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**Carla M. Butler**  
Lead Paralegal

May 17, 2007

Frances Nichols-Anglin  
Oregon Public Utility Commission  
550 Capitol St., NE  
Suite 215  
Salem, OR 97301

Re: UM 1299

Dear Ms. Nichols-Anglin:

Enclosed for filing in the above entitled matter please find an original and (5) copies of QWEST CORPORATION'S RESPONSE TO BEAVER CREEK TELEPHONE COMPANY'S MOTION TO AMEND ORDER NO. 07-161, along with a certificate of service.

If you have any questions, please do not hesitate to give me a call.

Sincerely,



Carla M. Butler

CMB:  
Enclosures

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**UM 1299**

In the Matter of

QWEST CORPORATION

Petition to Abandon Local Exchange Services  
in the Beavercreek Exchange (UA 55 Area)

**QWEST'S RESPONSE TO BCT'S  
MOTION TO AMEND ORDER  
NO. 07-161**

Pursuant to Chief Administrative Law Judge Michael Grant's May 1, 2007 Ruling ("ALJ Ruling"), Qwest Corporation ("Qwest") hereby files its response to the motion of Beaver Creek Cooperative Telephone Company ("BCT") to amend Order No. 07-161, which granted Qwest's motion for a brief extension of time to May 23, 2007 to comply with the Commission's Order No. 04-225 in docket UA 55 for a very small number of customers to discontinue service in the geographic area at issue (also known as the "UA 55 area").

**BRIEF PERTINENT BACKGROUND**

On April 24, 2007, Qwest filed a motion for a brief extension of time to comply with Order No. 04-225 in docket UA 55 due to the lack of timely approval by the Federal Communications Commission ("FCC") of Qwest's section 214 petition to discontinue service in the UA 55 area as a result of an omission by Qwest in providing notice to the affected customers. Qwest noted that it had given these customers notice of the need to disconnect in the past, and that there were only 10 remaining customers (two Qwest retail customers and eight wholesale customers), and that Qwest continued to contact those customers in its attempts to get them to discontinue any service with Qwest by the original UA-55 compliance date of April 27, 2007. Commission Staff then noted it had no objections to the motion on April 26, 2007, and the Commission granted the motion later that same day. Order No. 07-161.

Thereafter, on May 1, 2007, after the Commission had granted Qwest's motion, BCT filed a response (entitled "reply") to Qwest's motion. In its response, BCT argued that Qwest waited until the last moment to file its section 214 petition with the FCC and that Qwest had "allowed customers in the Beavercreek exchange to have their numbers ported to competitive local exchange carriers ("CLECs") using Oregon City [telephone] numbers," which it claimed "is contrary to number assignment guidelines." (Response, p. 2.) Thus, BCT requested that the Commission "condition Qwest's motion on Qwest holding BCT harmless from all additional costs and lost revenues that have resulted from Qwest's extension of time." (*Id.*)

Chief Administrative Law Judge Michael Grant then issued the ALJ Ruling that same day (May 1, 2007). In the ALJ Ruling, Judge Grant ruled that BCT's reply would be interpreted as a motion to amend Order No. 07-161 and that Qwest would have an opportunity to respond.

As stated, Qwest respectfully requests that the Commission consider this brief reply.

### **REPLY**

First, and most importantly, *BCT does not cite to any authority* for the proposition that this Commission can award BCT any "damages" or otherwise "hold[] BCT harmless" from "all additional costs and lost revenues" that may have allegedly resulted from the extension of time. Indeed, the Commission does not have any authority to award damages to BCT, whether for "costs" or "lost revenues." For that reason alone, there is no basis for the Commission to grant BCT's motion to amend order No. 07-161 or to amend or modify that order.

In addition, even if the Commission had such authority to do so (which it does not), Qwest notes that BCT does not describe what those alleged costs or lost revenues are, and at a very minimum, such damages, if any, would be extremely speculative. Any such costs or lost revenues would also be *de minimis*, especially given that there were no more than 10 customers at issue, only two of which were Qwest retail customers, and only for a very brief number of

days.<sup>1</sup> Indeed, as of this date, there are only two customers that have not yet disconnected, and if they have not disconnected by May 22, 2007, Qwest will disconnect such services the next day.<sup>2</sup>

### CONCLUSION

Accordingly, Qwest respectfully requests that the Commission deny BCT's motion to amend Order No. 07-161.

DATED: May 17, 2007



By: \_\_\_\_\_  
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<sup>1</sup> Moreover, Qwest obviously could not control the actions (or inactions) of these customers, especially the eight CLEC customers for whom Qwest merely provides the underlying facility or service on a wholesale basis. Further still, there is no assurance that any of these customers (especially the CLEC customers) were willing to purchase service from BCT, especially since all such customers were long on notice that they needed to disconnect service, and that they could obtain service from BCT (but clearly failed to do so).

<sup>2</sup> Finally, although ultimately irrelevant to the inappropriate and unauthorized relief that BCT seeks, Qwest is at a loss about BCT's comments that Qwest somehow improperly ported telephone numbers. First, Qwest has no control over a customer who ports a telephone number to a CLEC, as Qwest is required to allow such customers to port the number. Second, BCT long argued in docket UA 55 that there were no restrictions in porting telephone numbers in the UA 55 area by keeping the customer's current telephone number. Indeed, the Commission ruled in Order No. 04-225 that it was not convinced that LNP (Local Number Portability) could not be deployed across rate centers. Thus, it instructed the parties to cooperate in instituting LNP in the Beaver Creek exchange as necessary, and stated that if the parties encountered difficulties, they could come to the Commission for resolution. Thus, there is no evidence of improper porting.

**UM 1299**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of May, 2007, I served the foregoing QWEST'S RESPONSE TO BEAVER CREEK COOPERATIVE TELEPHONE CO.'S MOTION TO AMEND ORDER NO. 07-161 by placing a copy of same in a sealed, first-class postage-prepaid envelope deposited with the United States Postal Service at Portland, Oregon and addressed to:

Michael Weirich, Esq.  
Assistant Attorney General  
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100 Justice Building  
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P.O. Box 69  
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DATED: May 17, 2007.



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