

WC-04-152

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Federal Communications Commission
Office of the Secretary

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Request by Qwest Corporation for Limited)
Modification of LATA Boundaries to Provide ELCS)
Between Its Siletz Exchange and Sprint/United's)
Lincoln City Exchange in Oregon)

NSD-LM-00-____ 04-152

PETITION OF QWEST CORPORATION

Pursuant to the Commission's 1997 Memorandum Opinion and Order in CC Docket No. 96-159,¹ Qwest Corporation ("Qwest") submits this Petition for a limited modification of the local access and transport area ("LATA") boundaries between its Siletz, Oregon exchange and the exchange of another carrier. This modification will solely be for purposes of providing two-way, non-optional expanded local calling service ("ELCS") between certain exchanges in Oregon, as required by the Oregon Public Utilities Commission ("Oregon PUC").

I. INTRODUCTION

The Oregon PUC recently ordered Qwest and Sprint/United Telephone Company of the Northwest ("Sprint/United") to provide two-way, non-optional Extended Area Service ("EAS") between Qwest's Siletz exchange and Sprint/United's Lincoln City exchange. Subscribers residing in the Siletz exchange initiated this proceeding by filing a petition with the Oregon PUC. A copy of the Oregon PUC's Order requiring EAS service between Siletz and Lincoln City is

¹ See In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations, Memorandum Opinion and Order, 12 FCC Rcd. 10646 (1997) ("ELCS Order").

attached to this petition as Exhibit A.² In addition, a copy of the Oregon PUC's separate Order finding that a community of interest exists between Siletz and Lincoln City for purposes of an EAS route is attached as Exhibit B.³

As discussed in the Oregon PUC's Orders, EAS between the Siletz and Lincoln City exchanges will cross the boundary between two adjacent LATAs in the State of Oregon. The Siletz exchange is located in the Eugene LATA, and the Lincoln City exchange is located in the Portland LATA. In order to carry out the Oregon PUC's directive, Qwest is therefore seeking this limited modification of the Eugene and Portland LATA boundaries pursuant to the Commission's ELCS Order and the requirements set forth in Sections 1.742 and 1.743 of the Commission's Rules.⁴

The Oregon PUC's directive will become effective on October 2, 2004. In order to complete its implementation of EAS between the communities by the Oregon PUC's deadline, Qwest requests that the Commission enter a decision on this petition no later than August 16, 2004.

II. ELCS GUIDELINES

The following information is provided in response to the guidelines established by the Commission in the ELCS Order.⁵

A. Type Of Service. Qwest will provide flat-rated, non-optional EAS to its

² See In the Matter of the Petition for Extended Area Service by the Siletz Telephone Exchange, Order, No. 04-158, UM 1076 (Oreg. PUC, entered Mar. 17, 2004).

³ See In the Matter of the Petition for Extended Area Service by the Siletz Telephone Exchange, Order, No. 03-385, UM 1076 (Oreg. PUC, entered June 30, 2003).

⁴ See 47 C.F.R. §§ 1.742 and 1.743.

⁵ See ELCS Order, 12 FCC Rcd. at 10657-59 ¶¶ 23-24.

subscribers located in the Siletz exchange so that such customers can call Sprint/United's customers in the Lincoln City exchange.⁶

B. Direction Of Service. Qwest will provide one-way EAS service from the Siletz exchange to Sprint/United's Lincoln City exchange. Sprint/United will provide one-way EAS service from its Lincoln City exchange to Qwest's Siletz exchange.

C. Exchanges Involved. Qwest's Siletz exchange is located in the Eugene LATA. Sprint/United's Lincoln City exchange is located in the Portland LATA.⁷

D. Name Of Carriers. Qwest provides service to the Siletz exchange. In turn, Sprint/United provides service to the Lincoln City exchange.

E. State Commission Approval. The Oregon PUC approved the EAS arrangements between the Siletz and Lincoln City exchanges in the Oregon PUC Order No. 04-158. The PUC has requested that this service go into effect by October 2, 2004.⁸

F. Number Of Access Lines Or Customers. The total number of access lines for the Siletz and Lincoln City exchanges are as follows:

Siletz:	1,265 access lines
Lincoln City:	11,271 access lines

G. Usage Data. During its proceeding, the Oregon PUC requested calling pattern data from both Qwest and Sprint/United. Qwest was unable to provide such usage because it does not provide interLATA toll service. However, Sprint did provide the Oregon PUC with data for the Lincoln City exchange, and reported that an average of 0.29 calls per line per month

⁶ See Exhibit A at 2.

