

**Minnesota Public Utilities Commission**  
*Staff Briefing Papers*

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Meeting Date: **August 20, 2015** ..... \*\*Agenda Item # 3

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Company: Qwest Corporation dba CenturyLink

Docket No. P421/AM-15-417  
In the Matter of the Qwest Corporation's dba CenturyLink's Petition to  
Increase Monthly Rates for Private and Semi-Private Directory Listings

- Issues:
- A. What action should the Commission take regarding Qwest's petition to increase monthly rates for Private and Semi-Private Directory Listings?
  - B. Should Qwest waive charges for directory listings for certain customers as recommended by LSAP and the Department?
  - C. What action should the Commission take with respect to other providers who offer Private and or Semi-Private Directory Listings to customers?

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***Relevant Documents***

Qwest's Current AFOR Plan (in Docket No. 13-498).....	June 12, 2013
Commission's Order Approving Extension of 2 <sup>nd</sup> Revised AFOR Plan (in Docket No. 13-498) .....	November 20 2013
2013 Service Quality Compliance Report (in Docket No. 13-498).....	February 18, 2014
2014 Service Quality Compliance Report .....	February 17, 2015
Qwest's filing.....	May 1, 2015
Department of Commerce Request for Time Extension.....	June 18, 2015
Commission's Notice of Time Extension.....	June 19, 2015
Comments	
Legal Services Advocacy Project .....	June 18, 2015
Department of Commerce.....	July 1, 2015
Reply Comments	
Qwest .....	July 1 and July 13, 2015

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## **STATEMENT OF THE ISSUES**

- A. What action should the Commission take regarding Qwest's petition?
- B. Should Qwest waive charges for directory listings for certain customers as recommended by LSAP and the Department?
- C. What action should the Commission take with respect to other providers who offer Private and/or Semi-Private Directory Listings to customers?

## **BACKGROUND**

### **Qwest is Regulated under an AFOR Plan**

Qwest Corporation dba CenturyLink (Qwest) is currently operating under an Alternative Form of Regulation (AFOR) Plan. The Commission approved with modifications Qwest's AFOR Plan on December 23, 2009 effective for four years ending December 31, 2013.<sup>1</sup> (A red-lined version of the AFOR Plan filed on December 31, 2009 is available in Docket 09-790). On November 20, 2013, the Commission approved Qwest's petition to extend the AFOR Plan for an additional three years to December 31, 2016.<sup>2</sup>

### **Qwest's Proposal to Increase Rates for Private and Semi-Private Directory Listings**

On May 1, 2015, Qwest filed a petition to increase the monthly rate for Private (non-published) and Semi-Private (non-listed) directory listing services from \$2.45 to \$3.45 and from \$1.15 to \$2.15, respectively effective June 1, 2015. Qwest's tariff describes Private listings as those omitted from the directory, and are posted on directory assistance records without a telephone number. Semi-Private listings are also omitted from the directory but posted on directory assistance records and are given out on request.

### **Applicable Law**

The AFOR provisions are contained in Minn. Stat. §§ 237.76 through 237.775.

The applicable provisions are:

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<sup>1</sup> ORDER APPROVING QWEST'S ALTERNATIVE REGULATION PLAN AS MODIFIED dated December 23, 2009 in Docket No. P421/AR-09-790, In the Matter of a Petition by Qwest Corporation for Approval of its Second Revised Alternative Form of Retail Regulation Plan.

<sup>2</sup> ORDER APPROVING EXTENSION OF SECOND REVISED ALTERNATIVE REGULATION PLAN dated November 20, 2013 in Docket No. P421/AR-13-498, In the Matter of Extending CenturyLink's Second Revised Alternative Form of Regulation Plan.

Minn. Stat. § 237.76 PURPOSE

A telephone company may petition the commission for approval of an alternative regulation plan under sections 237.76 to 237.774. **The purpose of an alternative regulation plan is to provide a telephone company's customers with service of a quality consistent with commission rules at affordable rates, to facilitate the development of telecommunication alternatives for customers, and to provide, where appropriate, a regulatory environment with greater flexibility than is available under traditional rate-of-return regulation as reflected in other provisions of this chapter.**

Minn. Stat. § 237.761 ALTERNATIVE REGULATION PLAN; SERVICE

Subdivision 1. Classification of services.

