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Carla M. Butler
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February 11, 2008

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

Re: UM 1354

Dear Ms. Nichols Anglin:

Enclosed for filing in the above entitled matter please find an original and (5) copies of Qwest Corporation's Amended Petition for Approval of Price Plan Pursuant to ORS 759.255, and the Direct Testimony of David L. Teitzel (Qwest/1 – Qwest/5). Please note Exhibit Qwest/2, and page 13 of Mr. Teitzel's testimony is Confidential, printed on yellow paper, and sealed in an envelope. Also enclosed is 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".

Carla M. Butler

CMB:

Enclosure

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

3 UM 1354

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

AMENDED 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 files this amended
9 petition for approval of a price plan in the form attached hereto as Exhibit A. Qwest provides the
10 following information in support of this amended 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
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Portland, OR 97209
Tel.: 503-727-2019
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LReichman@perkinscoie.com

1 **II. BACKGROUND**

2 **A. Summary of ORS 759.255**

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

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

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

17 ORS 759.255(2).

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

20 ORS 759.255(3). In addition, prices charged under the plan are subject to a price floor equal to
21 “the total service long run incremental cost, for nonessential functions, of providing the service
22 and the charges of essential functions used in providing the service.” ORS 759.255(4). The
23 rates for residential local exchange service are not subject to a price floor. *Id.*

24 **B. Qwest’s Election of Price Cap Regulation Under ORS 759.405 to 759.410**

25 On December 29, 1999, Qwest elected to be subject to price cap regulation under
26 ORS 759.405 to 759.410, and Qwest is currently regulated under those statutes. Based upon its

1 election, Qwest is subject to regulation only under ORS 759.405 to 759.410, and is not subject to
2 any other retail regulation, including any form of earnings-based, rate-based or rate-of-return
3 regulation. ORS 759.410(2).

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

13 While Qwest has been operating under ORS 759.405 to 759.410, the Commission has
14 issued orders and Commission Staff has entered into several agreements with Qwest that have
15 simplified Qwest’s regulatory obligations, consistent with the fact that Qwest is not subject to
16 earnings-based regulation. In Order No. 00-382, the Commission suspended and/or modified
17 filing requirements for Qwest for affiliated interest contracts and related reports. In Order No.
18 06-514, the Commission simplified Qwest’s obligations with respect to certain depreciation and
19 accounting issues (OAR 860-027-0050). On September 9, 2003, Qwest and Commission Staff
20 agreed to certain “Guidelines” which clarified, modified, and/or waived Qwest’s obligations
21 under various statutes and Commission rules. The subjects addressed include:
22 withdrawal/abandonment of service (OAR 860-032-0020); special contracts (ORS 759.250);
23 calculation of price floors; promotions (ORS 759.182, OAR 860-026-0025(2)); affiliate interest
24 filings (ORS 759.385 *et seq.*); and financial reporting (*former* ORS 759.100 to 759.115; ORS
25 759.120 to 759.130). In correspondence with the Commission in 2004, the Commission agreed
26

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

9 **C. Overview of Today’s Competitive Telecommunications Marketplace**

10 The competitive landscape has changed dramatically during the time Qwest has been
11 operating under price cap regulation. In addition to traditional CLEC wireline competitors, the
12 telecommunications marketplace is well into a period of “convergence,” where wireless and
13 broadband Internet-based services are causing declines in the number of traditional (landline)
14 telephone lines in the state. For a more detailed description of the competitive
15 telecommunications marketplace in Oregon today, Qwest refers to the Direct Testimony of
16 David Teitzel, filed concurrently with this amended petition, which is incorporated herein.

17 Briefly, and as Mr. Teitzel shows in his direct testimony, one way to capture a picture of
18 this overall marketplace is to view the total number of “communications connections” in the
19 state, based on FCC data. If these categories are combined to form a view of the overall
20 “telecommunications market” – which is appropriate because Qwest competes in each of these
21 service categories – and each in-service line is counted as a connection, an overall view of the
22

23 ¹ ORS 759.255(5) authorizes the Commission to waive the application of certain statutes in approving a
24 price plan. Qwest requests the waiver of certain statutes in section III.D.1. of this amended petition. If the
25 Commission grants Qwest full waivers of these statutes, this would also waive Qwest’s obligations under the rules
26 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 III.D.3. of this
amended petition.

1 changing composition of the Oregon telecommunications market can be developed. The
 2 following table, also referenced at page 12 of Mr. Teitzel’s direct testimony, shows the change in
 3 connections from December 2000 to June 2006, which is the latest data available.

