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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON
UT 125

In the Matter of:
QWEST CORPORATION, fka U.S. WEST COMMUNICATIONS, INC.

NORTHWEST PUBLIC COMMUNICATION COUNCIL’S REPLY IN SUPPORT OF ITS MOTION FOR AN ORDER TO SHOW CAUSE OR, IN THE ALTERNATIVE, TO CLARIFY ORDER NO. 07-497

REPLY

From 1996 until at least 2003, Qwest charged and collected rates for payphone services that failed to comply with Oregon and federal law. This is the central contention in Northwest Public Communications Council’s (“NPCC”) Motion to for an Order to Show Cause (“Show Cause Motion”) and alternative Motion to Clarify Order No. 07-497 (“Motion to Amend”). Yet, in the entirety of its more than 20-page response to NPCC’s Motions, Qwest never once disputes it. Indeed, Qwest never even mentions the New Services Test (“NST”), the Federal Communication Commission’s test (“FCC”) for determining whether rates for payphone services comply with federal law. Qwest’s implicit concession of this central fact demonstrates that Qwest unjustly and unreasonably collected potentially millions in unlawful rates from payphone service providers (“PSPs”). To NPCC’s knowledge, Qwest has never fully refunded the PSPs for its overcharges. The Commission has the power and responsibility to correct this injustice.

Instead of answering whether its rates were lawful, Qwest asserts a range of procedural objections and repeatedly references other proceedings that are not before the Commission. Qwest’s procedural objections are unfounded. The Commission has broad

1 authority to protect ratepayers and NPCC’s Motions request that the Commission exercise
2 that authority fairly and with respect to both Qwest’s substantive and procedural rights and
3 the rights of Qwest’s ratepayers. The other proceedings between NPCC and Qwest are or
4 were pending before state and federal courts and involve claims not raised in NPCC’s
5 Motions here.

6 The Commission is vested with the responsibility to “protect * * * customers, and the
7 public generally, from unjust and unreasonable exactions and practices.” ORS 756.040(1).
8 Qwest has not disputed that it charged and collected unlawful rates from 1996 to 2003.
9 Consistent with the Commission’s statutory responsibility and its broad statutory and implied
10 powers, the Commission should issue an order requiring Qwest to show cause why it is not in
11 violation of Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-497, the TCA, and state
12 law. In the alternative, the Commission should grant NPCC’s Motion to Amend, which
13 requests the Commission clarify Order No. 07-497 by amending it to expressly require Qwest
14 to issue refunds for any excess revenue it collected under rates that failed to comply with
15 Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-497, the Telecommunication Act of
16 1996, and state law, less any refunds previously paid.

17 ARGUMENT

18 **I. Qwest’s procedural objections are unfounded: The Commission has the power to 19 decide NPCC’s Motions.**

20 **A. NPCC’s Motions are procedurally proper.**

21 The Commission “is vested with power and jurisdiction to supervise and regulate
22 every public utility and telecommunications utility in this state, and to do all things necessary
23 and convenient in the exercise of such power and jurisdiction.” ORS 756.040(2). In addition
24 to its express powers, the Commission “has such implied powers as are necessary[.]” *Pac.*
25 *Nw. Bell Tel. Co. v. Katz*, 116 Or. App. 302, 309-10 (1992). In total, the Commission “has
26 been granted the broadest authority—commensurate with that of the legislature itself—for
the exercise of its regulatory function.” *Id.* at 309 n.5 (quotation marks, citation, and

1 alterations omitted). As NPCC argued in its Motions, consistent with the Commission’s
2 broad express and implied authority, the Commission may issue orders to show cause and
3 amend its previous orders. (NPCC’s Mot. at 25-26; 28); ORS 756.568 (the Commission
4 “may *at any time*, upon notice to the public utility or telecommunications utility and after
5 opportunity to be heard * * * , rescind, suspend or amend any order made by the
6 commission” (emphasis added)).

7 Despite the Commission’s broad authority, Qwest makes several erroneous arguments
8 that the Commission lacks the power to decide NPCC’s Motions. Qwest begins by arguing
9 that NPCC cannot file a motion in this docket because “there are no issues pending that
10 require a ruling.” (Qwest’s Resp. to NPCC’s Mot. for an Order to Show Cause or, in the
11 Alternative, to Clarify Order No. 07-497 (“Resp.”) at 10.) Qwest’s argument begs the
12 question. A motion is an “application for an order.” ORCP 14 A. There is no issue pending
13 until a party files a motion. Now that NPCC has filed Motions, there are issues pending that
14 require a ruling.