⁷ Id. at 1.

⁸ Id.

were placed from the Lincoln City exchange to the Siletz exchange.⁹

H. Poll Results. On February 26, 2004, Christina Smith, an Administrative Law Judge for the Oregon PUC, conducted an open house public comment hearing in Siletz on the EAS proposal. Approximately 20 people appeared at the hearing. The comments they submitted were five to one in favor of implementing the new route.¹⁰

I. Community Of Interest Statement. In the Oregon PUC Order approving EAS between the exchanges referenced herein, the Oregon PUC found that a community of interest exists between the Siletz and Lincoln City exchanges.¹¹ The Oregon PUC determined that the interLATA EAS route is necessary to meet the critical needs of the Siletz exchange customers. As the Oregon PUC has established in prior EAS decisions, a community of interest exists where there is a "social, economic, or political interdependence between two areas, or where there is a heavy dependence by one area or another area for services and facilities necessary to meet many of its basic needs."¹² To determine whether a community of interest exists, the Oregon PUC relied on an analysis of demographic, economic, financial, or other evidence submitted by petitioners in support of the petition.¹³

The Oregon PUC found that Lincoln County – in which the Siletz and Lincoln City exchanges are located – is isolated geographically by the Coast Range and the Pacific Ocean to the east and west, as well as by two prominent headlands to the north and south. The two

⁹ See Exhibit B (under heading "Calling Pattern Data").

¹⁰ See Exhibit A at 4.

¹¹ *Id.* at 2; see also Exhibit B (under heading "COMMISSION RESOLUTION").

¹² See, e.g., Forest Grove EAS Investigation, Oregon PUC Order No. 87-309, at 8 (1987).

¹³ See In the Matter of the Consolidated Applications for Expansion of the Portland Extended Area Service Region, Order No. 93-1045, at 12 (1993).

communities share a school district and are both served by the Oregon Coast Community College. Siletz customers rely on numerous businesses and professional service providers that have a presence in Lincoln City but not in Siletz. The community college offers a full complement of classes to county residents by locating some programs and services in Lincoln City with others in nearby Newport. The residents in Siletz rely on Lincoln City for specialized medical care, employment opportunities, recreational activities, and small business assistance. These critical dependencies demonstrate that the customers in Siletz are dependent upon Lincoln City for critical services.¹⁴

J. Map. A map showing the affected exchanges is attached as Exhibit C. The distance between the Siletz exchange and the Lincoln City exchange is approximately 28 miles.

K. Other Pertinent Information. None.

III. QWEST HAS MADE A PRIMA FACIE CASE SUPPORTING THE GRANT OF THIS PETITION

A modification of LATA boundaries for the limited purpose of permitting Qwest to comply with a state commission's order to provide two-way, non-optional ELCS between specific exchanges is consistent with the Telecommunications Act of 1996, and it serves the public interest.¹⁵

Qwest believes it has made a prima facie case supporting grant of the proposed modification because the instant ELCS petition: (1) has been approved by the Oregon PUC; (2) proposes only traditional, non-optional, flat-rated local service between Qwest's Siletz and Sprint/United's Lincoln City exchanges; (3) indicates that the Oregon PUC found that a

¹⁴ See Exhibit B (under heading "COMMISSION RESOLUTION").

¹⁵ See ELCS Order, 12 FCC Rcd. at 10654 ¶ 17.

community of interest exists between these exchanges and that the interLATA EAS route is necessary to meet the critical needs of the Siletz and Lincoln City customers; (4) documents this community of interest through such evidence as descriptions of the communities involved; and (5) involves a limited number of access lines. These requirements are detailed in the ELCS Order.¹⁶

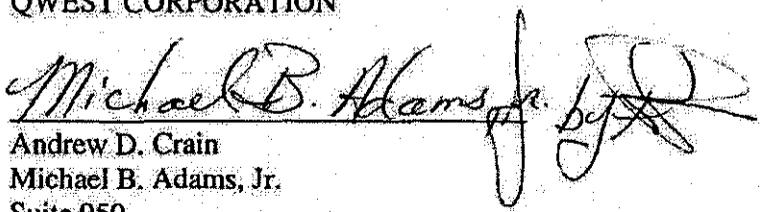
IV. CONCLUSION

Based on the foregoing, Qwest requests that the Commission approve this Petition and grant the modification of the affected LATA boundaries solely for the purpose of permitting Qwest and Sprint/United to comply with the Oregon PUC Order and to provide ELCS between Qwest's Siletz exchange and Sprint/United's Lincoln City exchange.