**An alternative regulation plan must contain provisions that provide for classification of all telephone services as price regulated, flexibly priced, or nonprice regulated consistent with subdivisions 2 to 5.**

Subd. 2. Price-regulated service; definition.

**For purposes of this section, the term "price-regulated service" includes only those services that are:**

- (1) essential for providing local telephone service and access to the local telephone network;**
- (2) integrally related to privacy, health, and safety of the company's customers; and**
- (3) for which no reasonable alternative exists within the relevant market or geographic area on reasonably comparable terms and conditions.**

Subd. 3. Specific price-regulated services.

Price-regulated telephone services are the following:

- (1) residential and business service for local calling, including measured local service, two-party service, private branch exchange (PBX) trunks, trunk type hunting services, direct inward dialing, the network access portion of central office switched exchange service, and public access lines for customer-owned coin-operated telephones;**
- (2) extended area service;**

- (3) switched network access service;
- (4) call tracing;
- (5) calling number blocking;
- (6) touch tone service when provided separately from basic local exchange service;
- (7) local exchange, white-page, printed directories;
- (8) 911 emergency services;
- (9) installation and repair of local network access;
- (10) local operator services, excluding directory assistance; and
- (11) toll service blocking and 1-900 or 976 access blocking.

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Minn. Stat. § 237.762 ALTERNATIVE REGULATION PLAN RATE, PRICE.

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Subd. 3. Rate Change

(a) An alternative regulation plan must set forth the procedures under which the telephone company may reduce the rates or prices for price-regulated services below the initial rates or prices or thereafter increase the rates or prices during the term of the plan. The rates or prices may not be reduced below the total service long-run incremental cost of providing the service. Except as provided in paragraph (b), the rates or prices may not exceed the initial rates or prices for the service determined under subdivision 1 for the first three years of the plan. **After a plan has been in effect for three years, price-regulated rates may be changed as appropriate under a procedure set forth in an approved plan. Rates for price-regulated services may not be increased unless the company has demonstrated substantial compliance with the quality of service standards set forth in the plan.**

(b) An approved plan may allow changes in rates for price-regulated services after two years to reflect:

- (1) changes in state and federal taxes;

(2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level; and

(3) substantial financial impacts of investments in telecommunications infrastructure which are made: (i) if the investments, for any 12-month period, exceed 20 percent of the gross plant investment of the company; or (ii) are the result of government mandates to construct specific telephone infrastructure, the mandate applies to local telephone companies, and the company would not otherwise be compensated through some other manner under the plan.

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Minn. Stat. §237.763 EXEMPTION FROM EARNINGS REGULATION AND INVESTIGATION.

**Except as provided in the plan and any subsequent plans, a company that has an alternative regulation plan approved under section [237.764](#), is not subject to the rate-of-return regulation or earnings investigations provisions of section [237.075](#) or [237.081](#) during the term of the plan. A company with an approved plan is not subject to the provisions of section [237.57](#); [237.59](#); or [237.60, subdivisions 1, 2, 4, and 5](#), during the term of the plan. Except as specifically provided in this section or in the approved plan, the commission retains all of its authority under section [237.081](#) to investigate other matters and to issue appropriate orders, and the department retains its authority under sections [216A.07](#) and [237.15](#) to investigate matters other than the earnings of the company.**

### **Relevant Provisions of Qwest's Current AFOR Plan**

Qwest's current AFOR Plan was filed as a compliance filing on March 30, 2010 pursuant to the Commission's Order Approving Plan as Modified dated December 23, 2009 in Docket No. 09-790. The same plan was filed on June 12, 2013 with Qwest's petition and subsequent Commission approval to extend the AFOR Plan for another three years ending December 31, 2016 in Docket No. 13-498.