15 Qwest next argues that the issues “NPCC now wishes to assert go far beyond the
16 subject matter of this docket.” (Resp. at 11.) This argument is wrong for two reasons. First,
17 NPCC’s Motions must be considered in UT 125 because the relief NPCC seeks directly
18 concerns the enforcement or amendment of orders issued in this docket. The Commission
19 issued Orders Nos. 00-190, 00-191, 01-810, and 02-009 in UT 125. NPCC appealed Orders
20 01-810 and 02-009, *Nw. Pub. Commc’ns Council v. Pub. Util. Comm’n*, 196 Or. App. 94,
21 100 (2004) (“*NPCC v. PUC*”), and, on remand, the Commission issued two additional
22 Orders, Nos. 06-515 and 07-497 in this docket. NPCC’s Motions ask the Commission to
23 either (1) order Qwest to show cause that it is in compliance with the Orders issued in this
24 docket;¹ or (2) amend Order No. 07-497, which was issued in this docket. The relief NPCC
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26 ¹ NPCC’s Show Cause Motion addresses one Order issued outside of UT 125: Order
No. 96-107, which was issued in UT 80. That Order provided that Qwest’s “rates for
services [after May 1, 1996] shall be considered interim rates subject to refund with

1 seeks concerns Orders issued in this docket; to maintain the consistency and integrity of this
2 docket, the Court should decide NPCC's Motions in this docket.

3 Second, NPCC's Motions address issues that have been subject of UT 125 from the
4 beginning. NPCC's Motions address the rates Qwest charged and collected between 1996
5 and 2007 and whether the Commission's Orders require Qwest to issue refunds for the over-
6 collection of unlawful rates. (NPCC's Mot. at 16-30.) Those issues are precisely the issues
7 the Commission has addressed in UT 125 from the beginning. The Commission opened this
8 docket in 1995 to set rates for Qwest's telecommunication services, including the company's
9 public access lines ("PAL") and fraud protection services ("CustomNet"). *See* Order No. 00-
10 190 at 1. In this docket, the Commission has addressed the FCC's payphone orders and the
11 new services test. *See, e.g.*, Order No. 01-810 at 50-56. Furthermore, in this docket, the
12 Commission has set, revised, and adjusted Qwest's rates and ordered refunds to Qwest's
13 ratepayers. Order No. 00-190 at 20; Order No. 01-810; Order 06-515 at ¶¶ 4 & 6 (addressing
14 Qwest's obligations as a result of the appeal of Order 01-810). The issues addressed in
15 NPCC's Motions are the same issues the Commission has considered throughout UT 125.

16 Finally, Qwest implies that the Commission cannot decide NPCC's Motions because
17 the Motions are barred by waiver, preclusion, or laches. (Resp. at 3, 12.) But Qwest never
18 defines those doctrines or explains how they apply to NPCC's Motions. Indeed, Qwest fails
19 even to cite any case law setting forth the principles of each doctrine. For example, on page
20 2 of its Response, Qwest asserts that NPCC's "claims are barred by issue preclusion and
21 claim preclusion." (Resp. at 2.) However, other than that single sentence, Qwest never
22 develops that argument. It does not set forth the elements of issue or claim preclusion or
23 explain how NPCC's Motions meet those elements. Moreover, Qwest's single-sentence

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25 interest[.]" Order No. 96-107 at 3. However, the Commission's staff report expressly
26 acknowledged that the rates would be determined in *this* docket, UT 125, not UT 80.
Commission staff explained that the rates would remain interim "pending the outcome of the
company's current rate filing, UT 125." *Id.*, Appendix A at 5. Thus, it is appropriate to
address Order No. 96-107 in this docket, rather than in UT 80.

1 assertion misconstrues NPCC’s Motions as “claims”; but the Motions are not “claims,” such
2 as disgorgement or unjust enrichment.

