

HARDY MYERS  
Attorney General



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**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

May 13, 2005

Public Utility Commission of Oregon  
Attn: Filing Center  
550 Capitol Street, NE  
Suite 215  
PO Box 2148  
Salem, Oregon 97308-2148

Re: UX 29

Filing Center:

Enclosed for filing please find Staff's Motion to Modify Schedule.

Thank you for your attention

Sincerely,

Stephanie S. Andrus  
Assistant Attorney General  
Regulated Utility & Business Section

Enc.

c. Service List

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

3 **UX 29**

4 In the Matter of

5 Qwest Corporation

6 Petition to Exempt from Regulation Qwest's  
7 Switched Business Services.

MOTION TO MODIFY SCHEDULE

8 Pursuant to OAR 860-013-0031, staff of the Public Utility Commission of Oregon  
9 ("staff") requests that the administrative law judge issue an order modifying the procedural  
10 schedule in the above-captioned case to (1) temporarily suspend the due date for staff's  
11 compilation of data from the CLEC Survey issued by the administrative law judge, which was  
12 May 12, 2005, and the remaining activities of the schedule; and (2) schedule a pre-hearing  
13 conference during the week of June 6 to set a new procedural schedule in this case. We note that  
14 a settlement conference is currently scheduled for June 9, which may be suitable for the pre-  
15 hearing conference. Staff has contacted counsel for Qwest and the intervenors. No party objects  
16 to staff's request.<sup>1</sup>

17 **POINTS AND AUTHORITIES**

18 In early March, the parties to this docket agreed on a schedule contemplating that by May  
19 12, 2005, staff would compile data from a survey issued to CLECs and provide it to the parties in  
20 this docket. The CLEC survey was issued on or about March 15, 2005, to approximately sixty  
21 CLECs operating in Qwest service territory and requested information related to Qwest's  
22 Petition to Exempt from Regulation Qwest's Switched Business Services. For multiple reasons,  
23 staff has not been able to complete the compilation within the time contemplated by the  
24 procedural schedule. First, because of low initial response rate to the survey, the due date for  
25 survey responses was extended from April 15, 2005 to May 9, 2005, which is only three days

26 <sup>1</sup> Staff respectfully requests that the administrative law judge accept this motion out-of-time.

1 before the current due date of the data compilation, May 12, 2005. At this time, survey  
2 responses have been submitted by approximately forty of the sixty survey recipients and only  
3 half of the approximately forty respondents have submitted responses containing data on services  
4 provided. Third, after reviewing the responses, staff has discovered that it will have to contact  
5 many of the CLECs that have provided data to clarify the data provided and obtain additional  
6 data.<sup>2</sup> From experience carrying out other telecommunications surveys, Staff believes these  
7 follow-up contacts will be time-consuming.

8 For these reasons, staff requests that the administrative law judge temporarily suspend the  
9 due date for filing the CLEC data compilation and other activities and schedule a pre-hearing  
10 conference to allow the parties to set a new procedural schedule for the remainder of this docket.  
11 Staff is fairly confident that it can report on the quality of data by the date of the pre-hearing  
12 conference. Staff requests that the pre-hearing conference be scheduled during the week of June  
13 6, 2005.

14 Finally, Attachment A contains a proposed schedule for the remainder of the docket,  
15 assuming the data debugging, discussed above, proceeds in a timely fashion. Staff has not  
16 formally asked other parties for their positions on the proposed schedule. Instead, as already  
17 discussed, staff asks that the administrative law judge set a pre-hearing conference to allow the  
18 parties to discuss the remaining procedural schedule.

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21 <sup>2</sup> Two examples of why follow-up contact with CLECs will be necessary are as follows. First,  
22 Attachment F, which is titled “Number of CLEC Lines in Qwest’s Serving Area in Oregon by  
23 Customer Size,” asks CLECs to enter “the business customers for each listed service category.”  
24 Analysis of a number of CLEC responses indicates that the CLECs did not input the correct data  
25 into the sheet. Second, the instructions for Attachments E1 through E3, which ask for customer  
26 counts per service, do not place parameters on the provisions for which answers are provided.  
Because of this, there are a number of CLEC responses in which a CLEC reports provision of  
service in x number of rate centers on the provisions forms (A-D), but report having customers in  
y number of rate centers on the customer count forms. It is not clear whether this discrepancy is  
because CLECs serve customers through UNE-P and resale and there were no provision  
parameters for Attachments E1 and E3.

1 **CONCLUSION**

2  
3 Staff requests an order modifying the procedural schedule in the above-captioned case to  
4 (1) temporarily suspend the due date for staff's compilation of data from the CLEC Survey  
5 issued by the administrative law judge, which is currently May 12, 2005, and the remaining  
6 activities of the schedule; and (2) schedule a pre-hearing conference during the week of June 6 to  
7 set a new procedural docket in this case. We note that a settlement conference is currently  
8 scheduled for June 9, which may be suitable for the pre-hearing conference.  
9

10  
11 DATED this 13<sup>th</sup> day of May 2005.

12 Respectfully submitted,

13  
14 HARDY MYERS  
15 Attorney General

16 s/Stephanie S. Andrus  
17 Stephanie S. Andrus, #92512  
18 Assistant Attorney General  
19 Of Attorneys for Staff of the Public  
20 Utility Commission of Oregon  
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1 Attachment A

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3 UX 29 Proposed Schedule

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| 5 <u>Activity</u>                                | 6 <u>Date</u> |
|--|---------------|
| 7 Pre-hearing Conference                         | 6/09/2005     |
| 8 Preliminary CLEC Survey Report issued by staff | 6/15/2005     |
| 9 CLEC Survey Workshop                           | 6/20/2005     |
| 10 Final CLEC Survey Report issued by staff      | 6/29/2005     |
| 11 Qwest Opening testimony                       | 7/15/2005*    |
| 12 Settlement Conference                         | 7/20/2005     |
| 13 Staff and Intervener Testimony                | 8/26/2005*    |
| 14 Qwest Response Testimony                      | 9/9/2005*     |
| 15 Three-day Hearing beginning no sooner than    | 9/26/2005*    |

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18 \* date unchanged from current schedule

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CERTIFICATE OF SERVICE

I hereby certify that on the 13<sup>th</sup> day of May 2005, I served the foregoing UX 29 Staff's

Motion to Modify Schedule upon the parties, hereto by the method/s indicated below:

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