The pertinent provisions of the Current AFOR Plan related to Qwest's proposal to increase the rates of the price-regulated services are:

I. PREFACE (page 3)

Qwest Corporation's ("Qwest") retail services shall be subject to an alternative regulation plan in Minnesota as set forth in the Second Revised Plan on the Second Revised Plan Effective Date. The elements of the Second Revised Plan are set forth in detail in the following sections. Since January 1999, when Qwest entered into its initial alternative regulation plan, the telecommunications industry in Minnesota has become a vibrant, competitive marketplace characterized by customer choices in price, service offerings, technology and providers. Competition has emerged from an array of communications providers that use various technologies to deliver local telephone service - including competitive local carriers, cable companies, voice over internet protocol (VOIP), and wireless companies. **The Second Revised Plan will allow consumers to enjoy the benefits of the competitive marketplace at affordable and equitable rates and with service quality consistent with Commission rules; to facilitate telecommunications alternatives; and to provide a regulatory environment consistent with the competitive climate.**

II. DEFINITIONS (pages 3 and 4, Appendix A)

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**F. Price-Regulated Services. Price-regulated services are those retail services that are listed in Appendix A, Schedule 1 and as specified in Minnesota Statutes section 237.761.**

(Appendix A, Schedule 1 is inserted here).

APPENDIX A

SCHEDULE 1

Price-Regulated

211, 311, 511 and 711 (i.e. N11) services  
 811 Service  
 Business and Residence Local Service (Flat & Measured)  
 Call Trace  
 Carrier Access Code Blocking  
 Change of Responsibility  
 Change of Telephone Number  
 Classroom Service  
 Combined Main Line Service  
 Construction Charges  
 Customer Transfer Charge  
 Customer Premises Wire and Maintenance Plans  
 CustomNet Service  
 Direct Inward Dialing (DID) Service

Dormitory Communications Service  
 Dual Service  
 Emergency Reporting Services (911)  
 Extended Area Service  
 Extension and PBX Station Lines (0)  
 Foreign Area Service (0)  
 Home Business Line  
 Hunting Service  
 International Blocking  
 Inward Lines  
 Joint User Service  
 Local Operator Services, excluding Directory Assistance  
 Mileage Charges  
 Network Access Registers  
 Network Premises Work Charges  
 Nonrecurring Charges (Local Services)  
 Pay-Per-Call Restriction (Call Number Blocking)  
 PIC Change Charges  
 Primary White Page Directory Listing  
**Private and Semi-Private Listings**  
 Private Branch Exchange Trunks (Flat & Measured)  
 Public Access Line (0) These services are obsolete.  
 Public Interexchange Carrier Access Service  
 Restoration of Service  
 Semi-Public Access Line  
 Standby Line  
 Switched Access Services  
 Tie Lines and Common Central Switching Arrangements (CCSA)  
 Toll Restriction

Note: The rates, prices, tariffs, or charges to a business customer subscribing to four or more business lines in a competitive area as defined in Minn. Stat. § 237.411 are only subject to §§ 237.07, subdivision 1; 237.66; and 237.663, and are not subject to any rules imposing rate or price restrictions beyond those sections, to other orders or investigations of local rates under § 237.081 or other rate and price requirements of this Revised Plan.

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### III. PRICE AND SERVICE QUALITY REGULATION

#### A. Alternative Regulation

Qwest's retail services are **not subject to rate of return regulation or earnings investigation pursuant to sections 237.075 or 237.081** of Minnesota Statutes during the term of the Second Revised Plan. Similarly, except as otherwise specified in the Second Revised Plan, Qwest is not subject to the provisions of sections 237.57, 237.59, or 237.63 of Minnesota Statutes during the term of the Plan. **Except as provided herein, the Commission retains its authority under section 237.081 to investigate matters other than rate of return and earnings and to issue appropriate orders, and the Department retains its authority under sections 216A.07 and 237.15 to**

**investigate matters other than the rate of return and earnings of the Company.** Nothing in this section limits the Commission's jurisdiction or authority over Qwest's wholesale services.

