

**OREGON PUBLIC UTILITY COMMISSION  
(INTEROFFICE CORRESPONDENCE)**

**DATE:** March 12, 2015

**TO:** File through Bryan Conway *BAC* and Bruce Hellebuyck *BH*

**FROM:** Jim Stanage *JS*

**SUBJECT:** Frontier Communications Northwest Inc, Advice No. SC15-02, Establishes a Special Contract submitted pursuant to ORS 759.250(5).

**BACKGROUND**

This filing will appear on the Commission's March 24, 2015, public meeting agenda.

Frontier Communications Northwest Inc. (Frontier) proposes to establish a thirty-six month special contract with a confidential customer for Integrated Services Digital Network Primary Rate Interface Service (ISDN-PRI), Direct Inward Dialing (DID), the Frontier Simply Unlimited Service-Challenger bundle plus High Speed Internet service, and Business Measured Access Lines. The contract went into effect on December 24, 2014, and it was filed on February 4, 2015. Frontier has asked staff not to divulge the contract customer's name. Pursuant to ORS 759.250, the Commission has 90 days from the date of filing to terminate the effectiveness of a special contract. For this filing, the end of the 90-day statutory period is May 5, 2015. The contract filing would become effective upon approval by the Commission.

**Description of Contract**

The contract is a thirty-six month, discount arrangement between Frontier and a confidential customer for the above listed contract services. The services are being provided in Oregon under the contract at the following monthly unit rates (compared to the tariffed rates):

	<u>Contract Rate</u>	<u>Tariff Rate</u>	<u>Discount</u>
ISDN-PRI Bundle with 100 DID Numbers	\$325.00	\$500.00	35%
Simply Unlimited Service- Challenger, 1 to 3 Lines	\$24.99	\$38.99	36%
Simply Unlimited Service- Challenger Plus HIS (75 Mbps)	\$139.99	Not Tariffed	NA
Business Measured Lines	\$20.75	\$19.00	8%

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

Shortfall and termination liability language in the contract adequately protects other customers in case the confidential customer should seek early termination of the special contract.

### **Description of Services**

ISDN is a digital architecture that provides an integrated voice/data capability to the customer premises facility, utilizing the public switched network. ISDN-PRI consists of 23 bearer (B)-channels and one data (D)-channel, for a total transmission rate of 1.544 Megabits per second (Mbps). It is designed for transmission through a DS1 facility. Each 64 Kilobits per second (Kbps) B-channel carries user information such as voice calls, circuit-switched data, or video. The D-channel is a 64 Kbps channel that is used to carry the control or signaling information.

Direct Inward Dialing or DID service is a central office service that provides in-dialing from the exchange and toll network directly to the station lines associated with customer premises equipment without intervention from an attendant.

Frontier Simply Unlimited Service- Challenger is a package that includes one flat rate business access line, a group of standard custom calling features, flat rate Extended Area Service (EAS),<sup>1</sup> and a group of optional add-on features. The package's monthly rate also includes the End User Common Line Charge and the Access Recovery Charge that are found in the company's federal tariff.<sup>2</sup> Simply Unlimited Service-Challenger allows customers to use four of the optional add-on features.

The High Speed Internet service is being provided at 35 megabits per second. It is not a regulated service.

Business Measured Access Lines are local access lines with a fixed monthly charge and a usage (per Minutes of Use) charge. The usage charge is subject to a discount of 50 percent during off-peak hours.

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<sup>1</sup> The monthly business flat rate EAS charges range from \$1.90 to \$8.60.

<sup>2</sup> The monthly End User Common Line Charge (i.e., subscriber line charge/SLC) is \$6.50 and the Access Recovery Charge is \$0.50.

## **STAFF ANALYSIS**

### **Review Procedures**

Although the form of regulation that applies to Frontier changed August 18, 2014, pursuant to ORS 759.255 and the regulatory plan allowed by the Commission under Order No. 14-290 (UM 1677), its services offered through special contracts remain fully regulated. Thus, Frontier special contracts for its regulated services are still subject to ORS 759.250.

Telecommunications utilities are allowed under ORS 759.250 to enter into special contracts with customers without being subject to standard tariff filing procedures under ORS 759.175. In addition, special contracts are not subject to hearings (ORS 759.180) or suspension (ORS 759.185).

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

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

### **Classification and Unjust Discrimination Criteria**

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

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

In assessing whether a special contract conforms to ORS 759.260, staff determines if the special contract avoids unjust discrimination. This is basically a comparative analysis that depends on a review of the existing tariff for similar or related services.

The company submitted a financial analysis that shows that the proposed rates cover the company's estimated long-run, incremental cost of service (LRIC) for the contract service(s). Although the company has not completed a general cost study docket and had its results adopted by the Commission, the proposed rates do cover Qwest Corporation's adopted LRIC for the same regulated services, which staff is using as a surrogate.

## **Conclusions**

Staff has investigated the filing and finds that it complies with Order No. 92-651 (UM 254), the contracted services are subject to competition, the contract price(s) is above the company's cost of service, and the company would offer the discounted contract price(s) to any similarly situated customer requesting it.