3 The same is true for wavier and laches.² For those doctrines, Qwest asserts that it
4 “would” have raised them against NPCC if NPCC had filed a complaint. (Resp. at 12.) But
5 NPCC has not filed a complaint; it filed two Motions, Motions which seek relief specific to
6 Orders issued in this docket. NPCC has no obligation to tailor the relief it seeks to the
7 defenses Qwest wishes to raise.³

8 **B. UT 125 is the only appropriate docket in which to decide Qwest’s**
9 **Motions.**

10 NPCC’s Motions request that the Court (1) issue an Order requiring Qwest to show
11 cause why it is not in violation of Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-497,
12 the Telecommunication Act of 1996, and state law or (2), in the alternative, to amend Order
13 No. 07-497 to expressly require Qwest to issue refunds for any excess revenue it collected
14 under rates that failed to comply with Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-
15 497, the Telecommunication Act of 1996, and state law, less any refunds previously paid.
16 Both Motions must be addressed in UT 125 because they seek relief directly related to
17 Orders issued in or referred to in UT 125.

18 ² To the extent that Qwest claims NPCC “waived” its right to seek refunds by
19 entering a stipulation with Qwest in 2006, that argument is addressed in § I.C, below.

20 ³ Qwest asserts, in a footnote, that NPCC does not have authority to file its Motions
21 because NPCC was “inactive” on the Oregon Secretary of State’s website. Qwest
22 misconstrues the statute it cites. ORS 60.704(1) provides that a “foreign corporation
23 *transacting business in this state* without authorization from the Secretary of State may not
24 maintain a proceeding in any court in this state until it obtains authorization from the
25 Secretary of State to transact business in this state.” (Emphasis added.) At the time it filed
26 the Motions, NPCC was not transacting business in Oregon and, consequently, did not need
to maintain an active authorization with the Oregon Secretary of State to “maintain a
proceeding in any court.” See *First Resolution Inv. Corp. v. Avery*, 238 Or App 565, 570
(2010) (ORS 60.704(1) does not bar a proceeding filed by a corporation that does not have an
authorization from the Secretary of State if the corporation is not “transacting business in this
State”). In addition, ORS 60.704(1) applies to “proceedings in any court,” not before the
Commission. ORS 60.704(1). No case has ever applied ORS 60.704(1) to proceedings
before the Commission or other administrative bodies. Finally, and in any event, NPCC,
without conceding that it has any need to maintain an authorization, has renewed its
authorization.

1 NPCC's Show Cause Motion argues that Orders No. 00-190 and 96-107 require
2 Qwest to issue refunds. (NPCC's Motion at 21-25.) The Commission issued Order No. 00-
3 190 in UT 125. The Commission issued Order No. 96-107 in UT 80, but the Commission's
4 staff report issued in support of that Order expressly stated that Qwest's rates would be
5 determined in UT 125. Order No. 96-107, Appendix A at 5. Although NPCC relies on and
6 cites to additional Orders, the Telecommunications Act of 1996 and the FCC's orders
7 implementing the TCA, and Oregon state law, including *NPCC v. PUC*, to support its
8 interpretation of Orders 00-190 and 96-107, the relief NPCC seeks is based on Orders either
9 issued in UT 125 or referred to UT 125 by the Commission's staff. (NPCC's Mot. at 21-25.)
10 Accordingly, Qwest's failure to comply with those Orders is properly addressed in the docket
11 in which they were issued or which they reference.

12 NPCC's Motion to Amend addresses Order No. 07-497, issued in UT 125. Thus, to
13 maintain the consistency and integrity of UT 125, and to ensure a clear record for that docket
14 for the future, the Commission should decide NPCC's Motion to Amend in UT 125.

15 Qwest repeatedly asserts that NPCC should have filed a complaint rather than the
16 Motions. (*See, e.g.*, Resp. at 11.) Qwest's assertions fail to understand the relief NPCC
17 seeks. NPCC's Motions request that the Commission enforce Orders issued in UT 125 or
18 amend an Order issued in UT 125. The relief NPCC seeks is narrowly tailored to the Orders
19 issued in this docket. As Qwest points out, NPCC has already filed complaints against
20 Qwest in other forums. The relief Qwest seeks here is distinct from the relief it has sought in
21 those other forums (and which it could seek in a complaint before the Commission pursuant
22 to ORS 756.500). If NPCC decides to seek different relief, such as making a claim for
23 disgorgement or unjust enrichment, it is fully aware that it can file a complaint before the
24 Commission pursuant to ORS 756.500 *et seq.*

25 NPCC's Motions do not impinge on Qwest's substantive rights. Qwest asserts that
26 NPCC's Motion is improper because Qwest is entitled to "a clear statement" of the relief

1 NPCC seeks and Qwest “is entitled to file a response.” (Resp. at 12.) Qwest’s assertion
2 makes little sense because NPCC has afforded Qwest both those rights: NPCC’s initial
3 Motions clearly and repeatedly set out the relief it seeks.⁴ (NPCC’s Mot at 1, 30.)
4 Moreover, NPCC filed the Motions pursuant to the Commission’s rules, which permit Qwest
5 the opportunity to file a response. OAR 860-001-0420 (“A party may file a response to a
6 motion.”).

