

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UT 125

4 In the Matter of

5 QWEST CORPORATION, fka  
6 U S WEST COMMUNICAITON, INC.,

7 Application for Increase in Revenues.

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STAFF REQUEST TO SUPPLEMENT RECORD

9 Pursuant to ALJ Mellgren’s November 30, 2023, Prehearing Conference Memorandum,  
10 Staff submits the following request to supplement the Court of Appeals Record with additional  
11 material from the broader UT 125 record. Specifically, Staff seeks to include the Stipulation  
12 approved in Commission’s Order No. 07-497 along with supporting Staff Testimony and  
13 Exhibits, as described in detail below.

14 **I. Staff Testimony and Exhibits**

15 Staff seeks inclusion of Staff Exhibits 1-3, titled “Docket No. UT 125 Phase II - In the  
16 Matter of the application of Qwest Corporation – Public Access Lines Rates,” which were posted  
17 to the UT 125 docket on October 15, 2007. These exhibits are comprised of the Direct Testimony  
18 of Staff Witness John Reynolds in Support of the Stipulation (Staff Exhibit 1), Staff’s  
19 Calculation and Evaluation of Quest’s Proposed Rates (Confidential Staff Exhibit 2), and the  
20 Witness Qualification Statement of John Reynolds (Staff Exhibit 3).

21 These documents are relevant to determining whether Qwest’s rates from 1996-2003  
22 complied with the new services test (NST). Staff Exhibit 1 describes the requirements of the  
23 NST as set out in 47 U.S.C. § 276(b)(1)(C) as well as providing details of how Staff evaluates  
24 rates compliance with the NST. Though Staff Exhibit 1 looked at rates from 2006 forward, the  
25 description of NST requirements and discussion of appropriate inputs and considerations for  
26 evaluating compliance with the NST are equally applicable to Qwest’s 1996-2003 rates.

1 Staff's direct testimony in Staff Exhibit 1 is based in part on the analysis included in  
2 Confidential Staff Exhibit 2. Staff Exhibit 3 provides the qualifications of John Reynolds, who  
3 authored all three exhibits. Staff Exhibit 1 and Staff Exhibit 3 are attached to this request. Staff  
4 requests that Confidential Staff Exhibit 2 remain confidential and treated in accordance with  
5 Modified Protective Order No. 23-382. Staff has requested this the unredacted version of  
6 Confidential Staff Exhibit 2 from the Commission's archives but has not received at this time.  
7 Staff will provide the unredacted version of Confidential Staff Exhibit 2 as soon as it becomes  
8 available. In consideration of time, Staff requests that any party in possession of the unredacted  
9 version of Confidential Staff Exhibit 2 make it available through means specified in Order No.  
10 23-382.

## 11 **II. 2007 Stipulation**

12 Staff further seeks inclusion of the October 15, 2007, Stipulation among the Public Utility  
13 Commission of Oregon Staff (Staff), Qwest Corporation (Qwest), and the Northwest Public  
14 Communications Council (NPCC) adopted by the Commission in Order No. 07-497; attached to this  
15 request. Staff requests the inclusion of the Stipulation as it provides appropriate context and articulates  
16 the limitations for reliance on Staff Exhibits 1-3, discussed above. Paragraph 16 of the Stipulation  
17 clarifies that "no party shall be deemed to have approved (...) methods or theories employed by any  
18 other party in arriving at the terms of this Stipulation" and similarly "[n]o party shall be deemed to have  
19 agreed that any provision of this Stipulation is appropriate for resolving issues in any other  
20 proceeding."

## 21 **III. Party Positions**

22 As directed, Staff conferred with Qwest and NPCC to ascertain whether they agree and  
23 with inclusion of Staff Testimony and Exhibits and the 2007 Stipulation in the record. Both  
24 Qwest and NPCC communicated having no objection to the inclusion of these materials in the  
25 record.  
26

1 **IV. Additional Development of the Record**

2 Staff understands that the record being developed at this time is limited to Phase I of this  
3 proceeding, and that opportunity to further develop the record will be provided in Phase II, if  
4 applicable. As no arguments have been put forward by Parties at this point, Staff is unable to  
5 confirm that a sufficient factual basis exists to support a Commission decision on Phase I of this  
6 proceeding. Accordingly, Staff may request leave for additional supplementation of the record, if  
7 necessary, before oral argument.

8  
9 DATED this 14 day of December 2023.

