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October 26, 2007

BY ELECTRONIC MAIL AND UPS OVERNIGHT

Oregon Public Utility Commission
Attn: Filing Center
550 Capitol Street N.E. Suite 215
Salem, Oregon 97301-2551

**Re: In the Matter of the Petition of Qwest Corporation for
Approval of Price Plan Pursuant to ORS 759.255**

Dear Sir/Madam:

Enclosed for filing are an original and three copies of the Petition of Qwest Corporation for Approval of Price Plan Pursuant to ORS 759.255.

Thank you for your attention to this matter.

Sincerely yours,

Lawrence Reichman

LR:dma
Enclosures

13141-0746/LEGAL13682421.1

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OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 DOCKET _____

4 In the Matter of the Petition of QWEST
5 CORPORATION for Approval of a
6 Price Plan Pursuant to ORS 759.255

PETITION OF QWEST CORPORATION
FOR APPROVAL OF PRICE PLAN
PURSUANT TO ORS 759.255

7
8 Pursuant to ORS 759.255, Qwest Corporation ("Qwest") respectfully petitions the
9 Commission for approval of a price plan in the form attached hereto as Exhibit A. Qwest
10 provides the following information in support of this petition.

11 **I. PETITIONER INFORMATION**

12 **A. Name and Address**

13 Petitioner's name and address are:

14 Qwest Corporation
15 421 SW Oak Street
16 Portland, OR 97204

17 **B. Communications and Notices**

All communications and notices with respect to this application should be addressed to:

18 Alex M. Duarte
19 Corporate Counsel
20 Qwest
21 421 S.W. Oak Street, Suite 810
22 Portland, OR 97204
23 Tel.: 503-242-5623
24 Fax: 503-242-8589 (facsimile)
25 Alex.Duarte@qwest.com

Lawrence Reichman
Perkins Coie LLP
1120 N.W. Couch St., 10th Floor
Portland, OR 97209
Tel.: 503-727-2019
Fax: 503-346-2019
LReichman@perkinscoie.com

1 **II. REQUEST FOR PRE-HEARING CONFERENCE**

2 Qwest respectfully requests that the Commission hold a pre-hearing conference in this
3 proceeding at the earliest possible date to establish a procedural schedule for considering Qwest's
4 proposed price plan.

5 **III. BACKGROUND**

6 **A. Summary of ORS 759.255**

7 ORS 759.255 authorizes the Commission to approve a plan under which a
8 telecommunications utility that provides local exchange service may charge prices that are
9 established "without regard to the return on investment of the utility." ORS 759.255(1). This
10 statute was expressly intended to give the Commission additional flexibility to approve price
11 plans beyond the alternative form of regulation authorized in ORS 759.195. *Id.* Prices charged
12 under an approved price plan are not subject to the provisions of ORS 759.180 to 759.190. *Id.*

13 The Commission may approve a price plan under ORS 759.255 if it finds that the plan is
14 in the public interest. ORS 759.255(2). In making this determination, the Commission is to
15 consider whether the plan:

- 16 (a) Ensures prices for telecommunications services that are just and
17 reasonable;
- 18 (b) Ensures high quality of existing telecommunications services
 and makes new services available;
- 19 (c) Maintains the appropriate balance between the need for
20 regulation and competition; and
- 21 (d) Simplifies regulation.

22 ORS 759.255(2).

23 In approving a plan, the Commission shall establish objectives of the plan and conditions
24 for review of the plan during its operation, which may not consider return on investment.

25 ORS 759.255(3). In addition, prices charged under the plan are subject to a price floor equal to
26 "the total service long run incremental cost, for nonessential functions, of providing the service

1 and the charges of essential functions used in providing the service." ORS 759.255(4). The rates
2 for residential local exchange service are not subject to a price floor. *Id.*

3 **B. Qwest's Election of Price Cap Regulation Under ORS 759.405 to 759.410**

4 On December 29, 1999, Qwest elected to be subject to price cap regulation under
5 ORS 759.405 to 759.410, and Qwest is currently regulated under those statutes. Based upon its
6 election, Qwest is subject to regulation only under ORS 759.405 to 759.410, and is not subject to
7 any other retail regulation, including any form of earnings-based, rate-based or rate-of-return
8 regulation. ORS 759.410(2).

9 Under ORS 759.410(3), the rates for intrastate retail telecommunications services that the
10 Commission has defined as "basic" are established by the Commission under ORS 759.425. The
11 Commission set Qwest's basic service rates in September 2001 in Order No. 01-810 in Docket
12 UT 125. Qwest's rates for "non-basic" intrastate retail and switched access services are subject
13 to price caps (maximum prices) equal to the rates the Commission established in Docket UT 125
14 (*see* ORS 759.415), and are also subject to price floors (minimum prices) "equal to the sum of
15 the total service long run incremental cost of providing the service for the nonessential functions
16 of the service and the price that is charged to other telecommunications carriers for the essential
17 functions." ORS 759.410(4). Basic telephone service, however, is not subject to a price floor.
18 *Id.*

19 While Qwest has been operating under ORS 759.405 to 759.410, the Commission has
20 issued orders and Commission Staff has entered into several agreements with Qwest that have
21 simplified Qwest's regulatory obligations, consistent with the fact that Qwest is not subject to
22 earnings-based regulation. In Order No. 00-382, the Commission suspended and/or modified
23 filing requirements for Qwest for affiliated interest contracts and related reports. In Order No.
24 06-514, the Commission simplified Qwest's obligations with respect to certain depreciation and
25 accounting issues (OAR 860-027-0050). On September 9, 2003, Qwest and Commission Staff
26

1 agreed to certain "Guidelines" which clarified, modified, and/or waived Qwest's obligations
2 under various statutes and Commission rules. The subjects addressed include:
3 withdrawal/abandonment of service (OAR 860-032-0020); special contracts (ORS 759.250);
4 calculation of price floors; promotions (ORS 759.182, OAR 860-026-0025(2)); affiliate interest
5 filings (ORS 759.385 *et seq.*); and financial reporting (*former* ORS 759.100 to 759.115; ORS
6 759.120 to 759.130). In correspondence with the Commission in 2004, the Commission agreed
7 to modify certain of Qwest's reporting obligations with respect to service quality and financial
8 information. Qwest entered into additional agreements with Staff in November 2004. Among
9 other things, these agreements reduce and/or simplify Qwest's reporting obligations with respect
10 to Form O and Form I and other financial reports (OAR 860-027-0070), construction budgets
11 (OAR 860-027-0005 and -0015), and affiliated interest transactions (OAR 860-027-0040, -0041,
12 and -0100). In addition, in a Memorandum of Understanding between Qwest and Staff dated
13 May 26, 2004, applied by the Commission in Order No. 04-404, Qwest and Staff agreed to
14 guidelines regarding accounting for the sale of assets and the imposition of municipal charges.¹

15 C. Overview of Today's Competitive Telecommunications Marketplace

16 The competitive landscape has changed dramatically during the time Qwest has been
17 operating under price cap regulation. In addition to traditional CLEC wireline competitors, the
18 telecommunications marketplace is well into a period of "convergence," where wireless and
19 broadband Internet-based services are causing declines in the number of traditional (landline)
20 telephone lines in the state.

21
22
23 ¹ ORS 759.255(5) authorizes the Commission to waive the application of certain statutes in
24 approving a price plan. Qwest requests the waiver of certain statutes in section IV.D.1. of this petition. If
25 the Commission grants Qwest full waivers of these statutes, this would also waive Qwest's obligations
26 under the rules implementing those statutes, including some or all of those cited above. To the extent the
Commission denies Qwest's requested waivers, or grants partial waivers, Qwest requests that the orders
and agreements identified above continue in effect under the price plan to the extent applicable. This is
discussed further in section IV.D.3. of this petition.