4 **Oregon In-Service Quantities December 2000 versus December 2006²**

	<u>Dec. 2000</u>	<u>Connection Share Dec. 2000</u>	<u>Dec. 2006</u>	<u>Connection Share Dec. 2006</u>	<u>Change</u>	<u>Percent Change</u>
5 ILEC Lines	2,109,510	60.5%	1,561,802	27.9%	(547,708)	(26.0%)
6 CLEC Lines	99,326	2.9%	317,921	5.7%	218,595	220.1%
7 Mobile Wireless 8 Subscribers	1,201,207	34.5%	2,655,905	47.5%	1,454,698	121.1%
9 High-Speed Lines	76,839	2.2%	1,055,986	18.9%	979,147	1,274.3%
10 Total	3,486,882		5,591,614			

11 As Mr. Teitzel’s direct testimony discusses, the FCC’s data clearly shows the dramatic
 12 growth of CLEC connections and intermodal telecommunications services in the state, and the
 13 corresponding steep decline in ILEC access lines. The traditional ILEC access line base now
 14 represents less than one-third of the overall number of communications connections in the
 15 Oregon telecommunications market.

16 In addition, and as described more fully in Mr. Teitzel’s direct testimony, for Qwest in
 17 Oregon, competitive pressures now provide appropriate checks on telecommunications pricing,
 18 quality of service, and the availability of service to meet market demand. Qwest’s switched local
 19 exchange residential and business services are now subject to full competition from traditional
 20 CLECs as well as from intermodal forms of competition such as wireless and Voice over Internet
 21 Protocol (“VoIP”) services. In fact, Qwest’s switched local exchange access line base in Oregon
 22 has been dramatically eroded by competition from a total of 1,460,169 lines in December 2000
 23 to 977,243 lines in December 2006, a reduction of over 33 percent, and this trend is continuing.

24
 25 ² The source for the data in this table regarding ILEC lines, CLEC lines, and mobile wireless subscribers is
 26 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.

1 **Qwest Switched Local Exchange Access Lines – Oregon**³

2

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

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

19 Further still, not surprisingly, Qwest has experienced above-average residential access
20 line losses in its metropolitan wire centers – such as Portland, Eugene, and Corvallis – because of
21 competition from cable, VoIP, and wireless providers. However, losses significantly above the
22 average have also occurred in smaller communities such as Pendleton and Hermiston.
23 Competitive choices are broadly available throughout Qwest's service territory in the state, and
24 customers are actively availing themselves of those choices. Indeed, recent studies show that
25 during the second half of 2007, almost 14 percent of American homes nationwide had only
26 wireless telephone service.⁴

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

⁴ National Health Interview Study ("NHIS"), January – June 2007, p. 2.

1 Finally, it is important to note that this reduction in Qwest's access line base does not
2 even take into consideration the explosive growth in the telecommunications market over this
3 period. Qwest has also lost the opportunity to serve new customers in Oregon when such
4 customers elect to subscribe to the services of competitors without having been Qwest customers
5 in the first place. According to the U.S. Census Bureau, the population of Oregon increased
6 from 3,421,400 in 2000 to 3,700,800 in 2006, an increase of more than 8 percent.⁵ However,
7 through June 2006, the number of CLEC access lines in service in Oregon grew to 305,519, an
8 increase of more than 200 percent from December 2000. Clearly, CLEC competition, as well as
9 ever-expanding competition from intermodal services such as VoIP, wireless and cable, is
10 driving a significant reduction in Qwest's retail access line base.

11 III. DESCRIPTION OF PRICE PLAN

12 A. Overview of the Price Plan

13 Qwest's proposed price plan is designed to preserve for residential and small business
14 customers the availability of affordable telephone service, while providing Qwest the flexibility
15 to respond to market forces in a very competitive environment. Qwest's plan would cap the rates
16 for primary line basic service for residential and business customers (defined as the first line to a
17 specific location), and guarantee the availability of those services on a stand-alone basis.
18 Specifically, a price cap would be established at \$2.00 above the current monthly prices for
19 primary line basic service, and Qwest would be permitted to adjust monthly prices upward or
20 downward between the new price caps and the applicable price floors for primary line basic
21 service. Qwest would continue to offer primary line basic service on a stand-alone basis. Qwest
22 could also petition the Commission at any time to remove the price caps for primary line basic
23 local exchange service, and Qwest would bear the burden of showing that primary line basic
24 local exchange service is subject to competition. Further, certain basic business services in Rate
25

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

1 Group 3 would not be included in the Plan, and the prices for these services would continue to be
2 established by the Commission pursuant to ORS 759.425(2)(a).

3 The plan would cap the rates for extended area service (EAS) and switched access service
4 at current rates, while rates for Public Access Lines (PAL) would continue to be regulated by the
5 Commission pursuant to state and federal requirements.⁶ Qwest would be allowed to decrease or
6 increase the rates for all other regulated retail services, subject only to a price floor.⁷ The pricing
7 provisions of Qwest's proposed price plan are described more fully in section III.B. below.

8 Qwest would also continue to be subject to specific, measurable customer service
9 standards under the plan. Further, Qwest will commit not to seek an exemption under OAR 860-
10 023-0055(16)(d) from the service quality reporting requirements during the first five years of the
11 plan.⁸ 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 IV.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
19 customer service and to enforce the Commission's retail customer service standards and other
20 legal requirements. Furthermore, if the Commission were to determine that Qwest was not
21 substantially complying with the Commission's service quality requirements, it could suspend
22

23 ⁶ Qwest could also eliminate the "two free call" allowance for directory assistance calls.