Respectfully submitted,

QWEST CORPORATION

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April 6, 2004

¹⁶ Id. at 10659 ¶ 24.

Exhibit A

ORDER NO. 04-158

ENTERED March 17, 2004

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1076

In the Matter of the Petition for Extended)
Area Service by the SILETZ TELEPHONE)
EXCHANGE.)

ORDER

**DISPOSITION: STIPULATION ADOPTED; QWEST CORPORATION
DIRECTED TO PURSUE LATA WAIVER**

In this order, the Commission grants a petition for Extended Area Service (EAS) between the Siletz and Lincoln City telephone exchanges. The petition is unique, in that it seeks EAS across a LATA boundary. The Siletz exchange is located in the Eugene LATA, while the Lincoln City exchange is located in the Portland LATA.

The Commission has reviewed the proposed rates, terms, and conditions for the EAS route and believes they are reasonable. Based on the entire record in this matter, the Commission believes that the interLATA EAS route is in the public interest. Final approval of this route, however, does not rest with this Commission. One of the local telephone exchange companies involved in this proceeding, Qwest Corporation (Qwest), is prohibited under federal law from providing telecommunications services across LATA boundaries. Consequently, to allow this interLATA EAS route, Qwest must obtain a waiver of the LATA restriction from the Federal Communications Commission (FCC).

The Commission directs Qwest to petition the FCC for a LATA waiver with regard to this EAS petition. The Commission is hopeful that the FCC will complete its review of the matter and grant the requested relief in time to allow toll-free calling at EAS rates for the interLATA EAS route by October 2, 2004.

Procedural History

On March 19, 2003, the customers of the Siletz telephone exchange filed a petition for EAS to the Lincoln City telephone exchange. The Commission docketed the request as UM 1076 for investigation. The Commission reviews EAS in two phases. In Phase I, the Commission determines whether a community of interest exists between the two telephone exchanges to warrant the elimination of toll calling. In Phase II, the Commission reviews company costs and tariffs to determine proper rates for the EAS route.

Phase I: Community of Interest and Critical Needs

In order to obtain EAS to the Lincoln City exchange, customers in the Siletz exchange, which is served by Qwest, must satisfy two Phase I requirements. Like all other EAS requests, petitioners must first establish that a community of interest exists between the two exchanges. Second, because the petition seeks EAS across a LATA boundary, petitioners must show that the proposed interLATA EAS route is necessary to meet the critical needs of residents due to the lack of essential services in their own exchange, or a neighboring exchange located within the same LATA. In evaluating the critical needs of customers, the Commission considers the customers' access to emergency, dental, medical, professional, business, educational, and governmental services. *See* Order No. 95-1168.

On May 8, 2003, Michael Grant, an Administrative Law Judge for the Commission, held a hearing in Siletz, Oregon. Based on the evidence presented, the Commission concluded that a community of interest existed between the Siletz and Lincoln City exchanges and that the interLATA EAS route is necessary to meet the critical needs of customers in the Siletz exchange. *See* Order No. 03-385.

Phase II: Tariff Analysis

The Phase II portion of an EAS investigation primarily consists of an analysis of proposed rates and cost recovery for affected local exchange carriers (LECs). Staff reviews the filings to ensure that each company's rates comply with rate design criteria adopted by the Commission in Order No. 89-815. Those criteria require, among other things, that the LECs make available both a flat EAS rate for unlimited calling between the exchanges, as well as a measured rate option for low-volume customers.

The Phase II review for interLATA EAS petitions, however, is complicated by restrictions imposed by the FCC. In a prior docket, the FCC rejected the Commission's policy of allowing customers a measured EAS rate option. The FCC viewed measured EAS as discounted toll, not a low-cost rate option for customers who do not desire a flat rate EAS. Thus, the FCC concluded that, if allowed, Qwest would essentially be providing interLATA toll service in violation of federal law. *See* FCC Order 97-244 at 11.

To secure the FCC's approval of interLATA EAS routes, the Commission modified its rate design criteria to allow only nonoptional, flat rate EAS on interLATA EAS routes in Oregon. Often, customer ballots are also used to advise the Commission in making its decision. *See* Order No. 98-201. However, ballots were not used in this case because it was a Qwest exchange that initiated the EAS request, showing the interest of Qwest customers. The Commission then reviewed the LEC filings and other evidence in the record to determine whether the interLATA EAS conversion was in the public interest.