One way to capture a picture of this overall marketplace is to view the total number of "communications connections" in the state, based on FCC data. If these categories are combined to form a view of the overall "telecommunications market" – which is appropriate because Qwest competes in each of these service categories – and each in-service line is counted as a connection, an overall view of the changing composition of the Oregon telecommunications market can be developed. The following table shows the change in connections from December 2000 to June 2006, which is the latest data available.

Oregon In-Service Quantities December 2000 versus June 2006²

	Dec. 2000	Connection Share Dec. 2000	June 2006	Connection Share June 2006	Change	Percent Change
ILEC Lines	2,109,510	60.5%	1,627,341	30.3%	-482,169	-22.9%
CLEC Lines	99,326	2.8%	305,519	5.7%	206,193	207.6%
Mobile Wireless Subscribers	1,201,207	34.5%	2,567,147	47.9%	1,365,940	113.7%
High-Speed Lines	76,839	2.2%	860,385	16.1%	783,546	1,019.7%
Total	3,486,882		5,360,392			

The FCC's data clearly shows the dramatic growth of CLEC connections and intermodal telecommunications services in the state, and the corresponding steep decline in ILEC access lines. The traditional ILEC access line base now represents less than one-third of the overall number of communications connections in the Oregon telecommunications market.

For Qwest in Oregon, competitive pressures now provide appropriate checks on telecommunications pricing, quality of service, and the availability of service to meet market demand. Qwest's retail residential and business services are now subject to full competition from traditional CLECs as well as from intermodal forms of competition such as wireless and Voice over Internet Protocol ("VoIP") services. In fact, Qwest's switched retail access line base in

² The source for the data in this table regarding ILEC lines, CLEC lines, and mobile wireless subscribers is the FCC Local Telephone Competition Report, tables 9, 10, and 14. The source for the data in this table regarding high-speed lines is the FCC High-Speed Services for Internet Access Report, table 10.

Oregon has been dramatically eroded by competition from a total of 1,460,169 lines in December 2000 to 977,243 lines in December 2006, a reduction of over 33 percent, and this trend is continuing.

Qwest Retail Access Lines – Oregon³

	<u>December 2000</u>	<u>December 2006</u>	<u>Change</u>	<u>Percent Change</u>
Business	466,960	264,700	-202,260	-43.3%
Payphone	14,827	6,826	-8,001	-54.0%
Residence	978,382	705,717	-272,665	-28.0%
Total	1,460,169	977,243	-482,926	-33.1%

Qwest has lost significantly more access lines in certain wire centers than the statewide average of 33 percent would indicate. For example, while retail competition has had a profound effect on Qwest's business access line base across the state, averaging a reduction of 43 percent since 2000, some wire center losses significantly exceed the state average. While one would expect significant losses in metropolitan areas of Portland, Qwest has also experienced business line losses significantly above average in smaller wire centers such as Astoria, Hermiston, and St. Helens. Business account losses to date have been primarily to CLECs such as Integra and Eschelon, which are now a combined market force with Integra's recent purchase of Eschelon. In addition, Comcast is beginning to compete in the small business voice and data market, targeting accounts which have approximately 20 employees and fewer than 20 lines. In this market, Comcast has set a target penetration rate of 20 percent.

Not surprisingly, Qwest has experienced above-average residential access line losses in its metropolitan wire centers – such as Portland, Eugene, and Corvallis – because of competition from cable, VoIP, and wireless. However, losses significantly above the average have also occurred in smaller communities such as Pendleton and Hermiston. Competitive choices are broadly available throughout Qwest's service territory in the state and customers are actively

³ FCC Report 43-08, Table III, 12/2000 and 12/2006 edition dates.

1 availing themselves of those choices. Recent studies show that during the second half of 2006,
2 almost 13 percent of American homes nationwide had only wireless telephone service.⁴

3 It is important to note that this reduction in Qwest's access line base does not account for
4 the growth in the telecommunications market over this period. Qwest has also lost the
5 opportunity to serve new customers in Oregon when the customer elects to subscribe to the
6 service of a competitor without having been a Qwest customer in the first instance. According to
7 the U.S. Census Bureau, the population of Oregon increased from 3,421,400 in 2000 to
8 3,700,800 in 2006, an increase of more than 8 percent.⁵ Through June 2006, the number of
9 CLEC access lines in service in Oregon grew to 305,519, an increase of more than 200 percent
10 from December 2000. Clearly, CLEC competition, as well as ever-expanding competition from
11 intermodal services such as VoIP and wireless, is driving a significant reduction in Qwest's retail
12 access line base.

13 IV. DESCRIPTION OF PRICE PLAN

14 A. Overview of the Price Plan

15 Qwest's proposed price plan is designed to preserve for residential and small business
16 customers the availability of affordable telephone service, while providing Qwest the flexibility
17 to respond to market forces in a very competitive environment. Qwest's plan would cap the rates
18 for primary line basic service for residential and business customers (defined as the first line to a
19 specific location), and guarantee the availability of those services on a stand-alone basis. The
20 price caps for these services would be allowed to increase modestly under the plan, with the
21 monthly recurring charge increasing by no more than \$2.00 during the first four years of the
22 plan. The price caps for primary line basic service would be eliminated after the fifth year,
23
24

25 ⁴ CDC, "Wireless Substitution: Early Release of Estimates Based on Data from the National
26 Health Interview Survey, July-December 2006," released May 14, 2007.

⁵ U. S. Census Bureau, American Fact Finder, Oregon population.

1 unless the Commission determines in its review process that these services should still be subject
2 to price caps.

3 The plan would cap the rates for extended area service (EAS) and switched access service
4 at current rates. Qwest would be allowed to decrease or increase the rates for all other regulated
5 retail services, subject only to a price floor. New services would be exempt from regulation.
6 The pricing provisions of Qwest's proposed price plan are described more fully in section IV.B.
7 below.

8 Qwest would continue to be subject to specific, measurable customer service standards
9 under the plan. Further, Qwest will commit not to seek an exemption under OAR 860-023-
10 0055(16)(d) from the service quality reporting requirements during the first five years of the
11 plan.⁶ Qwest will also commit to invest \$2 million to continue to improve the quality of its
12 already robust network, increase the deployment of advanced services, and help to bring
13 broadband connections to Oregon's K-12 schools. These provisions of Qwest's proposed price
14 plan are described more fully in section V.B. below.

15 Qwest's performance under the plan would be comprehensively reviewed by the
16 Commission every five years for compliance with the objectives of the plan and to evaluate
17 whether any modifications to the plan are appropriate in view of market developments. The
18 Commission would continue to have the same authority it has today to monitor Qwest's customer
19 service and to enforce the Commission's retail customer service standards and other legal
20 requirements. Furthermore, if the Commission determines that Qwest is not substantially
21 complying with the Commission's service quality requirements, it may suspend Qwest's authority
22 to increase rates until Qwest remedies the situation. In addition, the Commission would have the
23 authority at any time to consider claims that market forces are not sufficient to assure just and
24

25 ⁶ The Commission recently granted exemptions from the service quality reporting requirements to
26 a number of small telecommunications utilities and to Integra Telecom of Oregon, Inc. *See* Order Nos.
07-422 and 07-425, respectively.

1 reasonable rates for specific services without additional regulation, and to impose additional
2 regulation on the rates for such services on that basis. These provisions of Qwest's proposed
3 price plan are described more fully in section IV.F. below.