24 ⁷ However, Qwest agrees that it would not geographically deaverage these rates any further than they are
25 already deaveraged at the time it commences operation under the Plan.

26 ⁸ The Commission recently granted exemptions from the service quality reporting requirements to a
number of small telecommunications utilities and to Integra Telecom of Oregon, Inc. See Order Nos. 07-422 and
07-425, respectively.

1 Qwest’s authority to increase rates until Qwest remedied the situation. In addition, the
2 Commission would have the authority at any time to consider claims that market forces were not
3 sufficient to assure just and reasonable rates for specific services without additional regulation,
4 and to impose additional regulation on the rates for such services on that basis. These provisions
5 of Qwest’s proposed price plan are described more fully in section III.F. below.

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

7 **1. Primary line basic service**

8 Under Qwest’s proposed price plan, both non-recurring and recurring rates for “primary
9 line basic service” (defined as the first line per location for all residential and business
10 customers) would be capped. Specifically, a price cap would be established at \$2.00 above the
11 current monthly prices for primary line basic service, and Qwest would be permitted to adjust
12 monthly prices upward or downward between the new price caps and the applicable price floors
13 for primary line basic service. Nonrecurring charges for primary line basic service would be
14 capped at current levels. Qwest would continue to offer primary line basic service on a stand-
15 alone basis (i.e., Qwest would not require customers to purchase a package to obtain these
16 services). These caps would apply to the following services: residential single party flat rate
17 local exchange service; residential single party measured local exchange service, including local
18 exchange usage; business single party flat rate local exchange service; and business single party
19 measured local exchange service, including local exchange usage.

20 Qwest could also petition the Commission at any time to remove the price caps for
21 primary line basic local exchange service, and Qwest would bear the burden of showing that
22 primary line basic local exchange service is subject to competition, applying the standards set
23 forth in section V.B.2.b of the Plan. Further, in order to avoid effecting significant price
24 increases for certain retail local exchange services caused by the need to maintain prices for
25 services in the Plan above prices floors, certain basic business services in Rate Group 3 would
26

1 not be included in the Plan. These Rate Group 3 services include business single party flat rate
2 local exchange service, business single party measured local exchange service, including local
3 exchange usage, and private branch exchange (“PBX”) service. The prices for these services
4 would continue to be established by the Commission pursuant to ORS 759.425(2)(a).⁹

5 Finally, Qwest would be permitted to eliminate the “two free call” allowance for
6 directory assistance calls. Further, Qwest would continue to offer current Telephone Assistance
7 Plans (OTAP, Tribal Lifeline, and Link-Up).

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

9 The rates for Public Access Line (PAL) service would continue to be regulated by the
10 Commission pursuant to federal requirements.

11 **3. Switched access**

12 Rates for intrastate switched access services would be capped at their current rates. The
13 Commission, however, could adjust the price caps if required by FCC action.

14 **4. EAS**

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

18 **5. Other regulated retail services**

19 Rates for all other regulated retail services not addressed in the sections above would be
20 price-listed and Qwest would have the flexibility to decrease or increase such rates, subject only
21 to a price floor equal to the total service long run incremental cost for nonessential functions of
22 providing the service and the charges for essential functions used in providing the service.¹⁰

23 ⁹ Since basic residential services are not subject to price floors per ORS 759.255(4), this exclusion applies
24 only to the business services listed above.

25 ¹⁰ For purposes of applying the price floor, “essential functions” is defined in the price plan as those
26 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-

1 Further, so that the Commission can be assured that Qwest would not unreasonably increase such
2 prices in small, rural exchanges where less telecommunications competition may exist and
3 decrease prices in urban areas where competition may be more prevalent, Qwest agrees that it
4 would not geographically deaverage these rates any further than they are already deaveraged at
5 the time it commences operation under the Plan.

6 **6. Packages**

7 Qwest would have the authority to offer packages of services, which may include primary
8 line basic service and EAS, at any price, subject only to price floors under ORS 759.255(4). The
9 price floor for a package would be the sum of the price floors of each regulated retail
10 telecommunications service included in the package.

11 **C. Notice of price changes**

12 Under its proposed price plan, Qwest would provide the Commission notice of price
13 changes for price-capped services by making tariff filings at least 30 days prior to the effective
14 date of such price changes. All other regulated services would be price-listed, and Qwest would
15 make price list filings at least one day prior to the effective date of any price change. Qwest
16 would also provide customers with at least 30 days' appropriate notice of price increases for
17 services they are purchasing at the time of the price increase.¹¹

18 **D. Application of other statutes**

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

20 Under ORS 759.255(5), the Commission may, if it approves a plan under ORS 759.255,
21 waive, in whole or in part, a telecommunications utility's compliance with the following statutes:

22

23 approved price for UNE purchases by wholesale customers; the price for UNEs without Commission-approved
24 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>.

25 ¹¹ Only customers subscribing to services to which price increases might be applied would qualify for such
26 notification. In addition, Qwest suggests that 30 days advance customer notice should not be required for price
decreases on tariffed retail services, since it is very unlikely such changes would elicit customer concern. Advance
notice of at least one day before the effective date of such price decreases should be considered sufficient.