1. Proposed Tariffs and Cost Recovery

Pursuant to the procedural schedule, Qwest and Sprint/United Telephone Company of the Northwest (Sprint), which serves the Lincoln City exchange, filed cost studies and proposed tariffs for the interLATA EAS route between the Siletz and Lincoln City exchanges. Staff reviewed the cost studies and proposed tariffs and, after conducting discovery and the exchange of information, entered into stipulations with the companies. No party filed an objection to the stipulations, which are set forth in Appendices A and B. The stipulated EAS rates for the Siletz and Lincoln City exchanges are set out in Appendix C. On March 1, 2004, Dave Sloan, a member of the Commission Staff, filed testimony in support of the stipulations.

In Order Nos. 89-815 and 98-201, the Commission adopted rate design criteria that apply to interLATA EAS conversion. Staff states that the stipulated rates for Qwest substantially meet these rate and cost recovery criteria and recommends that the Commission adopt them. Under the stipulated rates, Siletz customers would pay a nonoptional flat rate of \$0.45 and \$0.90, respectively, for residential and business EAS to the Lincoln City exchange. These rates are in addition to charges Siletz customers must pay for EAS calling to the Newport and Toledo exchanges. Siletz customers have the option of paying \$1.28 and \$1.95 per month, respectively, for flat rate residential and business EAS. Customers may also choose \$0.04 per minute for measured EAS to these exchanges, with an off-peak discount of 50 percent for evenings, nights, and weekends.

Lincoln City customers would see a larger increase, but not all of the increase is attributable to the addition of EAS to Siletz. Sprint, which serves Lincoln City, has recently changed the way in which it calculates EAS rates for each exchange. See Order No. 04-093. The Commission approved Sprint's use of this new method of calculating EAS rates because it is more equitable between customers in similarly situated exchanges. Under this pricing method, customers are charged by the number of access lines available to them as a local, or non-toll, call. This method is in compliance with long-standing Commission policy favoring asymmetrical rates, see Order No. 89-815 at 20-21, and the practices of other telephone companies such as Qwest and CenturyTel.

Lincoln City customers currently pay \$1.90 and \$3.16 per month, respectively, for flat rate residential and business EAS to the Depoe Bay, Gleneden Beach, and Newport exchanges. Due to the new matrix calculation, Lincoln City customers will pay an additional \$1.78 and \$3.01 per month, respectively, for flat rate residential and business EAS. In addition, Lincoln City customers would pay an additional \$0.36 and \$0.60 per month, respectively, for flat rate residential and business EAS to the Siletz and South Beach exchanges, if all currently proposed EAS routes are approved.¹ The new total EAS rate for Lincoln City customers would be \$4.04 and \$6.67, respectively, for flat rate residential and business EAS. Lincoln City customers have the option of paying a measured rate of \$0.06 per minute to all approved EAS exchanges, with an off-peak discount of 25 percent for evenings and 50 percent for nights and

¹ The Commission is currently considering Phase II of a proposed EAS route between South Beach and Lincoln City in docket UM 1075.

weekends. Sprint is not subject to the FCC's restrictions regarding interLATA EAS.

2. Public Hearing

To provide additional information and to answer customer questions, Administrative Law Judge Christina Smith conducted an open house public comment hearing in Siletz on February 26, 2004. Staff members Dave Sloan and Bob Valdez and representatives from Qwest and Sprint were present to answer questions from customers. Information was presented by posterboards and informal conversations with customers. Customers had the opportunity to submit comments on note cards or a tape recorder.

Nearly 20 customers attended the hearing in Siletz. The comments they submitted were five to one in favor of implementing the new EAS route. Most comments related to the headquarters of the Siletz Tribe in Siletz and the Chinook Winds Casino in Lincoln City. Many people live in Siletz and work in Lincoln City, and the new EAS route would make calling between the two cities less expensive. Customers also stated that the flat rate charges for the new EAS route seemed reasonable.

Resolution – Phase II

Based on the entire record in this proceeding, the Commission concludes that the interLATA EAS route between the Siletz and Lincoln City exchanges should be implemented as proposed. The stipulated rates satisfy the rate design criteria for EAS conversion and are just and reasonable. Accordingly, the Commission adopts the stipulated rates and other provisions included in the stipulation between Staff, Qwest, and Sprint, subject to the terms of this order.