4 **B. Pricing of Services Under Price Plan**

5 **1. Primary line basic service**

6 Under Qwest's proposed price plan, both non-recurring and recurring rates for "primary
7 line basic service" (defined as the first line per location for all residential and business
8 customers) would be capped. Qwest would be permitted to increase the price cap for monthly
9 recurring charges by up to \$2.00 during the first four years of the plan, and to charge rates up to
10 that cap. Non-recurring charges for these services would be capped at current rates. These caps
11 would apply to the following services: residential single party flat rate local exchange service
12 (IFR); residential single party measured local exchange service, including local exchange usage
13 (IMR); business single party flat rate local exchange service (IFB); and business single party
14 measured local exchange service, including local exchange usage (IMB). The price caps for
15 these services would be eliminated after the fifth year, unless the Commission determines in its
16 review process that primary line basic service should still be subject to price caps for the reason
17 discussed more fully in Section IV.F.1. below. Qwest would also be permitted to eliminate the
18 "two free call" allowance for directory assistance calls. Qwest will continue to offer primary line
19 basic service on a stand-alone basis (*i.e.*, Qwest will not require customers to purchase a package
20 to obtain these services). Plus, Qwest will continue to offer current Telephone Assistance Plans
21 (OTAP, Tribal Lifeline, and Link-Up).

22 **2. Public Access Line (PAL)**

23 The rates for public access line (PAL) service will continue to be regulated by the
24 Commission pursuant to federal requirements.

1 **3. Switched access**

2 Rates for intrastate switched access services would be capped at their current rates.

3 **4. EAS**

4 Rates for extended area service (EAS) would be capped at their current rates. In addition,
5 Qwest shall not be required to establish any new or expanded EAS routes as long as it operates
6 under the price plan.

7 **5. Other regulated retail services**

8 Rates for all other regulated retail services not addressed in the sections above would be
9 price-listed and Qwest would have the flexibility to decrease or increase such rates, subject only
10 to a price floor equal to the total service long run incremental cost for nonessential functions of
11 providing the service and the charges for essential functions used in providing the service.⁷ New
12 telecommunications services introduced by Qwest on or after September 1, 2003 and prior to the
13 effective date of the price plan shall continue to be subject to the price floor set forth in ORS
14 759.410(5).

15 **6. Packages**

16 Qwest would have the authority to offer packages of services, which may include primary
17 line basic service and EAS, at any price, subject only to price floors under ORS 759.255(4).

18 **7. New services**

19 New services will be exempt from regulation. "New service" is defined in the price plan
20 as a retail telecommunications service that is offered in Oregon for the first time following the
21 effective date of the price plan. A significantly enhanced version of an existing service,

22 _____

23 ⁷ For purposes of applying the price floor, "essential functions" is defined in the price plan as
24 those unbundled network elements (UNEs) that ILECs are required to provide pursuant to 47 U.S.C.
25 § 251(c)(3) according to the most current requirements of the FCC. "Nonessential functions" are all other
26 functions used in providing a telecommunications service that are not essential functions. The price of
27 essential functions is the Commission-approved price for UNE purchases by wholesale customers; the
28 price for UNEs without Commission-approved prices is the rate in Qwest's most current Negotiations
29 Template Agreement for Oregon, Exhibit A, which is available at
30 <http://www.qwest.com/wholesale/clecs/sgatswireline.html>.

1 containing new options and/or functionalities, is a new service if the existing service remains
2 available. A service is not a new service if it merely renames, repackages, or is a variation of an
3 existing service, or if it is reintroduced in substantially the same form after having been
4 withdrawn or abandoned.

5 **C. Notice of price changes**

6 Under its proposed price plan, Qwest would provide the Commission notice of price
7 changes for price-capped services by making tariff filings at least 30 days prior to the effective
8 date of such price changes. All other regulated services would be price-listed, and Qwest would
9 make price list filings at least one day prior to the effective date of any price change. Qwest
10 would also provide customers with appropriate notice of price changes for their existing services.

11 **D. Application of other statutes**

12 **1. Waiver of statutes under ORS 759.255(5)**

13 Under ORS 759.255(5), the Commission may, if it approves a plan under
14 ORS 759.255(1), waive, in whole or in part, a telecommunications utility's compliance with the
15 following statutes: ORS 759.120 (accounting requirements); ORS 759.125 (accounts and
16 records); ORS 759.130 (accounts, balance sheets and audits); ORS 759.135 (depreciation
17 accounts); ORS 759.180 to ORS 759.205 (hearing on reasonableness of rates, promotions,
18 suspension of rates, notice of schedule changes, price listing, amortizations, and filed rates);
19 ORS 759.215 (public access to schedules); ORS 759.220 (joint rates and classifications); ORS
20 759.285 (charging rates based on cost of property not presently providing service); and ORS
21 759.300 to ORS 759.393 (issuance of securities generally (759.300 to 759.360) and transactions
22 of utilities generally (759.375 to 759.393)).

23 Qwest proposes that the Commission waive the applicability to Qwest of each of these
24 statutes in full, with the exception of ORS 759.182, pursuant to which Qwest may offer service
25 promotions for primary line basic service and other regulated retail services, and ORS
26

1 759.215(1), pursuant to which Qwest shall make its rate schedules available to the public.

2 Waiver of these requirements is a logical extension of the manner in which Qwest has operated
3 since 1999 under ORS 759.405 to 759.410, and would permit a level of regulatory oversight that
4 is consistent with the elimination of earnings-based regulation.

5 **2. Application of other statutes**

6 Under its price plan, Qwest would retain the ability to petition for exemption from
7 regulation under ORS 759.052 with respect to specific services. Services that the Commission
8 has already deregulated would remain as such. Qwest would also retain the ability to enter and
9 file special contracts for primary line basic service and other regulated services under ORS
10 759.250. Finally, Qwest would retain the ability to file rate schedules for promotions for primary
11 line basic service and other regulated services under ORS 759.182.

12 In addition, Qwest notes that ORS 759.445 authorizes deposits to the Connecting Oregon
13 Communities Fund to be made "by a telecommunications carrier that elects to be subject to ORS
14 759.405 and 759.410, including amounts deposited pursuant to a performance assurance plan
15 implemented by a telecommunications carrier in connection with an application under 47 U.S.C.
16 271, as in effect on January 1, 2002." To the extent that Qwest's ability to deposit monies into
17 this fund depends on Qwest's being subject to ORS 759.405 to 759.410, Qwest commits to do
18 whatever is reasonable and necessary to ensure that any payments it may be required to make
19 under its current performance assurance plan can continue to be made, and will accrue such
20 amounts for future disbursement if necessary while any legal issues are addressed.

21 **3. Waiver of rules under existing and new arrangements with Commission**

22 As discussed above, in Order No. 00-382, the Commission suspended and/or modified
23 filing requirements for Qwest for affiliated interest contracts and related reports (ORS 759.385;
24 Qwest was subsequently exempted by virtue of OAR 860-027-0040(4)). In Order No. 06-514,
25 the Commission simplified Qwest's obligations with respect to certain depreciation and
26

1 accounting issues (OAR 860-027-0050). In correspondence with the Commission in 2004, the
2 Commission agreed to modify certain of Qwest's reporting obligations with respect to service
3 quality and financial information. Qwest entered into additional agreements with Staff in
4 November 2004. Among other things, these agreements reduce and/or simplify Qwest's
5 reporting obligations with respect to Form O and Form I and other financial reports (OAR 860-
6 027-0070), construction budgets (OAR 860-027-0005 and -0015), and affiliated interest
7 transactions (OAR 860-027-0040, -0041, and -0100). In addition, in a Memorandum of
8 Understanding between Qwest and Staff dated May 26, 2004, applied by the Commission in
9 Order No. 04-404, Qwest and Staff agreed to guidelines regarding accounting for the sale of
10 assets and the imposition of municipal charges.