1 ORS 759.120 (accounting requirements); ORS 759.125 (accounts and records); ORS 759.130
2 (accounts, balance sheets and audits); ORS 759.135 (depreciation accounts); ORS 759.180 to
3 ORS 759.200 (hearing on reasonableness of rates, promotions, suspension of rates, notice of
4 schedule changes, price listing, amortizations, and filed rates); ORS 759.215 (public access to
5 schedules); ORS 759.220 (joint rates and classifications); ORS 759.285 (charging rates based on
6 cost of property not presently providing service); and ORS 759.300 to ORS 759.393 (issuance of
7 securities generally (ORS 759.300 to ORS 759.360) and transactions of utilities generally (ORS
8 759.375 to ORS 759.393)).

9 Qwest proposes that the Commission waive the applicability to Qwest of each of these
10 statutes in full, with the exception of ORS 759.182, pursuant to which Qwest may offer service
11 promotions for primary line basic service and other regulated retail services, and
12 ORS 759.215(1), pursuant to which Qwest shall make its rate schedules available to the public.
13 Waiver of these requirements is a logical extension of the manner in which Qwest has operated
14 since 1999 under ORS 759.405 to 759.410, and would permit a level of regulatory oversight that
15 is consistent with the elimination of earnings-based regulation.

16 **2. Application of other statutes**

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

23 In addition, Qwest notes that ORS 759.445 authorizes deposits to the Connecting Oregon
24 Communities Fund to be made “by a telecommunications carrier that elects to be subject to
25 ORS 759.405 and 759.410, including amounts deposited pursuant to a performance assurance
26

1 plan implemented by a telecommunications carrier in connection with an application under
2 47 U.S.C. 271, as in effect on January 1, 2002.” To the extent that Qwest’s ability to deposit
3 monies into this fund depends on Qwest’s being subject to ORS 759.405 to 759.410, Qwest
4 commits to do whatever is reasonable and necessary to ensure that any payments it may be
5 required to make under its current performance assurance plan can continue to be made, and will
6 accrue such amounts for future disbursement if necessary while any legal issues are addressed.

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

8 As discussed above, in Order No. 00-382, the Commission suspended and/or modified
9 filing requirements for Qwest for affiliated interest contracts and related reports (ORS 759.385;
10 Qwest was subsequently exempted by virtue of OAR 860-027-0040(4)). In Order No. 06-514,
11 the Commission simplified Qwest’s obligations with respect to certain depreciation and
12 accounting issues (OAR 860-027-0050). In correspondence with the Commission in 2004, the
13 Commission agreed to modify certain of Qwest’s reporting obligations with respect to service
14 quality and financial information. Qwest entered into additional agreements with Staff in
15 November 2004. Among other things, these agreements reduce and/or simplify Qwest’s
16 reporting obligations with respect to Form O and Form I and other financial reports (OAR 860-
17 027-0070), construction budgets (OAR 860-027-0005 and -0015), and affiliated interest
18 transactions (OAR 860-027-0040, -0041, and -0100). In addition, in a Memorandum of
19 Understanding between Qwest and Staff dated May 26, 2004, applied by the Commission in
20 Order No. 04-404, Qwest and Staff agreed to guidelines regarding accounting for the sale of
21 assets and the imposition of municipal charges.

22 Qwest thinks that application of most of the rules referenced above would automatically
23 be waived if the Commission grants Qwest’s request to waive the application of certain statutes,
24 as set forth above. To the extent that the Commission denies Qwest’s request, or grants only
25 partial exemptions of these statutes, Qwest requests that the current waivers, implemented while
26

1 Qwest was subject to price cap regulation under ORS 759.405 to 759.410, remain in place under
2 the price plan.

3 Qwest also requests a waiver of the application of the following rules (to the extent not
4 covered above): OAR 860-027-0005 and OAR 860-027-0015 (authorized by *former*
5 ORS 759.100 to ORS 759.115); OAR 860-027-0050 and -0052 (authorized by ORS 759.120 to
6 ORS 759.130); OAR 860-027-0070 (authorized by ORS 759.125 and ORS 759.130); OAR 860-
7 027-0100(1)(a) (authorized by ORS 759.393(1)) and OAR 860-022-0042. To the extent that the
8 Commission denies Qwest’s request for a full waiver of the statutes, or grants only partial
9 waivers of those statutes, Qwest requests a waiver of application of these rules.

10 Qwest also requests that for purposes of ORS 759.425(2)(a) only, pursuant to which the
11 Commission establishes the prices charged by telecommunications utilities for “basic telephone
12 service,” the Commission waive in part the application of OAR 860-032-0190. This rule defines
13 “basic telephone service” for purposes of administering ORS 759.425, among other statutes.