10  
11 Respectfully submitted,

12 ELLEN F. ROSENBLUM  
13 Attorney General

14 /s/ Natascha Smith

15 \_\_\_\_\_  
16 Natascha Smith, OSB No. 174661  
17 Assistant Attorney General  
18 Of Attorneys for Staff of the Public Utility  
19 Commission of Oregon



# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

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October 15, 2007

OREGON PUBLIC UTILITY COMMISSION  
ATTENTION: FILING CENTER  
PO BOX 2148  
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RE: **Docket No. UT125 PHASE II** - In the Matter of the application of QWEST CORPORATION – Public Access Lines Rates.

Enclosed for electronic filing in the above-captioned docket is the Public Utility Commission Staff's Direct Testimony.

*/s/ Kay Barnes*

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

(503) 378-5763

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c: UT 125 Service List - parties

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**PUBLIC UTILITY COMMISSION  
OF OREGON**

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**UT 125**

**STAFF DIRECT TESTIMONY OF**

**John Reynolds**

**QWEST CORPORATION  
UT 125 Phase II—Public Access Line Rates**

**REDACTED  
OCTOBER 15, 2007**

CASE: Docket UT 125  
WITNESS: John Reynolds

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 1**

**Direct Testimony  
In Support of the Stipulation**

**OCTOBER 15, 2007**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**  
2 **ADDRESS.**

3 A. My name is John Reynolds. The Public Utility Commission of Oregon  
4 (Commission) employs me as a Senior Telecommunications Analyst. My  
5 business address is 550 Capitol Street NE Suite 215, Salem, Oregon 97301-  
6 2551.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**  
8 **EXPERIENCE.**

9 A. My Witness Qualification Statement is in Exhibit Staff/3.

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A. The purpose of my testimony is to sponsor a stipulated agreement between the  
12 Public Utility Commission of Oregon Staff (Staff), Qwest Corporation (Qwest),  
13 and the Northwest Public Communications Council (NPCC).

14 **Q. DID YOU PREPARE EXHIBITS FOR THIS DOCKET?**

15 A. Yes. I prepared two exhibits. Confidential Exhibit Staff/2 consists of  
16 spreadsheets detailing my calculations and evaluation of Qwest's proposed  
17 rates. Exhibit Staff/3 contains my witness qualification statement.

18 **Q. WHY DID STAFF REVIEW QWEST'S PUBLIC ACCESS LINE (PAL)**  
19 **RATES?**

20 A. The Court of Appeals of the State of Oregon reversed and remanded to the  
21 Commission its final order (No. 01-810) and its reconsideration order  
22 (No. 02-009) in Docket UT 125 for reconsideration of the issues related to PAL

1 and CustomNet<sup>1</sup> rates contained in those orders.<sup>2</sup> The Court found that the  
2 Commission did not require Qwest to follow the recent directives of the Federal  
3 Communication Commission (FCC) to ensure the proposed rates met the  
4 prescribed “new services test”.

5 **Q. WHAT IS THE “NEW SERVICES TEST”?**

6 A. The new services test is a set of criteria to ensure that rates are “cost-based,  
7 non discriminatory, and consistent with both section 276 [of the  
8 Telecommunications Act of 1996 (the Act)] and the Commission’s [FCC]  
9 Computer III tariffing guidelines.”<sup>3</sup> The FCC prescribed the new services test  
10 as early as 1988.<sup>4</sup> The FCC issued orders more recently specifically  
11 addressing the new services test as it applies to payphone rates.<sup>5, 6, 7</sup>

12 The new services test requires the following:

13 (a) Proposed rates must not recover more than the direct costs of the  
14 service plus “a just and reasonable portion of the carrier’s overhead  
15 costs.”<sup>8</sup>

16 (b) Costs must be determined by the use of an appropriate forward  
17 looking, economic cost methodology that is consistent with the

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<sup>1</sup> CustomNet service is now known as Fraud Protection.

<sup>2</sup> Court of Appeals of the State of Oregon, 02C-12247; A119640, filed November 10, 2004.

<sup>3</sup> FCC Order No. DA 00-347, para. 2.

<sup>4</sup> FCC Order No. 88-172, Further Notice of Proposed Rulemaking [regarding Price Caps],  
May 23, 1988.

<sup>5</sup> FCC Order No. DA 00-347; [“the Wisconsin Order”], March 1, 2000.