11 Qwest thinks that application of most of the rules referenced above would automatically
12 be waived if the Commission grants Qwest's request to waive the application of certain statutes,
13 as set forth above. To the extent that the Commission denies Qwest's request, or grants only
14 partial exemptions of these statutes, Qwest requests that the current waivers, implemented while
15 Qwest was subject to price cap regulation under ORS 759.405 to 759.410, remain in place under
16 the price plan.

17 Qwest also requests a waiver of the application of the following rules (to the extent not
18 covered above): OAR 860-027-0005 and 860-027-0015 (authorized by *former* ORS 759.100 to
19 759.115); OAR 860-027-0031 (authorized by ORS 759.310 to 759.315); OAR 860-027-0032
20 (authorized by ORS 759.310 to 759.315); OAR 860-027-0040 and -0041 (authorized by ORS
21 759.385 to 759.390); OAR 860-027-0050 and -0052 (authorized by ORS 759.120 to 759.130);
22 OAR 860-027-0070 (authorized by ORS 759.125); and 860-027-0100 (authorized by ORS
23 759.385 to 759.393). None of these rules would apply to Qwest if the Commission grants
24 Qwest's request for a full waiver of the statutes identified above as authorizing the rules. To the
25
26

1 extent that the Commission denies Qwest's request for a full waiver of the statutes, or grants only
2 partial waivers of those statutes, Qwest requests a waiver of application of these rules.

3 Qwest also requests that for purposes of ORS 759.425(2)(a) only, pursuant to which the
4 Commission establishes the prices charged by telecommunications utilities for "basic telephone
5 service," the Commission waive in part the application of OAR 860-032-0190 to the extent that
6 only primary line basic service would be considered "basic telephone service" for purposes of
7 ORS 759.425(2)(a). This would include modifying the classifications in OAR 860-032-
8 0190(3)(a), (b), (c), and (d), which classify residential and business flat rate and measured
9 service as "basic telephone service," and waiving the application of OAR 860-032-0190(3)(e)
10 and (f), which classify private branch exchange (PBX) trunk service and multiline or "complex"
11 business service as "basic telephone service." Under Qwest's proposed price plan, only primary
12 line basic service for residential and business customers would be considered "basic telephone
13 service" for purposes of ORS 759.425(2)(a). Qwest requests pricing flexibility for all residential
14 and business lines beyond the first line to a customer location, and for PBX service, so these
15 services should not be considered "basic telephone service" for purposes of applying ORS
16 759.425(2)(a). For all other purposes involving application of the rule, including administration
17 and distribution of the universal service fund, Qwest would still be subject to the definition of
18 "basic telephone service" found in OAR 860-032-0190.

19 **E. Objectives of Plan**

20 Qwest's price plan will achieve the following objectives:

- 21 • Ensure that the quality of existing telecommunications services will stay at
22 current high levels;
- 23 • Maintain the availability of primary line basic service at affordable rates;
- 24 • Allow Qwest to price other services competitively with services offered by other
25 providers, including those using landline, wireless, cable, and VOIP technologies;

- Guarantee the investment of \$2 million, of which at least \$1 million will be spent for additional inter-office route diversity and/or DSL deployment, and up to \$1 million will be spent to construct "last-mile" connections to certain K-12 schools in connection with the State of Oregon Department of Education's "EBITs" project; and
- Simplify the burden of regulation for both Qwest and the Commission.

F. Conditions for Review of Plan

1. Five-year reviews

Qwest's performance under the price plan will be comprehensively reviewed by the Commission every five years. To commence that review, Qwest will file a detailed report regarding its performance as compared to the objectives of the plan by the 90th day of the fifth year of operation under the plan, and every five years thereafter. The Commission shall consider during the first such review whether elimination of the price caps for primary line basic service is appropriate or whether such services must continue to be subject to price caps. In making this determination, the Commission shall consider whether market forces are sufficient to ensure just and reasonable rates for primary line basic service, considering all functionally equivalent or substitutable services regardless of the technology they employ. The Commission shall also review the market for other telecommunications services that are functionally equivalent or substitutable for services offered by Qwest and determine whether other modifications to the plan are appropriate to provide Qwest with additional regulatory flexibility beyond that included in the original price plan.

The Commission shall also evaluate Qwest's performance as compared to the objectives of the plan. If the Commission determines that Qwest has not satisfied its objectives, the Commission shall enter discussions with Qwest to establish an agreement, including a timeline and a process, under which Qwest shall achieve compliance with the objectives.

1 **2. Ongoing conditions for review**

2 **a. Review of service quality**

3 The Commission may review Qwest's retail customer service quality at any time during
4 operation of the price plan. The Commission shall first apply the procedures and remedies found
5 in ORS 759.450 and OAR 860-023-0055. If, after applying these procedures and remedies, the
6 Commission determines after a hearing that Qwest is not substantially complying with the
7 Commission's retail service standards, then the Commission shall have the authority to suspend
8 Qwest's authority under the price plan to increase retail prices until such time as Qwest is
9 substantially complying with the Commission's retail service quality standards. If the
10 Commission makes such a determination, it shall enter discussions with Qwest to establish an
11 agreement, including a timeline and a process, under which Qwest shall achieve substantial
12 compliance with the standards.

13 **b. Review of rate increases**

14 The Commission may also investigate Qwest's rate for a specific service at any time upon
15 receiving complaints by Qwest customers who purchase, individually or collectively, the lesser
16 of 500 units or 10 percent of the current units of that service, or by Commission Staff, made
17 within 60 days after the effective date of the most recent price change for that service. The
18 Commission shall follow its ordinary hearing procedures and the party(ies) bringing the
19 complaint shall have the burden to prove that market forces are not sufficient to assure just and
20 reasonable rates for that specific service without additional regulation, considering all
21 functionally equivalent or substitutable services regardless of the technology they employ. The
22 Commission shall deny the complaint if Qwest's rates for the service at issue is within 10 percent
23 of the rate charged by another provider for a functionally equivalent or substitutable service. If
24 the Commission sustains such a complaint, the Commission may impose a price cap for the
25 specific service, which shall be no less than the higher of (a) the rate that was in effect before the
26 most recent price change for that service or (b) the rate charged by any another provider for a

1 functionally equivalent or substitutable service plus 10 percent. Upon request by Qwest, to be
2 made no sooner than 12 months after a Commission decision sustaining such a complaint, the
3 Commission shall review the continued need for a price cap for the service based upon the same
4 factors to be applied in deciding the complaint.

5 **G. Establishment of Initial Rates**

6 Rates charged under a price plan approved pursuant to ORS 759.255 are to be "without
7 regard to the return on investment of the utility." ORS 759.255(1). ORS 759.255(2)(a) also
8 requires that the prices under a price plan be "just and reasonable." The initial rates that Qwest
9 proposes for its price plan are Qwest's current rates, which this Commission has previously
10 determined to be just and reasonable. The Commission has had oversight of Qwest's rates for
11 basic service under ORS 759.425(2). Qwest's rates for non-basic services have been price-
12 capped since 1999 under ORS 759.405 to 759.410. Qwest's current rates are just and reasonable
13 for these reasons alone.

14 Moreover, Qwest's rates in other states and the rates charged by other carriers in Oregon,
15 including telecommunications utilities, for similar services are also comparable to Qwest's
16 current rates in Oregon. Qwest's current basic line rates for single line residence and business
17 customers are among the lowest in Qwest's 14-state territory. *See* Exhibit B.