14 Qwest seeks a partial waiver of this rule so that the Commission will establish the rates for only
15 certain basic business services in Rate Group 3, which services are not included in the plan.¹²

16 Pursuant to this partial waiver, only the services listed in OAR 860-032-0190(3)(b), (d), (e), and
17 (f) and provided in Rate Group 3 would be considered “basic telephone service” for purposes of
18 applying ORS 759.425(2)(a). For all other purposes involving application of the rule, including
19 administration and distribution of the universal service fund, Qwest would still be subject to the
20 definition of “basic telephone service” found in OAR 860-032-0190.

21 **E. Objectives of Plan**

22 Qwest’s price plan will achieve the following objectives:
23
24

25 ¹² The services at issue include business single party flat rate local exchange service, business single party
26 measured local exchange service, including local exchange usage, and private branch exchange (PBX) service. The
prices for these services would continue to be established by the Commission pursuant to ORS 759.425(2)(a).

- 1 • Ensure that the quality of existing telecommunications services will stay at
2 current high levels. Qwest will meet or exceed the Commission’s applicable
3 retail service standards and will continue its current reporting practices.
- 4 • Maintain the availability of primary line basic service at affordable rates.
- 5 • Qwest will price other services competitively with services offered by other
6 providers, including those using landline, wireless, cable, and VoIP technologies.
- 7 • Guarantee the investment of \$2 million, of which at least \$1 million will be spent
8 for additional inter-office route diversity and/or DSL deployment, and up to
9 \$1 million will be spent to construct “last-mile” connections to certain K-12
10 schools in connection with the State of Oregon Department of Education’s
11 “EBITs” project.
- 12 • Increase pricing flexibility to provide Qwest the opportunity to retain its existing
13 customers, to win-back customers that it previously lost to competition, and to
14 gain additional customers.
- 15 • Make new telecommunications services available.
- 16 • Simplify and reduce the burden of regulation for both Qwest and the Commission.

17 **F. Conditions for Review of Plan**

18 **1. Five-year reviews**

19 Qwest’s performance under the price plan will be comprehensively reviewed by the
20 Commission every five years. To commence that review, Qwest will file a detailed report
21 regarding its performance as compared to the objectives of the plan by the 90th day of the fifth
22 year of operation under the plan, and every five years thereafter. (*See* section V.A.1 of the
23 Amended Price Plan (Exhibit A) for a summary of what the report would contain.) The
24 Commission shall also review the data submitted by Qwest regarding the market for other
25 telecommunications services that are functionally equivalent or substitutable for services offered
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1 by Qwest and determine whether other modifications to the plan are appropriate to provide
2 Qwest with modified regulatory flexibility beyond that included in the original price plan.

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

7 **2. Ongoing conditions for review**

8 **a. Review of service quality**

9 The Commission may review Qwest's retail customer service quality at any time during
10 operation of the price plan. The Commission would first apply the procedures and remedies
11 found in ORS 759.450 and OAR 860-023-0055. If, after applying these procedures and
12 remedies, the Commission determined after a hearing that Qwest was not substantially
13 complying with the Commission's retail service standards, then the Commission would have the
14 authority to suspend Qwest's authority under the price plan to increase retail prices until such
15 time as Qwest was substantially complying with the Commission's retail service quality
16 standards. If the Commission were to make such a determination, it would enter discussions
17 with Qwest to establish an agreement, including a timeline and a process, under which Qwest
18 would be required to achieve substantial compliance with the standards.

19 **b. Review of rate increases**

20 The Commission could also investigate Qwest's non-price capped rate for a specific
21 service upon receiving a complaint filed by any party with legal standing, including Commission
22 Staff, at any time. The Commission would follow its ordinary hearing procedures. The
23 party(ies) bringing the complaint would bear the burden of proving that the service was not
24 subject to competition. (*See* section V.B.2.b of the Amended Price Plan (Exhibit A) for the
25 standards to determine whether a service is subject to competition and to determine whether
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1 market forces are sufficient to assure just and reasonable rates without regulation, as well as to
2 determine the relevant market.)

3 The Commission would deny the complaint if Qwest's rate for the service at issue was
4 within 10 percent of the rate charged by an alternative provider for a functionally-equivalent or
5 substitutable service which was available to a sufficiently large number of potential customers
6 that the alternative provider's service was constraining on Qwest's prices. If the Commission
7 were to sustain such a complaint, the Commission could impose a price cap for the specific
8 service, which would be no less than the higher of (a) the rate that was in effect before the most
9 recent price change for that service or (b) the rate charged by an alternative provider for a
10 functionally-equivalent or substitutable service which was available to a sufficiently large
11 number of potential customers that the alternative provider's service was constraining on
12 Qwest's prices, plus 10 percent. Upon request by Qwest, to be made no sooner than 12 months
13 after a Commission decision sustaining such a complaint, the Commission would review the
14 continued need for a price cap for the service based upon the same factors to be applied in
15 deciding the complaint. Finally, after providing notice and an opportunity for hearing, the
16 Commission could order further adjustments to the price plan as required by the public interest,
17 according to the factors set forth in ORS 759.255(2). If the Commission were to determine that
18 it was necessary to suspend Qwest's pricing flexibility, then Qwest's current rates would become
19 price caps until further reviewed by the Commission.

