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Carla M. Butler
Lead Paralegal

November 10, 2006

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

Re: UX-29

Dear Ms. Nichols Anglin:

Enclosed for filing in the above entitled matter please find an original and (5) copies of Qwest's Motion for Clarification Regarding Implementation of Order Nos. 06-399, 06-453 and 06-551, along with a certificate of service.

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

Sincerely,

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

Carla M. Butler

CMB:
Enclosures
cc: Service List

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UX 29

In the Matter of the Petition of Qwest
Corporation to Exempt from Regulation
Qwest's Switched Business Services

QWEST'S MOTION FOR
CLARIFICATION REGARDING
IMPLEMENTATION OF ORDER NOS.
06-399, 06-453 AND 06-551

Pursuant to OAR 860-013-0031, Qwest Corporation ("Qwest") hereby respectfully moves for clarification regarding the implementation of Commission Order Nos. 06-399, 06-453 and 06-551. Specifically, Qwest seeks clarification that the partial deregulation that the Commission ordered is *permissive* in nature and thus is *not mandatory*. This motion for clarification is needed because Qwest is unable at the present time to cost-effectively modify its billing system to implement the partial deregulation that the Commission ordered for basic business services (specifically, the limitation of such deregulation only to those business accounts having four or more lines in the Portland and Clackamas rate centers), and thus Qwest has no choice but to indefinitely postpone the implementation of such deregulation at this time.

BRIEF PROCEDURAL BACKGROUND PERTINENT TO THIS MOTION

For purposes of this motion for clarification, Qwest notes that on July 12, 2006, the Commission issued its order in response to Qwest's June 2004 petition to deregulate Qwest's switched business services under ORS 759.052 (formerly ORS 759.030). See Order No. 06-399. In that order, the Commission granted in part, and denied in part, Qwest's petition. Specifically, the Commission granted Qwest's petition with respect to Qwest's 800 Service/OutWATS service, Frame Relay service and Asynchronous Transfer Mode (ATM) service in all rate centers in Oregon (i.e., statewide), pursuant to ORS 759.052(1). See Order No. 06-399, pp. 3, 20. The Commission also granted Qwest's petition regarding its basic business service and associated

features (both digital and analog, and for both flat-rated (1FB) and measured service), but only for customers with *four lines or more*, and only for such four-line and greater customers in the *Portland and Clackamas rate centers*. *Id.*, pp. 3, 19. The Commission denied Qwest's petition for all other services. *Id.*, pp. 3, 19, 20.

Order No. 06-399 concluded by ordering, in pertinent part, as follows:

IT IS ORDERED that:

.....

2. Qwest Corporation *shall* file such revisions to its tariffs and price lists as should be necessary to conform with the terms of this Order within 30 days of the date of this Order. Order No. 06-399, p. 21. (Emphasis added.)

The date of implementation therefore would have been August 11, 2006.

On July 28, 2006, Qwest promptly filed a petition for an extension of time to comply with Order No. 06-399. Qwest did so because it was concerned about being unable to implement the appropriate changes to its systems, including customer records, billing and accounting, within such a short period of time (by August 11, 2006), in addition to the fact that it intended to file a motion for reconsideration regarding the Commission's decision to limit deregulation to only those customer accounts in the Portland and Clackamas rate centers with four or more lines.¹ No party opposed that motion. Thereafter, on August 11, 2006, the Commission granted the motion. Order No. 06-453.

In its August 11, 2006 order, the Commission ruled that "although the order [No. 06-399] was essentially *permissive in nature*, the Commission required Qwest to act promptly *upon its intentions to avail itself of increased pricing flexibility* that would arise from the removal of certain regulatory restrictions." Order No. 06-453, p. 1. (Emphasis added.) Thus, the

¹ Qwest sought an extension until February 28, 2007, which was the end of the month of the CRIS (Customer Record and Information Systems) database IT (information technology) release of February 15, 2007.