18 In Oregon, Qwest's residential basic service line rates are comparable to the other
19 providers. Within the Portland EAS region, Qwest's residential rates including EAS are the
20 lowest among local exchange carriers ("LECs") including a representative sample of small
21 company rates.

1 **Portland EAS Region Local Exchange Carrier Residential Rates**

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	<u>Residential Rate</u>	<u>EAS</u>	<u>Total</u>
3 Qwest	\$12.80	\$2.20 or \$4.97	\$15.00 or \$17.77
4 Verizon	\$12.59	\$5.03 or \$8.19	\$17.62 or \$20.78
5 Century	\$12.48	\$10.00	\$22.48
Embarq	\$12.48	\$9.00	\$21.48
6 Canby Telecom	\$12.80	\$11.28	\$24.08
7 Cascade Utilities	-	-	\$25.00

8 The primary competitive service providers for residential service in the Portland
9 metropolitan area, cable and wireless, typically offer bundles of local service, features, and long-
10 distance which make direct comparisons more difficult. Comcast, which competes for telephone
11 service in most of Qwest's metropolitan areas, offers its Digital Voice service from \$39.95 to
12 \$44.95, depending on other Comcast services purchased, although it is frequently promoted at
13 \$33.00 or less. Comparable wireless service offerings from the major wireless providers in the
14 Portland area are typically priced at approximately \$39.99. The Qwest wireline service that
15 comes closest to matching these competitive bundles in terms of feature offerings would be
16 Qwest Choice Home Plus with Unlimited Long Distance added for a total of \$52.99 (plus EAS).

17 In addition to competitive cable and wireless offerings, independent VoIP providers offer
18 attractively priced residential packages of services. For example, Vonage, which is probably the
19 best known of this type of provider, offers a "Premium Unlimited" package with unlimited local
20 and long distance calling, and a package of features including call waiting, caller ID, 3-way
21 calling, and voice messaging, for \$24.99 per month. Vonage also offers a "Basic 500" plan
22 which includes 500 local or long-distance minutes per month and the same package of features
23 as their unlimited package for \$14.99 per month, which is priced just above Qwest's stand-alone
24 residential line. Given the significant penetration of broadband services in Oregon, these types
25 of packages are priced significantly below comparable Qwest services.

1 Residential rates around the state show similar pricing relationships to Portland. The
2 following chart shows residential rates for local exchange carriers and wireline competitors for
3 the Medford EAS area, Bend, and Hermiston, which represent a variety of areas and competitors.
4 Competitive wireless offerings and independent VoIP offerings, as previously discussed, are also
5 available.

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Residential Rates Outside Portland Area

	<u>Residential Rate</u>	<u>EAS</u>	<u>Total</u>
Medford EAS Region			
Qwest	\$12.80	\$2.20	\$15.00
Embarq	\$13.43	\$9.00	\$22.43
Verizon	\$12.59	\$5.60	\$18.19
Bundles			
Qwest (1)	\$52.99	\$2.20	\$55.19
Charter (2)			\$44.99
Promo rate for 3 mos.			\$29.99
Bend Area			
Qwest	\$12.80	\$1.28	\$14.08
Century (except Silver Lake)	\$12.48	\$6.50	\$18.98
Century – Silver Lake	\$16.55	\$6.50	\$23.05
BendBroadband	-	-	\$18.95
Bundles			
Qwest (1)	\$52.99	\$1.28	\$54.27
BendBroadband (3)			\$38.95
Hermiston Area			
Qwest	\$12.80	\$1.28	\$14.08
Century	\$12.48	\$5.00	\$17.48
Eastern Oregon Telecom	\$11.50	\$1.28	\$12.78

- Notes: (1) Qwest Choice Home (10 features including voice mail) + Unlimited Long Distance
 (2) Unlimited local and long-distance; 10 features including voicemail.
 (3) Unlimited local and long-distance; 15 features including voicemail.

With respect to business rates in the Portland EAS Region, Qwest's rates including EAS are among the lowest of the LECs:

1 **Portland EAS Region Local Exchange Carrier Business Rates**

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	<u>Business Rate</u>	<u>EAS</u>	<u>Total</u>
3 Qwest	\$26.00	\$3.27 or \$7.49	\$29.27 or \$33.49
4 Verizon	\$19.00	\$5.28 or \$8.60	\$24.28 or \$27.60
5 Century	\$20.31	\$15.00	\$35.31
6 Embarq	\$24.00	\$14.85	\$38.85
7 Canby Telecom	\$18.20	\$16.92	\$35.12
8 Cascade Utilities	-	-	\$40.00

9 Business rates around the state show a similar pricing relationship to Portland. The
10 following chart shows business rates for LECs and wireline competitors for the Medford EAS
11 area, Bend, and Hermiston, which represent a variety of areas and competitors.

12 **Business Rates Outside Portland Area**

	<u>Business Rate</u>	<u>EAS</u>	<u>Total</u>
Medford EAS Region			
14 Qwest	\$26.00	\$2.37	\$28.37
15 Embarq	\$24.00	\$14.85	\$38.85
16 Verizon	\$28.27	\$8.50	\$36.77
Bend Area			
17 Qwest	\$26.00	\$1.95	\$27.95
18 Century (other than Silver 19 Lake)	\$20.31	\$9.75	\$30.06
20 Century - Silver Lake	\$27.25	\$9.75	\$37.00
Hermiston Area			
21 Qwest	\$26.00	\$1.95	\$27.95
22 Century	\$20.31	\$7.47	\$27.78
23 Eastern Oregon Telecom	\$23.75	\$1.95	\$25.70

24 AT&T, BendTel, BendBroadband, Eastern Oregon Telecom, Global Crossing, Integra
25 Telecom (including recently acquired CLECs Eschelon (which recently acquired UNICOM) and
26 ELI), MCI/Verizon, McLeodUSA, Time Warner, Rio Communications, and XO

1 Communications all offer a variety of competitive business services in Oregon. Because CLECs
2 are not required to file their prices with the Commission, specific pricing information is difficult
3 to obtain. Generally, based on tariff reviews done in other states, website information as
4 available, and local sales team experience in Oregon, Qwest believes that CLECs price their
5 services at price points that are very competitive with Qwest's rates, and often offer an even
6 greater choice of features than Qwest. In addition, individual CLEC price offers sometime vary
7 from customer to customer, apparently reflecting the perceived value of having that customer's
8 business under contract.

9 As previously mentioned, Comcast is beginning to compete in the small business voice
10 and data market, targeting accounts which have approximately 20 employees and fewer than 20
11 lines with a bundled offer priced at \$49.95 for unlimited local and long distance plus a variety of
12 features including voice mail. A comparable Qwest bundle would be Qwest Choice Business for
13 \$39.99, plus unlimited long distance for an incremental price of \$20.00, for a total price of
14 \$59.99 (plus EAS). Other traditional cable providers, including Charter in southern Oregon and
15 BendBroadband, offer business services but do not publish rates for business services on their
16 websites.

17 In addition, previously-mentioned wireless packages are also available to business
18 customers at the same price because wireless carriers typically do not differentiate their offerings
19 by class of customer. Independent VoIP providers such as Vonage also have very attractively
20 priced offerings for the small business market. Vonage offers its "Small Business Basic" service
21 at \$39.99, which includes a standard package of calling features plus 1,500 minutes per month of
22 local and long distance calling, as well as its "Small Business Premium Unlimited Plan" with
23 unlimited calling plus features for \$49.99.