7 Qwest also complains that NPCC should have filed a complaint so that Qwest could
8 raise a number of other defenses, such as issue and claim preclusion, the statute of
9 limitations, failure to state a claim, and various jurisdictional defenses. (Resp. at 12-13.)
10 However, it is not NPCC’s obligation to structure the relief it seeks to the defenses Qwest
11 wishes to raise. NPCC is not here asserting “claims for relief,” as might be found in a
12 complaint. As explained above, NPCC’s Motions concern the interpretation, enforcement, or
13 amendment of Orders issued in UT 125, not common law claims for relief. The
14 Commission’s rules provide authority for NPCC to file the Motions it has filed and provide
15 an opportunity for Qwest to respond to those Motions.

16 Finally, Qwest asserts that it should have the right to present evidence and have a
17 decision based on an evidentiary record. NPCC has no dispute with this assertion and
18 welcomes Qwest to present any evidence it may have demonstrating that it did not charge
19 and collect unlawful PAL and CustomNet rates. Indeed, NPCC’s Show Cause Motion
20 specifically requests that Qwest provide evidence showing that it has complied with the
21 Commission’s orders. In addition, NPCC would stipulate to a procedure that allows Qwest,
22 NPCC, and the Commission’s staff to present relevant evidence to the Commission (much of
23 which is already on file in this docket) to aid the resolution of NPCC’s Motion. Given the
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25 ⁴ Qwest asserts that “NPCC does not even specify in its Motions what provisions of
26 the ‘Telecommunications Act of 1996, and state law’” require refunds. (Resp. at 18.) But
that is incorrect: NPCC’s Motions identify and quote from Section 276 of the TCA, 47
U.S.C. § 276, and the FCC’s multiple orders construing that section. (*See, e.g.,* NPCC’s

1 Commission’s broad express and implied powers, the Commission undoubtedly has the
2 authority to establish procedures for the taking of evidence relevant to NPCC’s Motions.

3 **C. NPCC’s Motion to Amend is procedurally proper.**

4 Pursuant to ORS 756.568, the Commission “may at any time, upon notice to the
5 public utility or telecommunications utility and after opportunity to be heard * * * rescind,
6 suspend or amend any order made by the commission.” In its alternative Motion to Amend,
7 NPCC requests that the Commission amend Order No. 07-497 to expressly require Qwest to
8 issue refunds for any excess revenue it collected under rates that failed to comply with
9 Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-497, the Telecommunication Act of
10 1996, and state law, less any refunds previously paid.

11 In its response, Qwest contends that NPCC’s Motion to Amend is barred because
12 NPCC entered a stipulation in 2007 “that the proposed resolution of this case complied with
13 all federal requirements and satisfied the Court of Appeals remand.” (Resp. at 18.) This
14 statement mischaracterizes the stipulation. NPCC stipulated that certain of Qwest’s rates
15 filed in 2006 complied with federal requirements and the Court of Appeals remand. Order
16 No. 07-497, Stipulation ¶¶ 10-11. NPCC has never disputed that Qwest’s 2006 PAL and
17 CustomNet rates were NST-compliant *going forward*. But NPCC never stipulated to a
18 “resolution of this case,” and nothing in the stipulation or Order No. 07-497 suggests
19 otherwise. Furthermore, NPCC has never stipulated that Qwest’s rates before 2006 were
20 NST-compliant and NPCC has never stipulated that Qwest has issued all the refunds it owes
21 to the PSPs.