IV. RETAIL SERVICES PROVIDED: CLASSIFICATION, RATES AND PRICES (pages 6 through 9)

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B. Price-Regulated Services

1. Permitted Changes and Procedures for Changes for Price-Regulated Services.

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Qwest may file for a rate change for price regulated services under the following procedures:

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b. Rate Changes for Price-Regulated Services.

Changes in tariffs for price-regulated services shall become effective under the following timelines: a) language changes and promotions, 1 day after filing the tariff; a) rate reductions, 1 day after filing the tariff, b) significant changes in the condition of service, 20 days after filing the tariff; and c) **proposals to increase prices, 30 days after filing the tariff and providing notice to customers. Interested parties shall have 30 days to file comments from the date of the initial filing of any change in the price-regulated service tariffs. Reply comments shall be filed within 30 days of the initial filing. When comments have been filed, or the Commission initiates action on its own motion, the Commission shall issue its order within 120 days of the initial filing.** The Commission may suspend a rate change for good cause pending a PUC determination.

c. Procedures for Objection to Price Increases for Price-Regulated Services.

**In the event Qwest proposes a price increase above the Regulated Price of a Price - Regulated Service, the proposal shall be supported by affirmative evidence. Any interested person may file an objection with the Commission or the Commission, on its own motion, may act within 30 days of the notice. In its objection, the interested person or the Commission shall specify the manner in which Qwest's proposal violates state law or Commission rules or is otherwise not in the public interest. If, after receipt of a valid objection or upon its own motion, the Commission within 120 days of the date of notice makes specific findings based on substantial evidence demonstrating that Qwest's proposal violates state law or Commission rules or is otherwise not in the public interest, it may disapprove the requested increase or approve**



**a lesser increase. If the Commission does not make such a determination within 120 days, the proposal shall be deemed approved. If no objection is filed or the Commission on its own motion does not act within 30 days of Qwest's filing, the price increase(s) shall be deemed approved. Qwest may not increase the price of a price-regulated service if it has not demonstrated substantial compliance with the quality of service standards set forth in the Plan. Qwest shall be permitted to institute rate changes as provided in Minnesota Statute section 237.762, subd. 5.**

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Appendix B – Service Quality Plan (Section C, page 2)

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**C. Substantial Compliance**

Substantial compliance with retail service quality standards is satisfied if Qwest meets 6 out of 7 of its individual service quality standards each year. For purposes of determining substantial compliance, compliance with the individual service quality standards will be measured on an annual statewide basis. Qwest will not be in substantial compliance with the service quality standards if it fails to meet the same individual service quality standards for two consecutive years.

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**DISCUSSION OF ISSUES**

**Issue A. What action should the Commission take regarding Qwest's petition to Increase Monthly Rates for Private and Semi-Private Directory Listings?**

***Qwest's Filing***

On May 1, 2015, Qwest submitted a tariff filing to increase by \$1.00 the monthly rates for Private and Semi-Private Directory Listings. The Company also included the message that will go into the subscriber bills giving notice of the price increase effective June 1, 2015.

In support of its filing, Qwest provided a Statement saying that it aims to standardize rates across all territories within the Company. Although the Company said that revenues will be increased, the expected revenue increase was still being determined and not provided with the filing. Qwest subsequently provided revenue data in its response to the Department's discovery request included as Attachment C to the Department's Comments. Qwest also claims that Private and Semi-Private Directory Listings are specialized, discretionary service offerings to which the customers can subscribe or unsubscribe at will.

## ***Parties' Comments***

### **Legal Services Advocacy Project**

On June 18, 2015, the Legal Services Advocacy Project (LSAP), a group advocating for the interests of low-income Minnesotans, filed comments disputing the rate increases and the Company's justification thereof.

LSAP questions the magnitude of the rate increases, 40 percent rate increase for Private (non-published), and 87 percent for Semi-Private (non-listed) numbers. Qwest's goal of standardizing rates could be accomplished with much lower rates. Further, Qwest's Private directory listing would not only be the highest of any company, but would be 72.5 percent higher than the lowest rate. Competition, which the Company has argued in this and other dockets and forum, should lower or moderate prices and Qwest's revenue challenges that are brought by competition should not be answered with increased prices.

