

**OREGON PUBLIC UTILITY COMMISSION  
INTEROFFICE CORRESPONDENCE**

**DATE:** June 19, 2019

**TO:** File through Bryan Conway and Bruce Hellebuyck *BK*

**FROM:** Scott Shearer *SOS*

**SUBJECT:** QWEST CORPORATION: (Docket No. ADV 966/Advice No. C16-2019)  
Establishes a Special Contract submitted pursuant to ORS 759.250(5).

**Background**

I have reviewed this filing and recommend that an acknowledgement letter be sent.

Qwest Corporation d/b/a CenturyLink QC (Qwest) proposes approval of a 24-month special contract with a confidential customer for Line Volume Plan Services. The contract went into effect on March 22, 2019, and it was filed on May 9, 2019. 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 would be August 8, 2019.

This contract is similar to the special contract previously approved by the Commission in ADV 818.

**Description of Contract**

The filing is a twenty-four month, multi-state, volume discount special contract with a confidential customer on a total of 202 contributory access lines, including 11 in Oregon. The services available are: Basic Business with Hunting, Choice Business, Choice Business Plus, Add-A-Line, and Choice Business Prime. The services are being provided under the contract at the following monthly unit rates (compared to the tariffed rates):

<u>Service</u>	<u>Contact Rate</u>	<u>Tariff Rate</u>	<u>Discount</u>
Basic Business with Hunting	\$24.99	\$35.00	29%
Choice Business	\$28.99	\$45.00	36%
Choice Business Plus	\$29.99	\$55.00	45%
Add A Line	\$25.99	\$35.00	26%
Choice Business Prime	\$27.99	\$40.00	30%

According to the Company's offer, the customer may purchase any of the above services and packages in any combination.

Qwest'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. Qwest also considers the contract services to be competitive.<sup>1</sup> If Qwest 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**

Basic Business Line service provides a flat rate local exchange access line available to business customers. Service is furnished at a fixed monthly rate which provides unlimited calling within a customer's local calling area. Rates for the service with Hunting vary among Qwest's three rate groups. Hunting is an optional feature available to Basic Business service customers with two or more individual access lines. The access lines are arranged so that incoming calls to a busy line will overflow to other available lines.

Choice Business is a package of features available to business customers in conjunction with a simple flat rate access line. Business customers subscribing to the package are entitled to unlimited use of *any three* of the fifteen package features.

Choice Business Plus is a package of features available to business customers in conjunction with a simple flat rate access line. Business customers subscribing to the package are entitled to unlimited use of *all* of the fifteen package features.

Add-A-Line allows a customer to select up to two optional Add-A-Line packages per location for every Choice Business Prime package. For each Add-A-Line package the customer may select one feature listed below:

- Series Hunting or,
- Call Forwarding Busy or,
- Call Forwarding Don't Answer or
- Call Forwarding Busy/Don't Answer.

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<sup>1</sup> Commission Order No. 96-021 gave the company pricing flexibility, pursuant to ORS 759.050, in exchanges that comprise competitive zones.

Choice Business Prime is a package of features available to business customers in conjunction with an individual flat rate or additional flat rate access line. Business customers subscribing to the package are entitled to choose three services/features from a list of twenty-two services/features.

### **Staff Analysis**

Although the form of regulation that applies to Qwest changed November 12, 2008, pursuant to ORS 759.255 and the regulatory plan allowed by the Commission under Order Nos. 08-408 and 14-346 (UM 1354), its services offered through special contracts remain fully regulated. Thus, Qwest special contracts for its regulated services are still subject to ORS 759.250. This statute allows telecommunications utilities to enter into special contracts with customers without being subject to standard tariff filing procedures under ORS 759.175. In addition, these 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, staff may recommend that the Commission reject the contract.

Two areas of importance in assessing special contracts were identified in Order No. 92-651 in docket UM 254, a generic docket to consider procedures and guidelines for special contract filings. These are the reasonableness of the contract rates and discrimination. Statutes that address these areas are ORS 759.210, classification of service and rates, and ORS 759.260, unjust discrimination.

Staff's analysis regarding conformance with 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 (i.e., a "prudency review").

To determine conformance with ORS 759.260, staff determines if the special contract avoids unjust discrimination and is dependent upon the outcome of the analyses outlined above. The statute does not restrict the Commission from subsequent scrutiny of the reasonableness of special contracts for ratemaking purposes.

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).

## **Conclusions**

Staff has investigated the filing and finds that it complies with Order No. 92-651 (UM 254) and the memorandum of understanding between staff and the company referenced in the order, 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.