The Commission further concludes that the record, viewed as a whole, supports a finding that the proposed interLATA EAS route is in the public interest and should be approved. A community of interest exists between the Siletz and Lincoln City exchanges. The interLATA EAS route is necessary to meet the critical needs of Siletz exchange customers. These customers depend heavily on the Lincoln City exchange for emergency, dental, medical, professional, educational, and governmental services. The implementation of this route will provide a much needed service to customers.

In reaching this decision, the Commission acknowledges some opposition to EAS expansion. Some Siletz customers objected to the EAS implementation, because they do not call Lincoln City and will be required to pay a nonoptional flat EAS rate for the service. In anticipation of these concerns, the Commission ordered Qwest to provide flexible billing to the Siletz customers. Under this billing method, Qwest must provide customers both flat rate and measured rate options on intraLATA EAS routes, and nonoptional, flat rate service on interLATA EAS routes. In other words, the flexible billing will allow Qwest to maintain the Commission's customer choice EAS billing policy for non-interLATA routes for customers. The Commission believes that these measures will help balance the interests of customers in both the target and petitioning exchanges. Due in part to these measures, Qwest and Staff were able to stipulate to relatively low rates for the interLATA EAS routes. While the Commission is

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always reluctant to impose an unavoidable rate increase—particularly for those customers on fixed incomes—it believes that the EAS rates are reasonable to provide a valuable service to customers of both the Siletz and Lincoln City exchanges.

CONCLUSIONS

Based on the record developed in this docket, the Commission concludes that the proposed EAS route between the Siletz and Lincoln City exchanges is in the public interest, and Qwest should pursue a LATA waiver to allow the interLATA EAS route. If and when FCC approval is obtained, Qwest will provide additional information regarding customer notification, requirements for default service, and other matters necessary to allow implementation of the interLATA routes by October 2, 2004.

ORDER

IT IS ORDERED that:

1. The petition filed by the Siletz exchange for EAS with the Lincoln City exchange is granted.
2. The stipulations entered into between Staff, Qwest Corporation, and Sprint, set forth in Appendices A and B, are adopted.
3. Qwest Corporation shall promptly submit to the Federal Communications Commission a request for approval of a LATA boundary modification sufficient to allow it the ability to provide the proposed and existing EAS routes.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

Exhibit B

ORDER NO. 03-385
ENTERED JUN 30 2003

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Attachments may not appear.**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1076

In the Matter of the Petition for Extended Area
Service by the SILETZ TELEPHONE
EXCHANGE.

)

) ORDER

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**DISPOSITION: (1) COMMUNITY OF INTEREST FOUND BETWEEN
THE SILETZ AND LINCOLN CITY EXCHANGES;
(2) SILETZ/LINCOLN CITY EAS ROUTE
NECESSARY TO MEET CRITICAL NEEDS.**

SUMMARY

In this order, the Public Utility Commission of Oregon (Commission) finds that a community of interest exists between the Siletz and Lincoln City telephone exchanges, and that the interLATA extended area service (EAS) route is necessary to meet the critical needs of customers in the Siletz exchange. Based on these findings, the Commission concludes that this petition should proceed with Phase II, the rate and cost phase of an EAS investigation.

Procedural History

On March 19, 2003, the customers of the Siletz telephone exchange petitioned the Commission for extended area service (EAS) to the Lincoln City telephone exchange. A map of the affected exchanges is attached as Appendix A. The petition is unique, in that it seeks EAS across a LATA boundary.¹ The Siletz exchange is located in the Eugene LATA, while the Lincoln City exchange is located in the Portland LATA. A map of the two exchanges is attached as Appendix A.

Based on a preponderance of the evidence in this matter, the Commission makes the following:

¹LATAs, or Local Access Transport Areas, are long distance calling regions created pursuant to the divestiture of the Bell system. Under federal law, former Bell Operating Companies, such as Qwest Corporation, are currently prohibited from carrying traffic across LATA boundaries.

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FINDINGS

Geography and Demography

The Siletz and Lincoln City telephone exchanges lie along the central Oregon coast in Lincoln County. The county is geographically isolated by the Coast Range Mountains to the east, the Pacific Ocean to the west, and large prominent headlands to the north and south. The petitioning exchange, Siletz, is served by Qwest Corporation and consists of approximately 1,300 access lines. It currently has EAS to the Newport and Toledo telephone exchanges. The target exchange, Lincoln City is served

by Sprint/United and has about 11,271 access lines.