22 The stipulation did not specifically address refunds for a simple reason: At the same
23 time Qwest and NPCC stipulated to Qwest’s PAL and CustomNet rates going forward from
24 2006, they were litigating whether Qwest owed refunds in a separate action. (*See* Resp. at 8;
25 NPCC’s Mot. at 15-16.) NPCC has always firmly maintained that Qwest owes refunds to the
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Mot. at 3-8, 16.) NPCC also repeatedly identifies ORS 756.040(1) and *NPCC v. PUC* as the

1 PSPs for the unlawful rates it charged and collected from 1996 to 2003. The separate action
2 resulted in a Court of Appeals decision in 2016 in which the Court ruled that Qwest did not
3 owe refunds based on one provision of one FCC order (known as the “Waiver Order”). *Nw.*
4 *Pub. Commc’ns Council v. Qwest Corp.*, 279 Or. App. 626, 644-5 (2016). The Court of
5 Appeals was clear, however, that although the Waiver Order might not require refunds, the
6 Commission could order refunds pursuant to other orders: “[U]nder the circumstances
7 presented here, ‘a state commission may well find refunds to be appropriate pursuant’ to
8 sources of authority other than the Waiver Order[.]” *Id.* at 644-45 (quoting Refund Order ¶
9 45; alterations omitted). That is precisely what NPCC seeks here.

10 Qwest also incorrectly asserts that NPCC “waived any claim it may have had for
11 additional refunds” when it did not ask the Commission to order refunds in 2006. (Resp. at
12 1-2, 6-7.) However, Qwest’s obligation to issue refunds exists independently of whether
13 NPCC requested that Qwest issue refunds; NPCC cannot “waive” Qwest’s obligations. The
14 Commission has the power to order refunds whether NPCC has or has not made such a
15 request. ORS 756.040. In addition, as stated above, NPCC is not making a “claim,” it has
16 filed Motions. Furthermore, ORS 756.568 provides that the Commission “may *at any time*”
17 amend an order. (Emphasis added.) NPCC cannot “waive” a statutory provision that
18 expressly permits the Commission to act “at any time.” In addition, Qwest cites no law
19 explaining the doctrine of waiver and provides no persuasive analysis of how it would apply
20 to NPCC’s Motions in particular or to the Commission’s rules and statues in general.
21 Finally, as noted above, NPCC has always maintained that Qwest owes refunds to the PSPs.

22 The Commission has the authority to amend Order No. 07-497. ORS 756.568. For
23 the reasons set forth in NPCC’s Motion to Amend, the Commission should amend Order No.
24 07-497 to expressly require Qwest to issue refunds for any excess revenue it collected under
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state law supporting its Motions. (*See, e.g., id.* at 17-19; 21-26.)

1 rates that failed to comply with Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-497, the
2 Telecommunication Act of 1996, and state law, less any refunds previously paid.

3 **II. NPCC's Motions are substantively meritorious: The Commission's Orders, the**
4 **TCA, the FCC's order implementing the TCA, and NPCC v. PUC require Qwest**
5 **to issue additional refunds because Qwest charged and collected unlawful rates.**

6 As discussed in detail in NPCC's Motions, between 1996 and 2003, Qwest charged
7 and collected unlawful PAL and CustomNet rates. (NPCC's Mot. at 17-19.) In its Response,
8 Qwest never disputes this. Indeed, in the entirety of its Response, Qwest never even
9 mentions the New Services Test ("NST"), the FCC's orders defining and implementing the
10 NST, or the application of the NST to rates charged by telecommunications companies in
11 Oregon, as required by *NPCC v. PUC*. The FCC's Refund Order unambiguously provides
12 the Commission the right under federal law to order Qwest to refund its unlawful over-
13 collection of PAL and CustomNet rates that were not NST-compliant. *In the matter of*
14 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the*
15 *Telecommunications Act of 1996*, CC Docket No. 96-128, 28 FCC Rcd. 2615, 2617 (Feb. 20,
16 2013) (A "state commission may order refunds for any time period after April 15, 1997 if it
17 concludes that a BOC was charging PSPs a rate that was not NST-compliant, as a number of
18 states have.").

19 Rather than address the lawfulness of its rates between 1996 and 2003, Qwest asserts
20 two meritless arguments, the first of which is irrelevant and second of which is wrong. First,
21 Qwest argues that the refund the Commission ordered in Order No. 00-190 "was never based
22 on rates for specific services established in this case at any time." (Resp. at 14.) This
23 argument is irrelevant. NPCC never argues that the refund ordered in Order No. 00-190 was
24 improper or that Qwest failed to meet its obligations to make that refund. Rather, NPCC's
25 argument is and has always been that the Commission's subsequent Orders, including Orders
26 Nos. 06-515 and 07-497, require Qwest to make additional refunds to payphone service

1 providers (“PSPs”) based on the TCA, the NST, and *NPCC v. PUC*, which held that the
2 TCA, the NST, and the FCC’s other payphone orders bind the Commission and Qwest.