24 Finally, there is no reason for the Commission to require Qwest to file a traditional,
25 general rate case *before* starting to operate under its price plan, for at least two reasons. First, as
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1 noted above, the rates charged under a price plan approved pursuant to ORS 759.255 are to be
2 "without regard to the return on investment of the utility." ORS 759.255(1). Therefore, it would
3 be inconsistent with the statute for the Commission to require Qwest to undergo an earnings-
4 based rate case before entering a price plan. Second, if the Commission approves Qwest's
5 proposed price plan, Qwest will be allowed to increase its rates for many services, subject only to
6 the price-constraining pressures of the competitive market. If Qwest has that pricing flexibility,
7 there is no reason to require the expense and burden of a general rate case to establish initial
8 rates.

9 **H. Transition from Price Cap Regulation Under ORS 759.405 to 759.410 to Price Plan**

10 Upon entry of a Commission order approving a price plan on terms and conditions that
11 are acceptable to Qwest, Qwest will provide notice to the Commission which (1) accepts the
12 Commission's order and indicates Qwest's intention to enter the price plan and (2) provides
13 notice of Qwest's election *out of* ORS 759.405 to 759.410, to be effective simultaneously with
14 Qwest's commencement of operation under the price plan.

15 **V. APPROVAL OF PRICE PLAN IS IN THE PUBLIC INTEREST**

16 **A. The Plan Ensures Prices for Telecommunications Services That Are Just and Reasonable**

17 With respect to primary line basic service, the plan ensures that prices will remain at a
18 just and reasonable level. Qwest's monthly rate of \$12.80 for residential service for the majority
19 of customers has not increased for more than 20 years. The plan will allow a modest increase of
20 those rates up to \$2.00 during the first four years of the plan, and such rates are just and
21 reasonable as compared to the prices charged by Qwest in other states, the prices charged by
22 other telecommunications utilities in Oregon, and the prices of other competitive options, and in
23 view of the rate of inflation. The plan also caps the rates for EAS and switched access services
24 at their current rates, which were approved by the Commission in Qwest's last general rate case,
25 Docket UT 125 in 2001, and other EAS proceedings. The Commission has already determined
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1 that all of these rates are just and reasonable, and they continue to be so today, especially in view
2 of inflation.

3 With respect to all other services, the Commission established just and reasonable rates in
4 2001 in Docket UT 125, and the rates for these services have been capped at those levels since
5 that time. In addition, the price floor under ORS 759.255(4) ensures that the rates will be just
6 and reasonable from competitors' perspectives. Moreover, the highly competitive market for
7 these services – which includes a number of different technologies and a large number of
8 different providers, many of whom are unregulated – ensures that the rates that Qwest charges
9 under the price plan will remain just and reasonable.

10 **B. The Plan Ensures High Quality of Existing Telecommunications Services and**
11 **Makes New Services Available**

12 **1. Qwest will be fully subject to the Commission's retail service quality rules.**

13 Qwest will continue to be subject to the Commission's existing, thorough retail service
14 quality rules. This will ensure that Qwest continues to provide its existing telecommunications
15 services at high quality. Qwest also commits not to seek a waiver from the Commission of the
16 service quality reporting requirements during the first five years of the plan.

17 **2. Qwest will make investments to improve the quality of service and to make**
18 **new services available.**

19 Qwest will also commit to invest \$2 million to continue to improve the quality of its
20 already robust network, increase the deployment of advanced services, and help to bring
21 broadband connections to Oregon's K-12 schools. As part of Qwest's election of price cap
22 regulation under ORS 759.405 to 759.410 ("SB 622"), Qwest made an infrastructure
23 commitment of \$120 million, which was 20 percent of Qwest's gross regulated intrastate revenue
24 for the proceeding year. ORS 759.405(2). Of this amount, Qwest spent \$70 million to meet the
25 needs for increased bandwidth, route diversity, and access to advanced telecommunications
26 services for Oregon residents, focusing on the needs of rural customers.

1 The projects Qwest funded included the construction of five self-healing fiber rings built
2 around the state, bringing route diversity and redundancy to nearly every Oregon community in
3 Qwest's service territory. This makes it possible to instantly reroute voice and data traffic in the
4 event a cable is cut or service is otherwise interrupted, reducing the number of times individual
5 communities may be isolated from the rest of the state in such events. In addition, every Qwest
6 central office was equipped to offer digital subscriber line (DSL) service, bringing high-speed
7 Internet access to most customers in both urban and rural areas of the state. Many communities
8 around the state also received advanced, high-speed data switches and voice mail technology.
9 Upon completion of these network enhancements, Qwest's Oregon infrastructure became the
10 most advanced in its 14-state territory, if not the nation, and Oregon was well ahead of Qwest's
11 other states with respect to the availability of DSL service.

12 Even with the advanced capabilities of Qwest's current network, there are certain
13 enhancements that were not funded as part of the SB 622 infrastructure plan or have developed
14 since that time. In order to address some of these needs in connection with this price plan, Qwest
15 commits to spend a total of \$2 million on projects that are "borderline" in terms of economic
16 viability, thus accelerating projects that might not occur until later, if at all. Qwest will spend at
17 least \$1 million of this money on a combination of additional network improvements and
18 expanding the availability of DSL service, and up to another \$1 million to support a state high-
19 speed data network to serve K-12 schools.

20 One network enhancement that Qwest has reviewed is the possibility of enhancing the
21 fiber rings deployed as a part of Qwest's SB 622 investment by installing "mini" fiber rings
22 connecting to the main rings which would provide redundancy and diversity for communities
23 currently served via a single route, non-redundant fiber spur. For example, the installation of a
24 mini-ring in southern Oregon, which would provide redundancy and diversity to Winston, could
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1 also provide additional diversity to the southern Oregon coast and is the type of project that
2 should be considered as an investment feature of this plan that has clear public benefits.

3 Oregon is one of only two states in which Qwest has deployed DSL to every one of its
4 central offices, resulting in over 80 percent of the living units in Qwest's Oregon service territory
5 being "DSL capable." Qwest has identified a number of locations around the state where the
6 deployment of DSL could be expanded within certain central offices, many in smaller rural
7 communities. If DSL deployment were expanded in these locations, DSL availability would
8 increase by several thousand additional living units in Qwest's serving area.

9 Qwest has identified more mini-fiber ring and DSL projects than can be funded by the
10 \$1 million commitment, so choices must be made as to the type of project(s) and specific
11 locations. There may also be some synergies among various projects that can be determined
12 only after specific combinations of projects are reviewed. Qwest will work with Commission
13 Staff and/or another party designated by the Commission to determine which specific projects
14 make the best use of these monies.

15 Qwest has also identified the need for financial support for the State of Oregon
16 Department of Education's high-speed data network "EBITs" project, which is designed to
17 provide a 10-Mb Ethernet service to K-12 schools throughout Oregon. Preliminary review of the
18 school locations in Qwest's territory indicates that many schools will require an upgrade of the
19 "last mile" facilities in order to obtain the 10-Mb service. The Oregon Department of Education
20 has already committed \$400,000 for this purpose and, as part of this price plan, Qwest will match
21 the Department of Education's investment with up to a total of \$1 million of its own money to
22 provide funding for last-mile connections, resulting in more schools having access to this
23 network.

24 Qwest's infrastructure commitment ensures that advanced services will be made available
25 to more customers and schools, and that Qwest's network will be even more reliable. Moreover,
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1 the price plan would give Qwest additional pricing flexibility that will enable it to compete more
2 effectively in the telecommunications market in Oregon. It is competition that encourages Qwest
3 and all competing carriers to develop and deploy new products and services, and to maintain the
4 highest levels of service quality, to capture and retain market share.