The Siletz exchange serves a small rural area that is home to many Siletz Indians, for whom the city—and, in turn, the exchange—was named. There, the Confederated Tribes of the Siletz Indians (the Tribes) occupy and manage a 3,500 acre reservation with timber, water and fish resources. The Tribes' administrative offices are located in Siletz, where it manages tribal operations. The city of Siletz, however, offers limited professional and commercial services to local residents. Currently, it has a bank, a gas station, two small markets, a restaurant, and library.

Due to limited services, the Siletz exchange residents rely on neighboring communities to meet their basic needs. The cities of Newport, located about 18 miles away, and Lincoln City, located about 28 miles away, are the closest areas that offer a wide variety of basic services. Both Newport and Lincoln City are relatively large cities that offer numerous goods and services. These include banking, accounting, insurance, governmental, social, and medical services, as well as groceries, hardware supplies, automotive maintenance, and consumer goods.

Although Newport and Lincoln City are relatively large cities, neither alone can provide Siletz residents with all the goods and services to meet their basic needs. Through a combination of geography and county economics, Newport and Lincoln City rely heavily on each other and are viewed by local residents as one unified community.² Businesses in Newport and Lincoln City rely on suppliers, customers, and employees located in both cities. Professional and social service providers offer a full range of services to Lincoln County residents by maintaining complimentary facilities in both cities. For example, social service agencies make the most of tight budgets by splitting their facilities and offering some services in Newport, and others in Lincoln City.

²The Commission previously discussed this relationship in an investigation by the Newport exchange to obtain EAS to the Lincoln City exchange. See Order No. 01-244. The Commission takes official notice of the facts contained in the record of that investigation. Any party may explain or rebut a noticed fact within 15 days of this order. See OAR 860-014-0050(2).

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Employment and Commuting Patterns

From its administrative offices located in Siletz, the Confederated Tribes owns and operates the Chinook Winds Casino and Convention Center in Lincoln City. At the casino, the Tribes employs over 700 county residents, making the Tribes the largest private employer in Lincoln County. Because of the large number of Siletz residents work at the Casino, the Tribes established shuttle service between Lincoln City and Siletz to pick up and drop off employees.

Schools

Lincoln County has a countywide school district with an elementary and middle school in Siletz. Area children in Siletz primarily attend the high school in Toledo. However, because a large number of Siletz residents work in Lincoln City, many children from the Siletz exchange attend Taft High School in Lincoln City. The Oregon Coast Community College (OCCC) serves Lincoln County with education centers in both Newport and Lincoln City. Currently, the school has an enrollment of over 5,000 students. Due to the school's limited budget, it is necessary for

OCCC's centers to specialize in services and curriculum. For example, the Small Business Development Center is located in Lincoln City, while the College Student Success Center is in Newport. As far as curriculum availability, chemistry and oceanography classes are offered in Newport, while biology and history are offered in Lincoln City.

Government and Jurisdictional Issues

The Siletz and Lincoln City exchanges are located in Lincoln County and served by county governmental offices located in Newport. These include the Planning, Circuit Court, District Attorney, Commission on Children and Families, Juvenile Department, Taxation, and Sheriff offices. Some county agencies also maintain offices in Lincoln City, such as the Department of Health and Human Services. Many state agencies have offices in Newport, including the Adult and Family Services, Employment Department, Services to Children and Families, State Police, and Department of Motor Vehicles.

The Tribes' offices in Siletz also provide services to tribal members who live in all parts of Lincoln County. These services include employment assistance, housing, and youth services.

Medical and Dental Services

The Tribes run a community health clinic in Siletz for its members that live in all parts of Lincoln County. Most local residents, however, receive primary and specialized medical care in either Newport or Lincoln City. Each community has a hospital and, working together, the hospitals provide a full range of medical services for

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county residents. Of the two communities, Lincoln City has more medical specialists. For example, the only cardiologist, oncologist, and midwife in the county practice in Lincoln City. Lincoln City also offers the county's only dialysis center, breast-feeding support service, and chronic wound treatment care facility.

In addition, most health care providers in Lincoln County conduct a countywide practice. It is common for doctors with offices in Newport to have medical privileges at the hospital in Lincoln City. Consequently, many residents of Siletz have primary care doctors located in Lincoln City.

Social Services

Siletz is the administrative home of the social services provided by the Tribes. In addition to these services, Siletz exchange residents seek other social services available only in Lincoln City. For example, My Sister's Place, a nonprofit organization to serve victims of domestic violence, has its only shelter in Lincoln City.