20 **G. Establishment of Initial Rates**

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

4 Moreover, Qwest’s rates in other states and the rates charged by other carriers in Oregon,
 5 including telecommunications utilities, for similar services are also comparable to Qwest’s
 6 current rates in Oregon. Qwest’s current basic line rates for single line residence and business
 7 customers are among the lowest in Qwest’s 14-state territory. (See Exhibit B.)

8 In Oregon, Qwest’s residential basic service line rates are comparable to the other
 9 providers. Within the Portland EAS region, Qwest’s residential rates including EAS are the
 10 lowest among local exchange carriers (“LECs”), including a representative sample of small
 11 company rates.

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

	<u>Residential Rate</u>	<u>EAS</u>	<u>Total</u>
14 Qwest	\$12.80	\$2.20 or \$4.97	\$15.00 or \$17.77
15 Verizon	\$12.59	\$5.03 or \$8.19	\$17.62 or \$20.78
16 Century	\$12.48	\$10.00	\$22.48
17 Embarq	\$12.48	\$9.00	\$21.48
18 Canby Telecom	\$12.80	\$11.28	\$24.08
Cascade Utilities	-	-	\$25.00

19 As set forth in more detail in Mr. Teitzel’s direct testimony, the primary competitive
 20 service providers for residential service in the Portland metropolitan area, cable and wireless,
 21 typically offer bundles of local service, features, and long-distance which make direct
 22 comparisons more difficult. Comcast, which competes for telephone service in most of Qwest’s
 23 metropolitan areas, offers its Digital Voice service from \$39.95 to \$44.95, depending on other
 24 Comcast services purchased, although it is frequently promoted at \$33.00 or less. Comparable
 25 wireless service offerings from the major wireless providers in the Portland area are typically
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1 priced at approximately \$39.99. The Qwest wireline service that comes closest to matching
2 these competitive bundles in terms of feature offerings would be Qwest Choice Home Plus with
3 Unlimited Long Distance added for a total of \$52.99 (plus EAS).

4 In addition to competitive cable and wireless offerings, independent VoIP providers offer
5 attractively priced residential packages of services. For example, Vonage, which is probably the
6 best known of this type of provider, offers a “Premium Unlimited” package with unlimited local
7 and long distance calling, and a package of features including call waiting, caller ID, 3-way
8 calling, and voice messaging, for \$24.99 per month. Vonage also offers a “Basic 500” plan
9 which includes 500 local or long-distance minutes per month and the same package of features
10 as their unlimited package for \$14.99 per month, which is priced just above Qwest’s stand-alone
11 residential line. Given the significant penetration of broadband services in Oregon, these types
12 of packages are priced significantly below comparable Qwest services.

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

18 [Remainder of page intentionally left blank.]

Residential Rates Outside Portland Area

	Residential Rate	EAS	Total
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:

Portland EAS Region Local Exchange Carrier Business Rates

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

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

Business Rates Outside Portland Area

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

AT&T, BendTel, BendBroadband, Eastern Oregon Telecom, Global Crossing, Integra Telecom (including recently acquired CLEC Eschelon, which had previously acquired UNICOM and 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 or burden of a general rate case to establish initial rates.

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

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

14 **IV. APPROVAL OF PRICE PLAN IS IN THE PUBLIC INTEREST**

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

16 With respect to primary line basic service, the plan ensures that prices will remain at a
17 just and reasonable level. Qwest’s monthly rate of \$12.80 for residential service for the majority
18 of customers has not increased for more than 20 years. The plan will allow a modest increase of
19 those rates up to \$2.00 during the first four years of the plan, and such rates are just and
20 reasonable as compared to the prices charged by Qwest in other states, the prices charged by
21 other telecommunications utilities in Oregon, and the prices of other competitive options, and in
22 view of the rate of inflation. The plan also caps the rates for EAS and switched access services
23 at their current rates, which were approved by the Commission in Qwest’s last general rate case,
24 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 Oregon Department of
16 Education's high-speed data network "EBITs" project, which is designed to provide a 10-Mb
17 Ethernet service to K-12 schools throughout Oregon. Preliminary review of the school locations
18 in Qwest's territory indicates many schools will require an upgrade of the "last mile" facilities in
19 order to obtain the 10-Mb service. The Oregon Department of Education has already committed
20 \$400,000 for this purpose and, as part of this price plan, Qwest will match the Department of
21 Education's investment with up to a total of \$1 million of its own money to provide funding for
22 last-mile connections, resulting in more schools having access to this network.

