



**Qwest**

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**Carla M. Butler**

Lead Paralegal

April 20, 2007

Vikie Bailey-Goggins  
Oregon Public Utility Commission  
550 Capitol St., NE  
Suite 215  
Salem, OR 97301

Re: New Docket

Dear Ms. Bailey-Goggins:

Enclosed please find an original and five (5) copies of Qwest Corporation's Petition For Waiver of Carrier of Last Resort and Service Quality Obligations At Meritage at Little Creek Development In Newport, Oregon, along with a certificate of service.

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

Sincerely,

A handwritten signature in black ink that reads "Carla". The signature is written in a cursive, flowing style.

Carla M. Butler  
Lead Paralegal

Enclosure

cc: Service List

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

Docket UM \_\_\_\_

In the Matter of

QWEST CORPORATION

Petition for Waiver of Carrier of Last Resort  
and Service Quality Obligations at Meritage at  
Little Creek Development in Newport, Oregon

**QWEST'S PETITION FOR WAIVER OF  
CARRIER OF LAST RESORT AND  
SERVICE QUALITY OBLIGATIONS  
AT MERITAGE AT LITTLE CREEK  
DEVELOPMENT IN NEWPORT,  
OREGON**

Qwest Corporation ("Qwest") hereby petitions for a waiver of its Carrier of Last Resort ("COLR") and service quality obligations for certain residential units already built, and being built, in the Meritage at Little Creek development in Newport, Oregon. The reason for the petition is due to Qwest's lack of physical access, including appropriate easements, at that development.

**PERTINENT BACKGROUND**

**A. Qwest's COLR and Service Quality obligations**

ORS 759.506 provides as follows:

**759.506 Purpose of allocated territory laws.** (1) The purpose of establishing allocated territories under ORS 759.500 to 759.570 is to ensure that telecommunications utilities, cooperative corporations and municipalities certified by the Public Utility Commission to provide local exchange telecommunications service:

- (a) Provide adequate and safe service to the customers of this state; and
- (b) *Serve all customers* in an adequate and nondiscriminatory manner.

(2) The obligations described in this section may be referenced as *carrier of last resort obligations*. (Emphasis added.)

Thus, as a telecommunications utility, Qwest is considered to have carrier of last resort ("COLR") obligations.

In addition, Qwest has certain service quality obligations as set forth in OAR 860-023-0055. These service quality obligations include those service quality rules pertaining to provisioning and held orders for lack of facilities. See OAR 860-023-0055(4).

**B. Qwest and housing developer obligations pursuant to tariff**

In addition, with respect to Qwest's obligations for housing developments, Qwest's Network and Exchange Services tariff, PUC No. 33, details Qwest's obligations, as well as obligations and responsibilities of a housing developer. For example, under the selected option, section 2.8 of Tariff No. 33, dealing with cable, wire and service termination, requires that the developer of a housing development supply all conduit and pull strings on the private property from the property line up to each individual unit. Once the conduit and pull string has been agreed to and placed, Qwest can place the necessary wire and network interfaces up to each unit. However, without supporting structure within the development, including the appropriate easements from the owners of private property, Qwest is unable to provide the required cable, wire and service termination,

**REASONS FOR WAIVER OF COLR AND SERVICE QUALITY OBLIGATIONS**

There is currently a residential housing development, consisting of condominiums, being built in Newport, Oregon commonly referred to as the Meritage at Little Creek development. Newport is within Qwest's incumbent service territory in Oregon. There are various phases of development at the Meritage at Little Creek development, and some units have been completed and some have not. In addition, some of the units that have already been built have Qwest service due to previous physical access to Qwest. However, with respect to others units, both already built and in the process of being built, Qwest does not have physical access, including the necessary and appropriate easements for private property.

As stated, there are various phases of development at the Meritage at Little Creek development. For example, it appears that the condominium units generally known as "Phase I," with the following addresses, 3360 NW Oceanview Drive, Units A, B, C, and D, and 3380 NW

Oceanview Drive, Units A and B, have already been completed, and the appropriate Qwest facilities have been put in place. As such, these units are not at issue in this petition. However, subsequent phases, generally known as Phases II, III and IV, are either already built or are in the process of being built, but Qwest has not been able to gain the required physical access to the development, including the appropriate easements at such development (which is private property), to install the necessary facilities and infrastructure in order to provide service to requesting residents.

Moreover, Qwest has recently received a telephone service order from a resident of a Phase IV unit at the Meritage at Little Creek development, Mr. James Johnstone of 52-A NW 33rd Place, Newport, Oregon 97365. Qwest has advised Mr. Johnstone that Qwest is unable to provision service to his residential unit because of a lack of network facilities due to a lack of physical access, including the appropriate easements, at that development. Qwest has further advised Mr. Johnstone that while Qwest could normally provision service if the customer were willing to pay special construction and line extension charges (see Tariff No. 33, § 4.2.1), Qwest is unable to do so here, again because it does not have physical access to the development, including appropriate easements for private property that is not Mr. Johnstone's property.

Finally, in addition to Mr. Johnstone's residential unit, Qwest also does not have physical access and appropriate easements for the Meritage at Little Creek development in order to place the necessary facilities and infrastructure to serve other residential units built or being built at that development. This includes lack of physical access to serve the following units: 3420 NW Oceanview Drive, Units A through D, and 3440 NW Oceanview Drive, Unit A (although Qwest has installed a "temporized" line to serve that unit). Other residential units are being built at the

Meritage at Little Creek development for which Qwest does not have physical access, but Qwest is unsure of the street addresses to be given to these units.

**CONCLUSION**

Accordingly, for the reasons stated above, Qwest respectfully requests that the Commission grant Qwest's petition for a waiver of its carrier of last resort and service quality obligations at the Meritage at Little Creek development in Newport, Oregon.

DATED: April 20, 2007.

Respectfully submitted,



By: \_\_\_\_\_

Alex M. Duarte, OSB No. 02045

Qwest

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Attorney for Qwest Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **QWEST'S PETITION FOR WAIVER OF CARRIER OF LAST RESORT AND SERVICE QUALITY OBLIGATIONS AT MERITAGE AT LITTLE CREEK DEVELOPMENT IN NEWPORT, OREGON** 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  
Oregon Department of Justice  
Office of the General Counsel  
100 Justice Building  
1162 Court St. NE  
Room 100  
Salem, OR 97302

Mr. James Johnstone  
52-A NW 33rd Place  
Newport, OR 97365

Mr. Kurt Freitag  
Meritage at Little Creek  
P. O. Box 429  
Newport, OR 97365

DATED: April 20, 2007

Respectfully submitted,



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Attorney for Qwest Corporation