recommendations*, the cost of providing service in the population center of Omaha or Lincoln is different from the cost of providing service in the population center of York or Adams. Assignment of customers in zones presents another problem. Identifying customers would be problematic without a comprehensive geocoded database. Also, as mentioned above, competitors would have a difficult time distinguishing where a potential customer is located and knowing the UNE price associated with that customer.

While Qwest agreed that the wire center approach is a fairly straightforward and easy to implement approach, it supported deaveraging on the sub-wire center level. More specifically, Qwest believes that the Commission should adopt a zone increment structure that mirrors its retail zones. Since Qwest's retail customer locations are already broken up into four geographic zones, Qwest asserts that its proposal would be easiest to implement. At the hearing, Mr. Robert Brigham also testified that generally, Qwest does not charge a lookup fee for determining in which zone a potential customer is located.

The staff, AT&T and ALLTEL have all maintained that the Qwest proposal is problematic. First, there is no evidence that Qwest's retail price zones are cost based. Second, it ignores zone pricing for the other non-rural carriers. Further, it presents the same problems that creating zones within a wire center does. *(See supra.)*

C. Zones Across and Within Wire Centers

Creating a base zone and two outlying zones within each wire center was mentioned as yet another alternative. The main advantage of this method is that it allows UNE price zones to more accurately reflect cost causation. Retail price deaveraging, should it actually occur, would then also more closely mirror cost causation. However, the disadvantages are the same as those associated with creating zones within wire centers. There would be no comprehensive and credulous method to locate customers within zones. CLECs would have the same difficulties in determining zones of potential customers.

Qwest stated in its comments that this alternative is not a practical option. Qwest argued that using this method would lead to UNE rates that are deaveraged in a manner that is out of synch with their deaveraged retail rates. Moreover, Qwest argues that this approach would result in three or four unique zones for each of the 69 Qwest wire centers in Nebraska, potentially resulting in more than 200 zones. The Commission staff also agreed with Qwest that this wasn't a practical option at this time.

D. Staff Recommendations

The Commission staff believes that all three methods are reasonable approaches to deaveraging; however, there will remain a degree of averaging regardless of the approach selected. The staff speculates that regardless of the method selected, the Commission action may create incentives for arbitrage or may have some non-neutral competitive consequences. Staff believes that deaveraging UNE prices can be effective and should create more competition. This inevitably will reduce the internal subsidies that are available within one company to support relatively high cost wire centers. Rather than forego zone pricing, the staff believes that it is preferable to expedite the state's permanent universal service fund to support high cost areas within the state.

The staff considered several factors in making its recommendation to the Commission. These factors included ease of implementation, consistency of application across companies, implications for arbitrage, discrimination and anti-competitive impacts and relationship of cost causation to pricing method. Based upon these factors, the staff recommended that the Commission adopt the wire center approach.

E. Discussion

Pursuant to the jurisdiction granted to this Commission in Neb. Rev. Stat. § 75-109(2) (1999 Supplement), the federal Telecommunications Act of 1996 and 47 CFR § 51.507 and other applicable FCC rules and regulations, the Commission finds that geographic zones must be created to establish different rates for interconnection and UNEs in at least three geographic areas within Nebraska to reflect geographic cost differences. After reviewing the testimony, comments and Commission staff's recommendations in this proceeding, we find that threshold decision with respect to deaveraging is at what geographic level costs should continue to be averaged and subsequently wholesale prices develop. Based on the evidence presented, we find that these deaveraged zones, at least for the interim, should be developed using the entire wire center costs. The Commission opines that wire center-based zones will be efficient for implementation and is the best of the three alternatives at producing a competitive environment. The Commission declines to adopt Qwest's proposal due to the fact that it imposes too great a burden on the competitor to contact Qwest to determine the zones in which potential subscribers are situated.

We believe this puts Qwest at an unfair advantage. Moreover, because this Commission intends to deaverage rates on a statewide basis, and not just as it pertains to Qwest, Qwest's proposal would not be the most practical solution. Accordingly, the Commission finds that it will adopt the staff's recommendation and base the geographic zones on entire wire center costs.

The Commission notes however, that once reliable data can be presented by the interested parties which could easily and efficiently be used to locate all subscribers below wire center level, the Commission may amend its findings and implement a mechanism to more accurately reflect the cost differences associated with each customer's loop.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the staff's recommendations to create zones at the wire center level should be and it is hereby adopted as provided herein.

IT IS FURTHER ORDERED that the Commission may amend its findings through a future proceeding as also provided herein.

IT IS FURTHER ORDERED that the Commission staff release for comment its recommendations relative to our determination to create deaveraged zones on wire center costs.

MADE AND ENTERED at Lincoln, Nebraska, this 9th day of January, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

//s//Frank E. Landis
//s//Daniel G. Urwiller

ATTEST:

Executive Director