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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 MOTION FOR AN  
ORDER TO SHOW CAUSE**

**MOTION**

Pursuant to ORS 756.040, Northwest Public Communication Council (“NPCC”) moves the Public Utility Commission (the “Commission”) to issue an order requiring Qwest Corporation (“Qwest”) to show cause why it is not in violation of Orders 00-190, 00-191, 06-515, and 07-497, the Telecommunication Act of 1996, and ORS 756.040 and 759.205.

NPCC respectfully requests that the Commission convene a status conference to determine a briefing schedule for this motion.

**SUMMARY OF ARGUMENT**

The Commission opened this docket in 1995 to set rates for Qwest’s telecommunication services, including the company’s public access lines (“PAL”) and fraud protection services (“CustomNet”). The Commission established the final rates for PAL and CustomNet in 2007. Before 2007, during the pendency of this docket, Qwest charged and collected PAL and CustomNet rates that were not final and were subject to refund. The rates Qwest charged and collected between 1996 and 2003 were substantially higher than the final rates the Commission adopted in 2007. To NPCC’s knowledge, however, Qwest has never issued complete refunds to its customers for the overpayments they made between 1996 and 2003.

1 The Commission is vested with the responsibility to “protect \* \* \* customers, and the  
2 public generally, from unjust and unreasonable exactions and practices.” ORS 756.040(1).  
3 Consistent with this responsibility, and pursuant to its authority in ORS 756.040(2), NPCC  
4 respectfully requests the Commission issue an order directing Qwest to show cause why it is  
5 not in violation of the Commission’s orders in this docket, the Telecommunications Act of  
6 1996, and ORS 756.040 and 759.205.

### 7 **PROCEDURAL HISTORY**

8 In 1995, the Commission opened this docket to, in part, establish final rates for all  
9 Qwest’s telecommunications services, including Qwest’s public access lines (“PAL”) and  
10 fraud protection services (“CustomNet”). The Commission bifurcated the case into two  
11 phases: the revenue requirement phase (“Phase 1”) and the rate design phase (“Phase 2”).  
12 During the pendency of Phases 1 and 2, Qwest charged ratepayers interim rates for its PAL  
13 and CustomNet services. The Commission resolved Phase 1 in Orders 00-190 and 00-191,  
14 which adopted a modified settlement reached between Qwest and Commission staff. Under  
15 the terms of those Orders, Qwest agreed to refund to ratepayers the amount which Qwest and  
16 the Commission agreed Qwest had generated from interim rates that was in excess of the  
17 amount of revenue Qwest required to earn a reasonable rate of return. The refund was  
18 distributed among ratepayers, including PAL ratepayers, based on an interim rate design  
19 implemented by the Commission.

20 As part of the settlement, Qwest expressly agreed that it would bear the risk of paying  
21 additional refunds to ratepayers if as a result of an appeal of Orders 00-190 and 00-191 or  
22 any subsequent implementing order, Qwest was required to lower rates or pay additional  
23 refunds.

24 The Commission attempted to resolve Phase 2 in Order 01-810, which adopted the  
25 temporary rate design as the final rates for all Qwest’s telecommunications services.

26 However, NPCC appealed the Commission’s rates for PAL and CustomNet, contending that

1 they failed to comply with the Telecommunications Act of 1996. In 2004, the Oregon Court  
2 of Appeals agreed and held that the Commission had failed to set PAL and CustomNet rates  
3 in compliance with the Telecommunications Act of 1996 and Federal Communications  
4 Commission orders implementing that Act. In conformance with the Court of Appeals  
5 remand order and federal law, the Commission established final rates for PAL and  
6 CustomNet in 2007 that were substantially lower than the interim rates Qwest charged and  
7 collected between 1996 and 2003. Nonetheless, to the best of NPCC's knowledge, Qwest  
8 has failed to refund to its ratepayers the difference between the higher interim rates and the  
9 final rates set by the Commission in 2007, less any refunds previously paid.

10 **REQUEST FOR STATUS CONFERENCE AND BRIEFING SCHEDULE**

11 NPCC respectfully requests that the Commission convene a status conference to  
12 determine a briefing schedule for this motion.

13 DATED this 21st day of December, 2016.

14 CORPORATE LAWYERS PC

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