Commission granted Qwest until February 28, 2007 in which to comply with Order No. 06-399. Qwest understands this specific statement, and the granting of petitions for deregulation generally, to mean that Qwest has the *option*, but is *not required*, to “avail itself of the increased pricing flexibility that would arise” from the Commission’s granting of its deregulation petition. That is, Qwest may choose whether or not to implement the deregulation that it has been granted.

Qwest then filed a motion for reconsideration of Order No. 06-399 on August 31, 2006 on the limited issue of the Commission’s granting deregulation only for customer accounts of four lines or more.² On September 26, 2006, the Commission granted Qwest’s motion for reconsideration in part by reconsidering the issue, but denied the motion in part by denying the substantive relief that Qwest had sought. Order No. 06-551.

Specifically, in Order No. 06-551, the Commission procedurally granted Qwest’s motion by reconsidering the issue and modifying Order No. 06-399 to delete any references to Qwest’s websites or any other information exogenous to the record. However, substantively, it denied the motion by instead relying on general evidence contained in a study (TRACER Exhibit 105) that TRACER had introduced on cross-examination at the October 2006 hearing and which the Commission concluded supported its ruling on the issue regarding business customers with fewer than four lines. Accordingly, the Commission denied the relief that Qwest sought in its motion.

ARGUMENT

Clarification of Order Nos. 06-399, 06-453 and 06-551 is needed here because Qwest is unable at this time to implement the limited deregulation that is based on the number of lines associated with a given account. That is, although Qwest can implement the statewide

² Qwest’s motion for reconsideration was based on the grounds that the Commission’s ruling on this issue was an error of law and of fact for several reasons, including the fact that there was no evidence presented on the issue of customer size, demographic or number of lines and that the Commission erred in relying on certain assumptions and conclusions from its extra-record review of Qwest’s website.

deregulation of ATM, Frame Relay and 800 Service/OutWATS service (which it intends to do), it is presently unable, without a disproportionate amount of time, effort and resources, including substantial IT (information technology) work and changes, to implement the deregulation of basic business services only for those customers with four or more lines in a given geographic area. As Qwest has stated, Qwest understands the specific statement in Order No. 06-453, and the granting of petitions for deregulation generally, to mean that Qwest has the *option*, but is *not required*, to “avail itself of the increased pricing flexibility that would arise” from the Commission’s granting of its petition for deregulation. That is, it is Qwest’s understanding that it may *choose* whether or not to implement the deregulation that the Commission has granted in this docket, but that it is *not required* to do so by the February 28, 2007 date contained in Order No 06-453.

Accordingly, under the circumstances, Qwest does not intend to implement, or avail itself, of the additional pricing flexibility of basic business services for customers whose accounts have four or more lines in the Portland and Clackamas rate centers at this time. As such, Qwest respectfully seeks clarification that Qwest is not mandated to implement such deregulation, but rather, only that Qwest may do so if and when it so chooses or is able to do so.³

³ As stated, Qwest does intend to implement the statewide deregulation of ATM, Frame Relay and 800 services that the Commission granted in Order No. 06-399.

CONCLUSION

Qwest respectfully submits that the Commission should clarify and confirm that Qwest is not required to implement the deregulation that the Commission granted in this docket for basic business services limited only to those customer accounts with four or more lines in the Portland and Clackamas rate centers at this time. The Commission should also clarify that the option to implement this deregulation will remain available to Qwest if and when it can find a cost-effective way to implement the limited deregulation that was granted.

DATED: November 10, 2006

Respectfully submitted,
QWEST



By: _____

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CERTIFICATE OF SERVICE

UX-29

I hereby certify that on the 10th day of November, 2006, I served the foregoing **QWEST CORPORATION'S MOTION FOR CLARIFICATION REGARDING IMPLEMENTATION OF ORDER NOS. 06-399, 06-453 AND 06-551**, in the above entitled docket on the following persons via U.S. Mail (or via e-mail if so indicated), 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.

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DATED this 10th day of November, 2006.

QWEST CORPORATION



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