3 Qwest’s second argument is erroneous. Qwest argues that the refund ordered in
4 Order No. 00-190 fully resolved all of Qwest’s liability to issue refunds. To make this
5 argument, Qwest misconstrues Order No. 00-190 by taking a single clause of one sentence
6 out of context. In Order No. 00-190, the Commission explained that it was adopting a
7 modified stipulation (the “Modified Stipulation”) designed to settle two pending appeals.
8 One of the goals of the Modified Stipulation was to provide for Qwest to make an immediate
9 refund so that it could avoid making the same refund (with substantial accumulated interest)
10 later. To that end, the Commission explained that the refund agreed to in the Modified
11 Stipulation was “a return of revenues collected from customers, made in settlement of
12 potential liability to make refunds at some future date.” Order No. 00-190 at 4. This
13 statement merely means that Qwest agreed to make a refund in 2000 in order to avoid having
14 to make the same refund at some future date. However, nothing in Order No. 00-190
15 provides that Qwest is forever released from making additional, different refunds. Indeed,
16 such an interpretation of Order No. 00-190 would grant Qwest a massive, unintended
17 windfall. Any such interpretation was rejected in Order No. 06-515, as explained below.

18 Furthermore, the Modified Stipulation itself recognized that an appeal of Orders Nos.
19 00-190 and 00-191, or a subsequent order implementing those orders, could impose on
20 Qwest an obligation to provide refunds and make rate reductions. *Id.* Appendix A ¶ 5. The
21 Commission subsequently held that the Modified Stipulation applied to NPCC’s appeal of
22 the PAL and CustomNet rates in *NPCC v. PUC*. Order No. 06-515. In Order No. 06-515,
23 the Commission made clear that Qwest had assumed the risk that it could owe additional
24 refunds: “Qwest specifically agreed to accept the risk that subsequent appeals of the
25 Commission’s order implementing the Stipulation might result in a situation where Qwest
26 was required to make refunds or rate reductions in addition to those set forth in the

1 Stipulation. The language of the agreement demonstrates that the Company was fully
2 cognizant of the potential consequences of its decision when it executed the Stipulation.” *Id.*
3 at 11.

4 The TCA and the FCC’s orders implementing the TCA fundamentally changed the
5 basis upon which the Commission was required to set PAL and CustomNet rates. (NPCC’s
6 Mot. at 3-15.) Qwest does not dispute this. Qwest’s rates prior to 2003 were not NST-
7 compliant. (NPCC’s Mot. at 17-19.) Qwest also does not dispute this. To comply with
8 Orders Nos. 00-190 and 96-107, which acknowledged that Qwest could owe additional
9 refunds if rates were modified on appeal, Qwest must issue refunds to the PSPs for the rates
10 it unlawfully collected between 1996 and 2003. (Mot. at 21-30.) The Commission should
11 order Qwest to show cause why it is not in violation of those orders. In the alternative, the
12 Commission should amend Order No. 07-497 to clarify that Qwest must issue refunds to the
13 PSPs for any overcharges it made pursuant to unlawful rates between 1996 and 2003.

14 CONCLUSION

15 For the foregoing reasons, the Commission should grant NPCC’s motion requesting
16 the Commission issue an order requiring Qwest to show cause why it is not in violation of
17 Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-497, the Telecommunication Act of
18 1996, and state law. In the alternative, the Commission should grant NPCC’s motion
19 requesting the Commission clarify Order No. 07-497 by amending it to expressly require

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1 Qwest to issue refunds for any excess revenue it collected under rates that failed to comply
2 with Orders Nos. 96-107, 00-190, 00-191, 06-515, and 07-497, the Telecommunication Act
3 of 1996, and state law, less any refunds previously paid.

4 DATED this April 14, 2017.

5 MARKOWITZ HERBOLD PC

6 By: *s/ Harry B. Wilson*

7 Harry B. Wilson, OSB No. 077214
8 1211 SW 5th Ave., Ste. 3000
9 Portland, OR 97204
harrywilson@markowitzherbold.com
(503) 295-3085

10 and

11 CORPORATE LAWYERS PC

12 Frank Patrick, OSB No. 760228
13 PO Box 231119
14 Portland, OR 97281
fgplawpc@hotmail.com
(503) 224-8888

15 *Counsel for Northwest Public
16 Communications Council*