### **Department of Commerce**

Upon request by the Department of Commerce (Department) for time extension to file comments, the Commission extended the deadline for filing initial comments to July 1, 2015, and replies to July 13, 2015.

On July 1, 2015, the Department filed Comments acknowledging that Qwest's petition is deemed approved and took effect on June 1, 2015 since the Company filed its notice to the Commission and to its customers in a timely manner, and that no objection was received within thirty days from filing.

The Department, however, recommended that the Commission find that the rate increases are not in the public interest and reduce the rates to previous levels of \$2.45 and \$1.15 respectively within thirty days of the Commission's order. Alternatively, the Department suggested that the Commission pair the roll back of prices with a Qwest waiver of the charges for certain customers as discussed in the following section.

In making its recommendation regardless of whether the petition is deemed approved, the Department argues that the Commission has the authority to investigate any matter related to any telephone service for any reason at any time.

The Department objects to Qwest's price increases for the following reasons:

1. Qwest failed to provide a reasonable basis, other than to increase revenue, for the price increases. The Statement of Support filed by Qwest with its petition did not contain any evidence that the increases are in the public interest.

Qwest's objective of standardizing rates within the legacy Qwest region is not substantiated by rates for Private and Semi-Private Listings throughout its 14-states

coverage. The Department provided Attachment A, later corrected on July 14, that shows a wide range of rates for Qwest's Private and Semi-Private Listings within the Qwest states. For example, the lowest rate is \$0.65 in Oregon for Private Listing, but up to \$6.00 in seven states. The Department pointed out that Qwest raised its rates in five states whose rates were already at the top range, and had not reduced its rates in any of the states.

In its Attachment B, the Department showed that Qwest's increased rate for Private Listings is significantly higher than rates from other CenturyLink operating companies and other large incumbent local exchange carriers.

Qwest did not give any rationale why its revenue challenges are being addressed with rate increases to price-regulated services, which are deemed essential, integrally related to privacy, health, and safety of customers, and for which any reasonable alternative exists.

2. The rate increases are not in the public interest. The Department took exception to Qwest's characterization that the listing services are specialized, discretionary service offerings to which customers have the ability to subscribe or unsubscribe at will.

With electronic publishing and directories, customers may be more exposed to privacy and safety concerns. Customers should not be subject to higher rates to preserve their privacy. As LSAP pointed out, for some customers, it may be a matter of life or death.

3. Qwest failed to provide evidence that reasonable alternatives to Private and Semi-Private Listings are available. The Department disputed Qwest's claim, shown in Attachment C of the Department's Comments, that the address confidentiality program called Safe at Home administered by the Minnesota Secretary of State is a reasonable alternative. The program does not address the issue of private or semi-private telephone directory listing service and does not provide participants with the option of a non-published telephone number at no charge.

## **Qwest's Replies**

On July 1, 2015, Qwest filed its response to LSAP's comments. Qwest argues that LSAP's comments are untimely. It was filed on June 18, beyond the 30-day deadline for filing comments provided for in the AFOR Plan.

In addition, Qwest maintains that the price increases are appropriate and in conformance with the AFOR Plan. The AFOR Plan provides that Qwest's retail services are not subject to rate of return regulation or earnings investigation pursuant to sections 237.075 or 237.081, but provides that the Commission "after receipt of a valid objection or upon its own motion, within 120 days of the date of notice makes specific findings based on substantial evidence demonstrating that Qwest's proposal violates state law or Commission rules or is otherwise not in the public interest" may disapprove or modify the increase.

On July 13, Qwest responded to the Department's comments. Qwest asks the Commission to disregard the Department's comments because it flies in the face of the AFOR Plan which is designed to provide for rate flexibility and obviates the specific provisions established in the Plan for rate changes for price-regulated services and the corresponding procedures for any objection.

Both the Department and LSAP missed the May 30 deadline for filing objections to the rate increases. The Department's recommendation was based under the guise of the Commission's general investigatory authority under Minn. Stat. §237.081 and undermines the concept of more flexible regulation under Minn. Stat. §237.76 and exemption from rate of return regulation under Minn. Stat. §237.763.