Transportation Patterns

The cities of Siletz and Lincoln City are located approximately 28 miles apart and connected via State Route 229. This highway, which runs along the Siletz River, connects U.S. Route 20 to U.S. Route 101.

Community Support

Many organizations in both Siletz and Lincoln City support the proposed EAS linking the two communities. Those who officially indicated their support include: Lincoln County School District; Lincoln County Board of Commissioners, City Council of Lincoln City, Siletz City Council, News-Times Newspaper of Siletz, Lincoln County

Chapter – American Red Cross, the News Guard of Lincoln City, and the Board of the Oregon Coast Community College.

Calling Pattern Data

As part of this investigation, the Commission Staff requested calling pattern data from Qwest and Sprint for the two affected telephone exchanges. In response, Qwest reported that it was unable to provide monthly telephone usage data for the Siletz exchange because it is unable to collect interLATA traffic. Sprint did provide data for the Lincoln City exchange, and reported that an average of 0.29 calls per line per month were placed to the Siletz exchange.

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DISCUSSION

Commission Policy

The Commission has long recognized the problem with out-dated telephone exchange boundaries. In many parts of the state, original exchange territories no longer relate to community boundaries. Improved roads and highways, changes in local economies, and the growth or decline of cities and towns have greatly modified what local residents view as their community.

To address this problem, the Commission allows telephone customers to request EAS to other nearby exchanges to increase their toll-free calling area. EAS is important to many customers, because it allows them toll-free access to family, friends, neighbors, and businesses, as well as emergency, medical, educational, and governmental services, not located in their local calling area.

EAS is not a cost-free service, however. EAS merely changes the way telephone companies are compensated for interexchange telephone service. Per-minute toll charges are replaced with a flat or measured EAS rate. Large toll charges faced by a relatively small number of customers are replaced with smaller charges to many customers. The implementation of new EAS routes, therefore, may create new problems as telephone companies try to recover lost toll revenues.

Community of Interest

Due to these competing concerns, the Commission has established a review process designed to balance the need to avoid rate increases on low volume users with the benefits customers may desire from toll-free rates. In all EAS investigations, the Commission first determines whether a community of interest exists between the telephone exchanges to warrant the elimination of toll calling. The Commission has stated that a community of interest "exists where there is a social, economic, or political interdependence between two areas or where there is a heavy dependence by one area on another area for services and facilities necessary to meet many of its basic needs."

To determine whether a community of interest exists between the communities, the Commission relies on an analysis of demographic, economic, financial, or other evidence submitted by petitioners in support of the petition. In this examination, the Commission has identified several factors for consideration:

- (1) geographic and demographic information;
- (2) location of schools;
- (3) governmental and jurisdictional issues;
- (4) emergency services;
- (5) social services;
- (6) medical and dental providers;
- (7) employment and commuting patterns;
- (8) business and

commercial dependence or interdependence; (9) transportation
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patterns; (10) the calling patterns between telephone exchanges;
and (11) other factors deemed relevant by the Commission.³

Critical Needs

As noted above, this petition is unique because it seeks EAS across a LATA boundary. The Siletz exchange is located in the Eugene LATA, while the Lincoln City exchange is located in the Portland LATA. This fact is important, because Qwest is currently prohibited under federal law from providing telecommunication services across LATA boundaries. Consequently, to allow this interLATA EAS route, Qwest must obtain a waiver of the LATA restriction from the Federal Communications Commission (FCC). Consequently, the petitioners must also show that the proposed interLATA EAS route is necessary to meet the critical needs of residents due to the lack of essential services in their own exchange, or neighboring exchange located within the same LATA.⁴

COMMISSION RESOLUTION

The Commission concludes that the Siletz exchange petitioners have established that a community of interest exists between the Siletz and Lincoln City exchanges. The evidence presented at hearing establishes a sufficient interrelationship between the two areas to justify EAS conversion.

In a prior investigation, we previously concluded that a community of interest exists between the Newport and Lincoln City exchanges.⁵ We based that conclusion on findings that the cities of Newport and Lincoln City rely heavily on each other and share common interests, concerns, and pursuits. We make similar findings here. The Siletz exchange is the administrative home of the Confederated Tribes of the Siletz Indians. In Siletz, the tribe provides social and health services to its members that live throughout the county, including Lincoln City. The Tribes also own and manage the Chinook Winds Casino and Conference Center, located in Lincoln City. Many Siletz exchange residents commute to Lincoln City to work at the casino, which is the county's largest employer. The Siletz and Lincoln City exchanges also share a school district and are served by the Oregon Coast Community College.