5 **C. The Plan Maintains the Appropriate Balance Between the Need for Regulation and**
6 **Competition**

7 Qwest currently faces competition for all of its services from a number of sources:
8 CLECs utilizing wireline facilities, wireless companies, cable companies, and VOIP providers.
9 The price plan would maintain a greater degree of regulation with respect to primary line basic
10 services while providing Qwest with additional regulatory flexibility in other areas. The plan
11 ensures the continued availability of several services at regulated rates: primary line basic
12 services, EAS, and switched access. These services will be price-capped and tariffed. On the
13 other hand, more highly competitive services will be subject to lessened regulation; Qwest will
14 have the ability to adjust the prices for these services upon one day's notice. These prices will
15 still be filed with the Commission and made publicly available, even while those of Qwest's
16 competitors are not. In addition, Qwest will continue to be subject to all existing service quality
17 requirements. In these ways, the plan maintains an appropriate balance between the need for
18 regulation and competition.

19 **D. The Plan Simplifies Regulation**

20 As provided by ORS 759.255(5), Qwest requests that the Commission waive compliance
21 with several statutes. The waiver of ORS 759.120, 759.125, 759.130, and 759.135 will simplify
22 the financial accounts and records that Qwest will be required to maintain, and allow Qwest to
23 maintain its records in a more uniform manner across its 14 states. This will simplify the
24 regulation of Qwest and enable it to conserve expenses. In addition, eliminating or reducing the
25 filing requirements under these statutes will simplify the regulatory burden on the Commission
26 and enable it to conserve resources. The waiver of ORS 759.180 to 759.205 (with the exception

1 of 759.182), 759.215(2), 759.220, and 759.285 will simplify the rate regulation of Qwest as well
2 as the burden on the Commission to review and approve Qwest's rates. Qwest would file tariffs
3 only for primary line basic service, EAS, and switched access services under the price plan. All
4 other regulated services would be price-listed. This would ease the existing burden on the
5 Commission and Staff to review and approve Qwest's tariff filings. The waiver of 759.300 to
6 759.393 will reduce the burdens on both Qwest and the Commission with respect to both the
7 issuance of securities (759.300 to 759.360) and certain transactions, including those with
8 affiliated interests (ORS 759.375 to 759.393).

9 The reduced reporting obligations and lessened regulatory requirements are a logical
10 extension of the manner in which Qwest has operated since 1999 under ORS 759.405 to 759.410,
11 and permit a level of regulatory oversight that is consistent with the elimination of earnings-
12 based regulation. This will streamline and simplify the regulatory reporting process while
13 continuing to provide the Commission with the information it needs to carry out its regulatory
14 responsibilities. It should also enable the Commission to apply its limited resources to those
15 industries that may require higher levels of regulatory supervision.


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VI. CONCLUSION

For the foregoing reasons, Qwest respectfully requests that the Commission approve Qwest's proposed price plan.

DATED: October 26, 2007

QWEST CORPORATION

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QWEST'S PRICE PLAN UNDER ORS 759.255

I. Definitions

- A. "Essential functions" means those unbundled network elements (UNEs) that ILECs are required to provide pursuant to 47 U.S.C. § 251(c)(3) according to the most current requirements of the FCC. "Nonessential functions" are all other functions used in providing a telecommunications service that are not essential functions. The price of essential functions is the Commission-approved price for UNE purchases by wholesale customers; the price for UNEs without Commission-approved prices is the rate in Qwest's most current Negotiations Template Agreement for Oregon, Exhibit A, which is available at <http://www.qwest.com/wholesale/clecs/sgatswireline.html>.
- B. "Functionally equivalent or substitutable" means that a service provides similar functionality or meets similar customer needs as the service to which it is being compared, even if the services are not identical, without regard to the technology used to provide the service or whether the service or provider are subject to regulation by the Commission.
- C. "New service" means a retail telecommunications service that is offered in Oregon for the first time following the effective date of this price plan. A significantly enhanced version of an existing service, containing new options and/or functionalities, is a new service if the existing service remains available. A service is not a new service if it merely renames, repackages, or is a variation of an existing service, or if it is reintroduced in substantially the same form after having been withdrawn or abandoned. "New service" does not include an SB 622 new telecommunications service.
- D. "Primary line basic service" means the first line only of basic local exchange service to an individual residential or business customer location that is not sold as part of a package. For purposes of this definition, "basic local exchange service" means residential single party flat rate local exchange service (1FR); residential single party measured local exchange service, including local exchange usage (1MR); business single party flat rate local exchange service (1FB); and business single party measured local exchange service, including local exchange usage (1MB).
- E. "SB 622 new telecommunications service" means a new telecommunications service introduced by Qwest on or after September 1, 2003 and prior to the effective date of the price plan and priced pursuant to ORS 759.410(5).

II. Objectives of Price Plan

- A. **General objectives.** Qwest's price plan will achieve the following objectives:
1. Ensure that the quality of existing telecommunications services will stay at current high levels;

2. Maintain the availability of primary line basic service at affordable rates;
3. Allow Qwest to price other services competitively with services offered by other providers, including those using landline, wireless, cable, and VoIP technologies;
4. Make new telecommunications services available; and
5. Simplify the burden of regulation for both Qwest and the Commission.

B. Specific commitments.

1. **Network investment.** Qwest will invest a total of \$2 million in network improvements. Of this total amount, Qwest will invest at least \$1 million for additional DSL deployment and/or inter-office route diversity; the specific projects will be agreed to by Qwest and Commission Staff or its designee. Qwest will invest up to an additional \$1 million to construct "last mile" connections to certain K-12 schools in connection with the State of Oregon Department of Education's "EBITs" project, matching the level of the Department of Education's investment up to \$1 million. These investments will be made during the first four years of the price plan.
2. **Service quality reporting.** Qwest will not seek an exemption from its current service quality reporting requirements pursuant to OAR 860-023-0055(16)(d) during the first five years of the price plan.

III. Pricing and Availability of Services Under Price Plan

- A. **Initial Rates.** The rates that Qwest charges upon commencing operation under the price plan shall be its current rates. These rates are subject to adjustment as provided below.
- B. **Primary line basic service.** Both non-recurring and recurring rates for primary line basic service are capped. Qwest is permitted to increase the price cap for monthly recurring charges by up to \$2.00 during the first four years of the plan, and to charge rates up to that cap. Non-recurring charges for these services are capped at current rates. The price caps for these services will be eliminated after the fifth year, unless the Commission determines in its review process that primary line basic service should still be subject to price caps for the reasons discussed more fully in Section V.A.2. below. Qwest may eliminate the "two free call" allowance for directory assistance calls. Qwest will continue to offer primary line basic service on a stand-alone basis (*i.e.*, Qwest will not require customers to purchase a package to obtain these services).
- C. **Telephone Assistance Plans.** Qwest will continue to offer current Telephone Assistance Plans (OTAP, Tribal Lifeline, and Link-Up) pursuant to state and federal requirements.

