

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: July 19, 2016

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ NA \_\_\_\_\_

DATE: June 29, 2016

TO: Public Utility Commission

FROM: Jim Stanage *JS*

THROUGH: Jason Eisdorfer, Bryan Conway, and Bruce Hellebuyck *JE BK BH*

SUBJECT: UNITED TELEPHONE COMPANY OF THE NORTHWEST: (Docket No. ADV 295/Advice No. CTL-2016-01) Establishes a Special Contract submitted pursuant to ORS 759.250(5).

**STAFF RECOMMENDATION:**

Staff recommends that the Commission take no action with regard to this filing. If the Commission does not act within 90 days of the filing, the special contract is deemed approved.

**DISCUSSION:**

**Issue**

Whether the Commission should take action with regard to a 36-month special contract with a confidential customer proposed by United Telephone Company of the Northwest dba CenturyLink (United) for Integrated Services Digital Network Primary Rate Interface Service (ISDN-PRI).

**Applicable Law**

Telecommunications utilities are allowed under ORS 759.250 to enter into special contracts with customers without being subject to standard tariff filing procedures under ORS 759.175. In addition, special contracts are not subject to hearings (ORS 759.180) or suspension (ORS 759.185). United has asked staff not to divulge the contract customer's name as provided for in ORS 759.250.

The contract went into effect on March 9, 2016, and it was filed on May 6, 2016. Pursuant to ORS 759.250, the Commission has 90 days from the date of filing to

terminate the effectiveness of a special contract. For this filing, the end of the 90-day statutory period is August 4, 2016.

ORS 759.250 outlines the requirements for approval of telecommunications special contracts, which are as follows:

1. The contract service must be a new service with limited availability, respond to a unique customer requirement, or be subject to competition.
2. Prices must exceed the long-run incremental cost of providing the service.
3. Telecommunications utilities are required to file special contracts no later than 90 days following the effective date of the contract. Contracts must not exceed five years, and ORS 759.250 does not permit automatic contract renewals.
4. The Commission shall issue an order on the filed contract within 90 days of the filing. If the Commission does not act within 90 days of the filing, the contract is deemed approved. Staff understands that if a telecommunications utility does not provide sufficient evidence to support the contract under ORS 759.250, staff may recommend that the Commission reject the contract.

### **Analysis**

United proposes to establish a 36-month special contract with a confidential customer for ISDN-PRI. The ISDN-PRI is being provided under the contract at a monthly rate of \$650.00 per unit, which represents a 23 percent discount off the regularly tariffed rate of \$845.00. The filing states that the company will give the discounted prices to any similarly situated customer requesting it.

The company's tariff does not offer discounts that are as large as those proposed in this special contract, and thus, the contract provides the customer unique rates for the contract services. The company also considers the contract services to be competitive.<sup>1</sup> If the company does not provide the contract services, a number of competitors would be able to provide the services.

### **Description of Services**

ISDN is a digital architecture that provides an integrated voice/data capability to the customer premises facility, utilizing the public switched network. ISDN-PRI consists of 23 bearer (B)-channels and one data (D)-channel, for a total transmission rate of 1.544 Megabits per second (Mbps). It is designed for transmission through a DS1 facility.

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<sup>1</sup> Commission Order No. 96-021 gave the company pricing flexibility, pursuant to ORS 759.050, in exchanges that comprise competitive zones.

Each 64 Kilobits per second (Kbps) B-channel carries user information such as voice calls, circuit-switched data, or video. The D-channel is a 64 Kbps channel that is used to carry the control or signaling information.

#### Review Procedures

Although the form of regulation that applies to United changed October 7, 2014, pursuant to ORS 759.255 and the regulatory plan allowed by the Commission under Order No. 14-347 (UM 1686), its services offered through special contracts remain fully regulated. Thus, United special contracts for its regulated services are still subject to ORS 759.250.

Order No. 92-651 (UM 254), issued May 1, 1992, adopted procedures and guidelines for telecommunications special contract filings. The order specifies that in assessing special contracts the Commission must consider the reasonableness of the contract rates and whether the rates result in unjust discrimination. The statutes that underlie these areas of concern are ORS 759.210 (classification of service and rates) and ORS 759.260 (unjust discrimination).

#### Classification and Unjust Discrimination Criteria

Staff's analysis regarding conformance with ORS 759.210 is twofold. First, staff determines if a special contract rate class is developed by the telecommunications utility for one or more of the following reasons: a) the quantity of the contract service used; b) the purpose for which the contract service is used; c) whether price competition or a service alternative exists; d) the contract service being provided; e) the conditions of contract service; or f) other reasonable considerations. Second, staff determines if the special contract results in revenue sufficient to ensure just and reasonable rates for remaining customers (i.e., a "prudency review").

To determine conformance with ORS 759.260, staff determines if the special contract avoids unjust discrimination and is dependent upon the outcome of the analyses outlined above. The statute does not restrict the Commission from subsequent scrutiny of the reasonableness of special contracts for ratemaking purposes.

The company submitted a financial analysis that shows that the proposed rates cover the company's estimated long-run incremental cost of service (LRIC) for the contract service(s).

#### Conclusion

Staff has investigated the filing and finds that it complies with Order No. 92-651 (UM 254), the contracted services are subject to competition, the contract price(s) is

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above the company's cost of service, and the company would offer the discounted contract price(s) to any similarly situated customer requesting it.

**PROPOSED COMMISSION MOTION:**

Take no action with regard to this filing. Pursuant to ORS 759.250, if the Commission does not act within 90 days of the filing, the special contract is deemed approved.

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