The Commission further concludes that the Siletz petitioners have established that the proposed interLATA EAS route is necessary to meet the critical needs of customers not reasonably met by intraLATA EAS alternatives. Despite the presence of the tribal headquarters, Siletz offers few professional and commercial services for its local residents. Consequently, Siletz exchange residents depend on neighboring exchanges to meet their basic needs. The city of Newport, located within the same LATA as the Siletz exchange, provides many basic services. As we found in Order No. 01-244, however, Newport is not a self-sufficient community. Residents of Newport

³ See Order No. 93-1045 at 12.

⁴ See Order No. 95-1168.

⁵ See Order No. 01-244.

ORDER NO. 03-385

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rely on services only available Lincoln City, and vice versa. Working together, the cities of Newport and Lincoln City provide the necessary goods and services to meet all the

basic needs of Lincoln County residents. Accordingly, like other Lincoln County residents, those living in the Siletz exchange rely on Lincoln City for many goods and services not available in Newport.

ORDER

IT IS ORDERED that:

1. The petitioners have established that a community of interest exists between the Siletz and Lincoln City telephone exchanges.
2. The petitioners have also established that the proposed interLATA EAS route is necessary to meet the critical needs of Siletz residents.
3. This completes Phase I for that portion of the petition. For Phase II, the proposed Siletz/Lincoln City interexchange route will be grouped with all other EAS dockets that complete Phase I by August 2003. The telephone companies serving these exchanges shall file proposed rates and supporting cost information by October 15, 2003.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561.

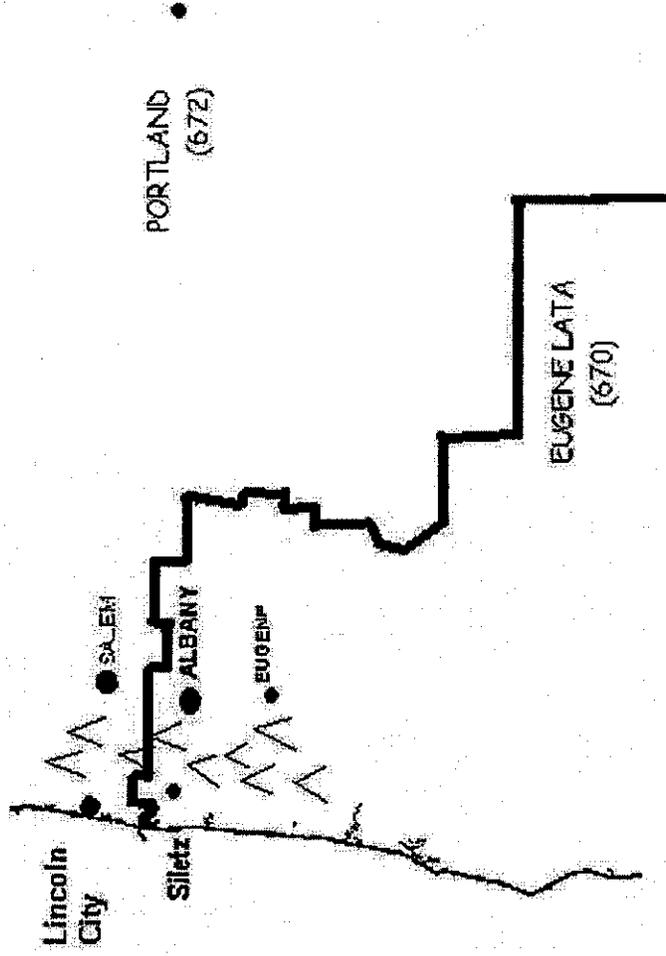
A

request for rehearing or reconsideration must be filed with the Commission within 60 days

of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court

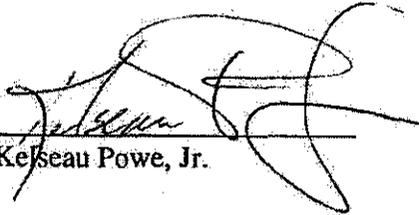
pursuant to applicable law.

Oregon LATA Waiver Request



CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that I have caused a copy of the foregoing
PETITION OF QWEST CORPORATION to be filed with the FCC via hard copy and served
via email on the parties listed on the attached service list.



Kelseau Powe, Jr.

April 6, 2004

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