Qwest claims that the rate increases are well within industry norms. Qwest included a chart comparing Qwest's rates with other carriers showing higher rates offered by Charter at \$5 and FiberNet Monticello at \$5.50, but lower rates from everyone else. Qwest also referred to the Department's Attachment A which shows that Qwest's proposed rates are within the range currently offered in other states.

Qwest adds that the rate increases are well supported. It filed a statement in support of the rate increases, citing 1) the need to standardize rates, and 2) to increase revenues. The Department's Chart A shows that rates are being brought to comparable levels where possible. It also is not surprising that Qwest seeks additional revenue where it might be possible to do so in light of the 67 percent decrease in its access lines since 2001. This level of filing justification, rather than a more substantial filing, is contemplated by the Commission with the added 'affirmative evidence' language in the AFOR Plan.

Finally, Qwest states that customer alternatives are available. Over 40 percent of customers have chosen to eliminate landline service entirely, and wireless customers do not have directory listings.

Qwest urges the Commission to reject the late filed objections of LSAP and the Department and to close this docket.

### ***Staff Analysis***

#### **The Commenters raised valid, but untimely filed, arguments.**

Staff agrees that Qwest's AFOR Plan procedures provide for a 30-day window for parties to file objections. There seems no dispute that the objections raised by LSAP and the Department were untimely filed, and that the \$1 price increases for Private and Semi-Private Directory Listings became effective June 1, 2015.

However, the objections raised by the parties are valid and back their claims that the increases are not in the public interest. For example, the magnitude of the price increases appears exorbitant and unsupported in the record.

The Commission may wish to review the price increases on its own motion.

Although Minn. Stat. §237.763 exempts a company under an AFOR Plan from rate-of-return regulation or earnings investigations provisions of Minn. Stat. §§237.075 or 237.081, it specifically provides for Commission authority to investigate other matters, including the affordability of rates, and to issue appropriate orders, and for the Department to investigate matters other than the earnings of the company. This Commission authority, separate from ROR and earnings investigation, is highlighted in many versions of the AFOR law and in the iterations of the Qwest AFOR Plans over the years.

The AFOR Plan allows for Commission review of price increases for price-regulated offerings.

The AFOR regulation crafts a delicate balance between the interests of the telecom companies with the need for rate flexibility and of telephone customers for continued rate affordability. This balancing act is highlighted with the statutory classification of telephone services into three categories: nonprice regulated, flexibly priced and price-regulated services. Nonprice regulated services are afforded the most flexibility; evidence of competition grants most rate increases without Commission approval. Rates of flexibly-priced services may be increased 20 days after filing and customer notice, and if no objection is raised within 20 days of filing. Price regulated services, on the other hand, presumes that the affected service is essential, integral to the customer's privacy, health, and safety, and with no reasonable alternative within the geographic area or market on reasonably comparable terms and conditions. Thus, more conditions such as the filing of affirmative evidence and substantial compliance with service quality plans are required to accompany any requested increase for price regulated services. Staff has reviewed the Company's reports on service quality and finds no issue with the Company's substantial compliance claim with the service quality standards.

Qwest's AFOR Plan specifically lists Private and Semi-Private Directory Listings as Price-Regulated, in recognition of the services' essential nature, its significance to the privacy, health and safety of customers and that no reasonable alternative exists. Since the Company has not requested a reclassification of the service, a process provided for in Minn. Stat. §237.761, subd. 6, it seems that Qwest has no issue with its own classification of the service as price-regulated. As a price-regulated service, any price increase must be substantiated.

Staff believes that increasing revenues on the backs of customers of noncompetitive services is by no means reasonable evidence in support of the proposal as contemplated by the AFOR Plan. The only other reason cited by Qwest for the price increases was to make the rates uniform. Even if such justification is plausible given the different laws and regulatory plans in effect in the Qwest territories, the Department's Attachment A suggests that rates are divergent, and far from being standardized. Staff believes that the Commission can find that the increases are not in the public interest and that the AFOR law and Qwest's AFOR Plan authorizes the Commission to direct Qwest to roll back the prices to previous levels effective 30 days from the Commission's order.