- D. Public Access Lines.** The rates for public access line (PAL) service will continue to be regulated by the Commission pursuant to federal requirements.
- E. Switched access.** Rates for intrastate switched access services are capped at their current rates.
- F. EAS.** Rates for extended area service (EAS) are capped at their current rates. Qwest shall not be required to establish any new or expanded EAS routes as long as it operates under the price plan.
- G. Other retail services.** Rates for all other regulated retail services not addressed in the sections above are price-listed. Qwest has the flexibility to increase or decrease such rates, subject only to a price floor equal to the total service long run incremental cost for nonessential functions of providing the service and the charges for essential functions used in providing the service. SB 622 new telecommunications services shall continue to be subject to the price floor set forth in ORS 759.410(5).
- H. Packages.** Qwest has the authority to offer packages of services, which may include primary line basic service and EAS, at any price, subject only to price floors under ORS 759.255(4).
- I. New services.** New services shall be exempt from regulation.
- J. Notice of price changes.** Qwest will provide the Commission notice of price changes for price-capped services by making tariff filings at least 30 days prior to the effective date of such price changes. All other regulated services are price-listed, and Qwest will make price list filings at least one day prior to the effective date of any price change. Qwest will also provide customers with notice of price changes for existing services.
- K. Deregulated services.** Services that the Commission has already ordered to be deregulated shall remain as such. Qwest retains the ability to petition the Commission to deregulate additional services under ORS 759.052.
- L. Special contracts.** Qwest may offer primary line basic service and other regulated services under special contracts pursuant to ORS 759.250.
- M. Promotions.** Qwest may offer promotions for primary line basic service and other regulated services pursuant to ORS 759.182.
- IV. Waiver of statutes and rules**
- A. Statutes.** Qwest's compliance with the following statutes, and all Commission rules implementing these statutes, is waived:
- ORS 759.120

- ORS 759.125
- ORS 759.130
- ORS 759.135
- ORS 759.180 to ORS 759.205 (with the exception of 759.182)
- ORS 759.215(2)
- ORS 759.220
- ORS 759.285
- ORS 759.300 to ORS 759.393

B. Rules. Qwest's compliance with the following Commission rules is waived:

- OAR 860-027-0005
- OAR 860-027-0015
- OAR 860-027-0031
- OAR 860-027-0032
- OAR 860-027-0040
- OAR 860-027-0041
- OAR 860-027-0050
- OAR 860-027-0052
- OAR 860-027-0070
- OAR 860-027-0100
- OAR 860-032-0190 to the extent that only primary line basic service is considered "basic telephone service" for purposes of ORS 759.425(2)(a) only. This includes modifying the classifications in OAR 860-032-0190(3)(a), (b), (c), and (d) to include only primary line basic service and waiving the classifications in OAR 860-032-0190(3)(e) and (f). For all other purposes involving application of the rule, including administration and distribution of the universal service fund, Qwest would still be subject to the definition of "basic telephone service" found in OAR 860-032-0190.

C. Application of Existing Waivers and Arrangements

As discussed in section IV.D.3. of Qwest's Petition, the Commission has by order and agreement clarified, modified, and waived certain regulatory requirements for Qwest while it operated under ORS 759.405 to 759.410. To the extent that the Commission does not fully waive the statutory and regulatory requirements as requested by Qwest, the orders and agreements referenced in Appendix A hereto shall continue to apply under the price plan.

V. Conditions for Review of Qwest's Performance Under Plan

A. Five-year reviews. Qwest's performance under the price plan will be comprehensively reviewed by the Commission every five years. To commence that review, Qwest will file a detailed report regarding its performance as compared to the objectives of the plan by the 90th day of the fifth year of operation under the plan, and every five years thereafter unless and until ordered otherwise by the Commission.

1. Performance of objectives. The Commission shall evaluate Qwest's performance as compared to the objectives of the plan. If the Commission determines that Qwest has not satisfied its objectives, the Commission shall enter discussions with Qwest to establish an agreement, including a timeline and a process, under which Qwest shall achieve compliance with the objectives.

2. Evaluation of market, modifications to plan. The Commission shall consider during the first such review whether elimination of the price caps for primary line basic service is appropriate or whether such services must continue to be subject to price caps. In making this determination, the Commission shall consider whether market forces are sufficient to ensure just and reasonable rates for primary line basic service, considering all functionally equivalent or substitutable services. The Commission shall also review the market for other telecommunications services that are functionally equivalent or substitutable for services offered by Qwest and determine whether other modifications to the plan are appropriate to provide Qwest with additional regulatory flexibility beyond that included in the original price plan.

B. Ongoing conditions for review

1. Review of service quality. The Commission may review Qwest's retail customer service quality at any time during operation of the price plan. The Commission shall first apply the procedures and remedies found in ORS 759.450 and OAR 860-023-0055. If, after applying these procedures and remedies, the Commission determines after a hearing that Qwest is not substantially complying with the Commission's retail service standards, then the Commission shall have the authority to suspend Qwest's authority under the price plan to increase retail prices until such time as Qwest is

substantially complying with the Commission's retail service quality standards. If the Commission makes such a determination, it shall enter discussions with Qwest to establish an agreement, including a timeline and a process, under which Qwest shall achieve substantial compliance with the objectives.

2. **Review of rate increases.** The Commission may investigate Qwest's rate for a specific service at any time upon receiving complaints by Qwest customers who purchase, individually or collectively, the lesser of 500 units or 10 percent of the current units of that service, or by Commission Staff, made within 60 days after the effective date of the most recent price change for that service. The Commission shall follow its ordinary hearing procedures and the party(ies) bringing the complaint shall have the burden to prove that market forces are not sufficient to assure just and reasonable rates for that specific service without additional regulation, considering all functionally equivalent or substitutable services. The Commission shall deny the complaint if Qwest's rate for the service at issue is within 10 percent of the rate charged by another provider for a functionally equivalent or substitutable service. If the Commission sustains such a complaint, the Commission may impose a price cap for the specific service, which shall be no less than the higher of (a) the rate that was in effect before the most recent price change for that service or (b) the rate charged by any another provider for a functionally equivalent or substitutable service plus 10 percent. Upon request by Qwest, to be made no sooner than 12 months after a Commission decision sustaining such a complaint, the Commission shall review the continued need for a price cap for the service based upon the same factors to be applied in deciding the complaint.

Fourteen State Qwest Rates
Weighted Average

	AZ	CO	IA	ID	MN	MT	ND	NE	NM	OR	SD	UT	WA	WY***
1FR rate*	\$12.84	\$14.88	\$16.59	\$19.40	\$14.46	\$16.67	\$17.42	\$18.01	\$13.50	\$12.93	\$17.12	\$11.00	\$12.50	\$23.07
EAS	**	**	**	**	\$0.60	\$2.58	\$0.88	\$1.03	\$0.33	\$2.04	**	\$2.13	**	\$0.17
ZONE INC****	\$0.12	NA	NA	NA	NA	\$1.06	NA	NA	NA	NA	NA	NA	NA	\$9.67
Total Res	\$12.96	\$14.88	\$16.59	\$19.40	\$15.05	\$20.31	\$18.30	\$19.04	\$13.83	\$14.97	\$17.12	\$13.13	\$12.50	\$32.91
1FB rate*	\$30.36	\$35.00	\$33.88	\$32.36	\$40.50	\$33.82	\$28.65	\$27.51	\$34.36	\$26.18	\$34.84	\$21.99	\$26.87	\$23.08
EAS	**	**	**	**	\$1.43	\$2.57	\$1.90	\$1.54	\$0.68	\$3.07	**	\$4.11	**	\$0.19
ZONE INC****	\$0.05	NA	NA	NA	NA	\$0.43	NA	NA	NA	NA	NA	NA	NA	\$5.36
Total Bus	\$30.41	\$35.00	\$33.88	\$32.36	\$41.93	\$36.82	\$30.55	\$29.05	\$35.03	\$29.25	\$34.84	\$26.10	\$26.87	\$28.63

* Weighted average rates (includes both retail and resale lines).

** The EAS rate is included as part of the line rate.

*** Wyoming Rural Customers receive State and Federal USF credits.

**** Local zone increments required with local service.