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

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

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

18 **D. The Plan Simplifies and Reduces Regulation**

19 As provided by ORS 759.255(5), Qwest requests that the Commission waive compliance
20 with several statutes. The waiver of ORS 759.120, ORS 759.125, ORS 759.130, and ORS
21 759.135 would simplify and reduce the financial accounts and records that Qwest will be
22 required to maintain, and allow Qwest to maintain its records in a more uniform manner across
23 its 14 states. This would simplify the regulation of Qwest and enable it to conserve expenses. In
24 addition, eliminating or reducing the filing requirements under these statutes would simplify the
25 regulatory burden on the Commission and enable it to conserve resources. The waiver of
26 ORS 759.180 to ORS 759.205 (with the exception of ORS 759.182), ORS 759.215(2), ORS

1 759.220, and ORS 759.285 would simplify the rate regulation of Qwest as well as the burden on
2 the Commission to review and approve Qwest's rates. Qwest would file tariffs only for primary
3 line basic service, EAS, and switched access services under the price plan. All other regulated
4 services would be price-listed. This would ease the existing burden on the Commission and Staff
5 to review and approve Qwest's tariff filings. The waiver of ORS 759.300 to ORS 759.393
6 would reduce the burdens on both Qwest and the Commission with respect to both the issuance
7 of securities (ORS 759.300 to ORS 759.360) and certain transactions, including those with
8 affiliated interests (ORS 759.375 to ORS 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 ORS
11 759.410, and permit a level of regulatory oversight that is consistent with the elimination of
12 earnings-based regulation. This would streamline and simplify the regulatory reporting process
13 while continuing to provide the Commission with the information it needs to carry out its
14 regulatory responsibilities. It should also enable the Commission to apply its limited resources
15 to those industries that may require higher levels of regulatory supervision.

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V. CONCLUSION

For the foregoing reasons, Qwest respectfully requests that the Commission approve Qwest's proposed amended price plan as presented in Exhibit A to this amended petition.

DATED: February 11, 2008

QWEST CORPORATION

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**QWEST'S AMENDED PRICE PLAN UNDER ORS 759.255
(filed February 11, 2008)**

I. Definitions

- A.** “Alternative provider” means a provider, other than Qwest, of any service that is a functionally equivalent or substitutable service, without regard to the technology used to provide the service and without regard to whether the provider is subject to regulation by the Commission or any other agency. “Alternative provider” includes but is not limited to telecommunications carriers, radio common carriers, cable telephony providers, and providers of voice over internet protocol service.
- B.** “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>.
- C.** “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.
- 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; residential single party measured local exchange service, including local exchange usage; business single party flat rate local exchange service in Rate Groups 1 and 2 (the classification of Qwest exchanges by Rate Group is set forth in Qwest’s P.U.C. Oregon No. 33 Exchange and Network Services tariff, Section 5.1.2); and business single party measured local exchange service, including local exchange usage in Rate Groups 1 and 2.

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. Qwest will meet or exceed the Commission’s applicable retail service standards and will continue its current reporting practices.

2. Maintain the availability of primary line basic service at affordable rates.
3. Qwest will price other services competitively with services offered by other providers, including those using landline, wireless, cable, and VoIP technologies.
4. Increasing pricing flexibility to provide Qwest the opportunity to retain its existing customers, to win-back customers that it previously lost to competition, and to gain additional customers.
5. Make new telecommunications services available.
6. Simplify and reduce 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.

1. **Price caps.** Non-recurring charges for primary line basic services are capped at current rates. A price cap will be established at \$2.00 above the current monthly prices for primary line basic service, and Qwest is permitted to adjust monthly prices upward or downward between the new price caps and the applicable price floors for primary line basic service. 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).

- 2. Petition to remove price caps.** Qwest may petition the Commission at any time to remove the price caps for primary line basic local exchange service. Qwest shall have the burden to show that primary line basic local exchange service is subject to competition, applying the standards set forth in section V.B.2.b, below.
- C. Business Basic Services in Rate Group 3.** Certain basic business services in Rate Group 3, including primary line basic local exchange service, will not be included in the plan. These include business single party flat rate local exchange service, business single party measured local exchange service, including local exchange usage, and private branch exchange (PBX) service. The prices for these services will continue to be established by the Commission pursuant to ORS 759.425(2)(a).
- D. Directory Assistance.** Qwest may eliminate the “two free call” allowance for directory assistance calls.
- E. Telephone Assistance Plans.** Qwest will continue to offer current Telephone Assistance Plans (OTAP, Tribal Lifeline, and Link-Up) pursuant to state and federal requirements.
- F. Public Access Lines.** The rates for public access line (PAL) service will continue to be regulated by the Commission pursuant to federal requirements.
- G. Switched access.** Rates for intrastate switched access services are capped at their current rates. The Commission may adjust the price caps if required by FCC action.
- H. 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.
- I. 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. Qwest agrees that it will not geographically de-average these rates any further than may exist at the time it commences operation under the plan.
- J. 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). The price floor for a package shall be the sum of the price floors of each regulated retail telecommunications service included in the package.
- K. 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 at least 30 days' notice of price increases for services they are purchasing at the time of the price increase.