## **COMMISSION OPTIONS**

### **A. What action should the Commission take regarding Qwest's petition to increase prices for Private and Semi-Private Listings?**

A.1. No Commission action required at this time.

A.2. Direct Qwest to reduce the rates for Private and Semi-Private Listings to their previous levels within 30 days of the Commission's Order.

A.3. Other action determined by the Commission

### ***Staff Recommendation***

Staff recommends Options A.2.

### **Issue B. Should Qwest waive charges for directory listings for certain customers as recommended by LSAP and the Department?**

### ***Parties' Comments***

#### **LSAP**

LSAP recommends that the Commission consider directing Qwest and other companies who are offering non-published and non-listed number services to waive charges for customers who can demonstrate:

- (1) they or their children are victims of violence in need of non-published and non-listed number services protection, and
- (2) are recipients of public assistance or eligible for Legal Aid services.

LSAP disputes Qwest's view that the service is discretionary. For its clients, LSAP maintains that the confidentiality of information is a matter of safety, and of life or death. Privacy is a primary concern for these clients and their children who are not only victims of violence in their households, but are also indigent or financially distressed. LSAP cites Minnesota examples providing for similar waivers or assistance for victims of violence and persons eligible for Legal Aid services.

## Department

The Department recommends the following alternative Commission options:

1. That Qwest's rate increases to Private and Semi-Private Listings are in the public interest if Qwest agrees to file a tariff provision, as recommended by LSAP, within 30 days of the Commission's order, that provides for a waiver of charges associated with Private and Semi-Private Listing, for customers who demonstrate that:
  - a. They or their children are victims of violence in need of non-published or non-listed number services protection, and
  - b. They are recipients of public assistance or eligible for Legal Aid Services. Or,
2. That Qwest's rate increases to Private and Semi-Private Listings are not in the public interest and require 1) that Qwest roll back the rates to their previous levels of \$2.45 and \$1.15, respectively within 30 days of the Commission's order, and 2) that Qwest file a tariff provision as recommended by LSAP within 30 days of the Commission's order that provides for a waiver of charges associated with Private and Semi-Private Listings under the circumstances outlined in Option 2 above.

## Qwest's Reply

Qwest asks the Commission to reject LSAP's and the Department's recommendations that the Commission direct Qwest to waive rates for the directory listings for certain customers.

LSAP's suggested waiver is unnecessary since the customer has alternatives to protect the privacy of his or her name, address or telephone number through the Safe at Home program of the Minnesota Secretary of State. All Minnesota utilities are required to participate in the program and Qwest works with the Secretary of State to protect the privacy of its customers who are Safe at Home participants by not making available the account number, name, address and telephone number in the telephone directory or through Directory Assistance, and not charging for the non-published listing. Qwest also places a marketing restriction on the participant's accounts and provides free line-blocking service. Adding additional language in the tariff to duplicate existing practice carries risks of inconsistencies between the language of the tariff and the terms of the program.

For customers who face dangerous situations, Qwest offers free private listings to those that enroll in the Secretary of State's Safe at Home program. Qwest does not object to adding language in the tariff that exempts Safe at Home participants from the rate increases, thus impacting only customers who see private or semi-private listings as a beneficial option.

## ***Staff Analysis***

### Qwest's Safe at Home Program is voluntary and can be withdrawn anytime

Safe at Home is a statewide address confidentiality program administered by the Office of the Minnesota Secretary of State and governed by Minn. Stat. Chapter 5B and Minnesota Rules Chapter 8290. The principal focus of the program is the nondisclosure of a participant's actual address because such disclosure increases the risk of domestic violence, sexual assault, stalking, and other risks to safety.

Staff has interviewed the Program Director and other advocates of Safe at Home, as well as reviewed Minn. Rule 8290 and the governing statutes, but cannot find provisions that mandate telephone companies to also protect telephone numbers of Safe at Home participants. Staff learned, however, that Qwest has a Safe at Home Program initiated in 2012 that voluntarily commits to protect the privacy and telephone numbers of Safe at Home participants. In a publication detailing the program, Qwest agrees to provide program participants with a dedicated phone number to call for the needed number change, and for any repair and customer support needs. The participants are given a free, non-published phone number, and free line blocking service to block telephone number displays for outgoing calls.

