ITEM NO. CA9

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 21, 2020

REGULAR ____ CONSENT X EFFECTIVE DATE N/A

DATE: April 6, 2020

TO: Public Utility Commission

FROM: Stephanie Yamada

THROUGH: Bryan Conway, Michael Dougherty, and Bruce Hellebuyck **SIGNED**

SUBJECT: QWEST CORPORATION:
(Docket Nos. ADV 1084/Advice No. C01-2020,
ADV 1085/Advice No. C02-2020, and
ADV 1087/Advice No. C04-2020)
Establishes Special Contracts submitted pursuant to ORS 759.250(5).

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (OPUC or Commission) take no action with regard to these filings. If the Commission does not act within 90 days of the filings, the respective special contracts are deemed approved.

DISCUSSION:

Docket No. ADV 1084/Advice No. C01-2020
Qwest Corporation dba CenturyLink QC (Qwest) proposes approval of a 12-month special contract with a confidential customer for Integrated Services Digital Network Primary Rate Service (ISDN-PRS). The contract went into effect on November 21, 2019, and it was filed on January 24, 2020. 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 April 23, 2020. Under the contract, five units of ISDN-PRS are being provided at a monthly rate of $475.00 per unit, which represents a 39 percent discount off the regularly tariffed rate of $775.00.

Docket No. ADV 1085/Advice No. C02-2020
Qwest proposes approval of a 24-month special contract with a confidential customer for ISDN-PRS and Digital Switched Service (DSS). The contract went into effect on November 19, 2019, and it was filed on January 24, 2020. 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 April 23, 2020. Under the contract, 14 units of ISDN-PRS are being provided at a monthly rate of $320.00 per unit, which represents a 56 percent discount off the regularly tariffed rate of $725.00. Five units of DSS are being provided under the contract at a monthly rate of $280.00 per unit, which represents a 55 percent discount off the regularly tariffed rate of $625.00.

Docket No. ADV 1087/Advice No. C04-2020
Qwest proposes approval of a 12-month special contract with a confidential customer for ISDN-PRS. The contract went into effect on December 13, 2019, and it was filed on January 24, 2020. 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 April 23, 2020. Under the contract, 24 units of ISDN-PRS are being provided at a monthly rate of $450.00 per unit, which represents a 42 percent discount off the regularly tariffed rate of $775.00.

The filings state that the company will give the discounted prices to any similarly situated customer requesting it.

Qwest's tariff does not offer discounts that are as large as those proposed in these special contracts, and thus, the contracts provide the customer unique rates for the contract services. The company also considers the contract services to be competitive.[1] If Qwest does not provide the contract services, a number of competitors would be able to provide the services.

<u>Analysis</u>

Review Procedures
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) and under Order No. 18-359 (UM 1908), 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).

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

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 (LRIC) 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 (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 financial analyses that show the proposed rates cover the company's estimated LRIC for the contract service(s).

Classification and Unjust Discrimination Criteria
OPUC Order No. 92-651 (Docket No. 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).

Conclusion

Staff has investigated these filings and finds that they comply with Order No. 92-651 (Docket No. 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 prices cover the company's cost for each respective service, and the company would offer the discounted contract prices to any similarly situated customer requesting them.

PROPOSED COMMISSION MOTION:

Take no action with regard to these filings. Pursuant to ORS 759.250, if the Commission does not act within 90 days of the filings, these special contracts are deemed approved.