- L. 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.
- M. Special contracts.** Qwest may offer primary line basic service and other regulated services under special contracts pursuant to ORS 759.250.
- N. 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 in full, unless a partial waiver is noted:

- ORS 759.120 (partial, to the extent allowed in Commission Order No. 06-514)
- ORS 759.125 (partial, to the extent allowed in Commission Order No. 06-514)
- ORS 759.130 (partial, to the extent allowed in correspondence between Qwest and the Commission from May 4, 2004 through December 21, 2004)
- ORS 759.135 (partial, to the extent allowed in Commission Order No. 06-514)
- ORS 759.180 to ORS 759.200 (with the exception of ORS 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 in full, unless a partial waiver is noted:

- OAR 860-027-0005
- OAR 860-027-0015 (partial, to the extent agreed to between Qwest and Commission Staff in an October 7, 2004 letter and a November 7, 2004

meeting)

- OAR 860-027-0050 (partial, to the extent allowed in Commission Order No. 06-514)
- OAR 860-027-0052
- OAR 860-027-0070 (partial, to the extent allowed in correspondence between Qwest and the Commission from May 4, 2004 through December 21, 2004)
- OAR 860-022-0042
- OAR 860-032-0190 (partial). This rule defines “basic telephone service” for purposes of administering ORS 759.425, among other statutes. Qwest seeks a partial waiver of this rule so that the Commission will establish the rates for only certain basic business services in Rate Group 3 (identified in section III. C. above), which services are not included in the plan. Pursuant to this partial waiver, only the services listed in OAR 860-032-0190(3)(b), (d), (e), and (f) and provided in Rate Group 3 would be considered “basic telephone service” for purposes of applying ORS 759.425(2)(a). 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.

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. Contents of Report. The report shall include the following information:

- a.** Summary of Qwest’s performance for the five-year period with respect to the Commission’s retail service quality standards and any other relevant information.
- b.** Provide a competitive snapshot of current market conditions for the various categories of Qwest’s regulated retail telecommunications services and functionally equivalent or substitutable services, to the extent such information is publicly available.
- c.** Provide data regarding the gain or loss of access lines, organized by Qwest Oregon wire center.

- d. Describe Qwest's deployment of infrastructure as committed to in the plan.
- e. Identify any new services Qwest has introduced.
- f. Identify any ways in which the burden of regulation for both Qwest and the Commission has been simplified or reduced.

2. **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.

3. **Evaluation of market, modifications to plan.** The Commission shall review the data submitted by Qwest regarding the market for 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 modified 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 standards.

2. **Review of rate increases.**

a. **Procedure for review.** The Commission may investigate Qwest's rate for a non-price capped service upon receiving a complaint filed by any party with legal standing, including Commission Staff, at any time. The Commission shall follow its ordinary hearing procedures.

b. **Standard for review.** The party(ies) bringing the complaint shall have the burden to prove that the service is not subject to

competition. In determining whether the service is subject to competition for the purposes of this section, the Commission shall consider:

- (i) Whether a retail telecommunications service or a functionally equivalent or substitutable service is available from one or more telecommunications carriers or alternative providers in the relevant market;
 - (ii) Whether market forces in the relevant market are sufficient to assure just and reasonable rates without regulation; and
 - (iii) Such other factors as determined by the Commission.
- c. For the purpose of determining whether market forces in a market are sufficient to assure just and reasonable rates without regulation under subsection (b)(ii) of this subsection (2), the Commission shall consider:
 - (i) The extent to which alternative providers are providing functionally equivalent or substitutable services in the relevant market;
 - (ii) Economic barriers to the entry of competitors or potential competitors in the market;
 - (iii) The presence or absence of competitors with physical facilities located in the market, without regard to the nature of the technology used; and
 - (iv) Any other economic factor deemed relevant by the Commission.
- d. In determining the relevant market under this section, the Commission shall consider factors including but not limited to:
 - (i) The function or functions performed by the retail telecommunications service or functionally equivalent or substitutable service;
 - (ii) The customer groups who use the retail telecommunications service or functionally equivalent or substitutable service; and
 - (iii) The geographic areas where the retail telecommunications service or functionally equivalent or substitutable service is used.

3. The Commission shall deny the complaint if Qwest's rate for the service at issue is within 10 percent of the rate charged by an alternative provider for a functionally equivalent or substitutable service which is available to a sufficiently large number of potential customers that the alternative provider's service is constraining on Qwest's prices. 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 an alternative provider for a functionally equivalent or substitutable service, which is available to a sufficiently large number of potential customers that the alternative provider's service is constraining on Qwest's prices, 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.
4. After providing notice and an opportunity for hearing, the Commission may order further adjustments to the price plan as required by the public interest, according to the factors set forth in ORS 759.255(2). If the Commission determines that it is necessary to suspend Qwest's pricing flexibility, then Qwest's current rates shall become price caps until further reviewed by the Commission.

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.

CERTIFICATE OF SERVICE

UM 1354

I hereby certify that on the 11th day of February 2008, I served the foregoing **QWEST CORPORATION'S AMENDED PETITION FOR APPROVAL OF PRICE PLAN PURSUANT TO ORS 759.255** and the **DIRECT TESTIMONY OF DAVID L. TEITZEL** in the above entitled docket on the following persons via U.S. Mail, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at their regular office address shown below, and deposited in the U.S. post office at Portland, Oregon.

Jason Eisdorfer
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Lowrey Brown
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DATED this 11th day of February, 2008.

QWEST CORPORATION



By: _____

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