In comments filed on July 13, Qwest says that it would not object to adding in its tariff the fee exemption for Safe at Home participants. Qwest cautions the Commission regarding the waiver suggestion by the Department and LSAP. According to Qwest, such waiver is unnecessary and inconsistent with the existing protections offered under the Safe at Home program.

Staff believes that Qwest's Safe at Home program addresses the major concerns raised by LSAP and the Department about protecting information for people who have reasons to fear for their safety. Requiring Qwest to modify its tariff to reflect the fee exemption for Private Directory Listings for Safe at Home participants in accordance with its existing practice can adequately remove any uncertainty about the continuance of these protections offered by the Company.

## ***Commission Options***

B.1. No Commission action required at this time.

B.2. Direct Qwest to waive charges for customers who demonstrate that:

- a. They or their children are victims of violence in need of non-published or non-listed number services protection, and
- b. They are recipients of public assistance or eligible for Legal Aid Services.

B.3. Direct Qwest to modify its tariff to waive charges for Safe at Home participants.

B.4. Other action determined by the Commission.



### ***Staff Recommendation***

Staff recommends Option B.3.

### **Issue C. What action should the Commission take with respect to other providers who offer Private and/or Semi-Private Directory Listings to customers?**

### ***Parties' Comments***

#### **LSAP**

Similar to its recommendation related to Qwest, LSAP also recommends that the Commission require other companies who are offering non-published and non-listed number services to waive charges for customers who can demonstrate:

- (1) they or their children are victims of violence in need of non-published and non-listed number services protection, and
- (2) are recipients of public assistance or eligible for Legal Aid services.

#### **Department**

The Department recommends that the Commission open a generic docket and solicit comments as to whether LSAP's recommendation should be applied to the tariffs of all local service providers subject to the Commission's jurisdiction who offer Private and/or Semi-Private Listings to customers.

#### **Qwest's Comments**

Qwest recommends that the Commission reject the Department's proposal to open a generic docket to consider providing directory listings for free to low income customers. Such an approach undermines the pricing structures applicable to each company, ignores the statutes that govern pricing in each instance, ignores existing state programs that have been established to address customer confidentiality, and would be vulnerable to a legal challenge.

#### ***Staff Comments***

Staff agrees that it may not be very productive to open a generic docket today on whether free directory listings should be required for low income customers. If any generic proceeding is initiated, the initial focus could be on a Department review of whether telephone companies are now required to, are indeed providing, and are tariffing the provision for free directory listings to Safe at Home participants. Further action could be dependent on the result of such initial review.

It appears likely that concerns expressed by LSAP and the Department are now being addressed by existing programs. First, there are federal and state programs that already provide financial support for eligible low income customers. Second, there is an existing Safe at Home program that addresses concerns about confidentiality of customer information. What may be missing information is whether all telephone companies are required to provide free Private Directory Listings to Safe at Home program participants, and whether the companies are actually doing it. Third, the telephone companies are governed under different regulatory framework. One possibility could be for the Department to review all price increase notices for Private and Semi-Private Directory Listings and make recommendations accordingly.

The Commission may also wish to solicit comments from interested parties on this issue.

### ***COMMISSION OPTIONS***

#### **C. What action should the Commission take with respect to other providers who offer Private and or Semi-Private Directory Listings to customers?**

- C.1. No Commission action required at this time.
- C.2. Open a generic docket to consider directory listings for free to low income customers.
- C.3. Open a generic docket with an initial focus on a Department review of whether telephone companies are required to, are indeed providing, and tariffing the provision for free directory listings to Safe at Home participants.
- C.4. Request the Department to review and make recommendations for any forthcoming price increase proposals for directory listings from telephone companies.
- C.5. Solicit comments from interested parties.
- C.6. Other action determined by the Commission.

### ***Staff Recommendation***

Staff recommends Option C.3, or C.4, or C.5.