<sup>6</sup> FCC Order No. FCC 02-25, Memorandum Opinion and Order [“New Services Order”],  
January 28, 2002.

<sup>7</sup> Telecommunications Act of 1996, Section 276, *Provision of Payphone Service*.

<sup>8</sup> FCC Order No. DA 00-347, para. 9.



1 principles that the Commission set forth in the Local Competition  
2 First Report and Order.<sup>9</sup>

3 (c) Cost study inputs and assumptions used to justify payphone rates  
4 should be consistent with the cost inputs used in computing rates  
5 for other services offered to competitors.<sup>10</sup>

6 (d) LECs must justify the overhead cost methodology, and must not  
7 recover a greater share of overhead than in comparable services,  
8 such as unbundled network elements (UNEs).<sup>11</sup>

9 (e) Rates must take into account other sources of revenue that are  
10 used to recover the cost of facilities used, e.g., subscriber line  
11 charge (SLC), primary interexchange carrier charge (PICC), and  
12 carrier common line charge (CCL), in order to avoid double  
13 recovery.<sup>12</sup>

14 (f) Certain “retail” costs, although prohibited from inclusion in UNE  
15 rates, may be included in payphone rates.<sup>13</sup>

16 **Q. DID QWEST PROPOSE REVISED RATES?**

17 A. Yes. On March 31, 2006, Qwest filed revised rates intended to implement the  
18 remand order. Qwest’s proposal incorporated the cost studies filed with Advice  
19 1935 on February 28, 2003.

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<sup>9</sup> Id, para. 9.

<sup>10</sup> Id, para. 10.

<sup>11</sup> Id, para. 11.

<sup>12</sup> Id, para. 12.

<sup>13</sup> FCC Order No. FCC 02-25, Memorandum Opinion and Order [“New Services Order”],  
January 28, 2002, para. 50.

1 **Q. HOW DID YOU EVALUATE QWEST'S PROPOSAL?**

2 A. I reviewed the proposal to ensure the general methodology met the FCC's  
3 requirements. To check the reasonability of the assumptions and the accuracy  
4 of the calculations, I compared the results of the submitted cost studies with  
5 costs I calculated using the UNE costs developed in Dockets UM 773, UM 844,  
6 and UT 148. Using the results of the UNE dockets to compare costs avoided  
7 the need to evaluate each element of input and computation in great detail, a  
8 task which would be equivalent to a complete revision of UNE costs.

9 **Q. DOES QWEST'S METHODOLOGY CONFORM TO THE REQUIREMENTS**  
10 **OF THE NEW SERVICES TEST?**

11 A. Yes. The methodology used by Qwest meets the requirements of the new  
12 services test as listed earlier:

13 (a) Proposed rates do not recover more than direct costs plus a just and  
14 reasonable amount of overhead;

15 (b) The cost studies employ Qwest's Integrated Cost Model (ICM),  
16 September 26, 2002 version. The ICM is a forward looking cost model  
17 which the company used in current UNE filings. The ICM is consistent  
18 with the total service long run incremental cost (TSLRIC) method used  
19 in determining UNE costs.

20 (c) Inputs used in the cost study are consistent with those used in other  
21 current cost studies. For the supporting studies, Qwest used current  
22 (2002) input costs, rather than input costs that were current at the time  
23 of the UNE dockets. To account for any difference between current

1 input costs and UNE docket input costs, Qwest weighted the input  
2 investment by a “benchmark” ratio of approved UNE rates to the  
3 September 2002 study-calculated UNE rates.

4 (d) The overhead cost methodology is the same as is used in other Qwest  
5 studies and is consistent with the method used in UNE pricing.

6 (e) To avoid double recovery, Qwest deducted the subscriber line charge  
7 (SLC) from the cost calculations to determine the tariff rate.

8 (f) Certain additional “retail” costs, such as billing and sales expense, were  
9 appropriately included.

10 **Q. WHY DID YOU USE DOCKETS UM 773, UM 844 AND UT 148 AS COST**  
11 **REFERENCES?**

12 A. Dockets UM 773, UM 844, and UT 148 produced total service long run  
13 incremental costs (TSLRIC) and UNE rates for all network elements.<sup>14</sup> These  
14 costs are the standard that Staff uses for evaluating tariff submissions for  
15 conformance to Oregon Revised Statutes (ORS) Chapter 759,  
16 *Telecommunications Utility Regulation*. The costs in these dockets were  
17 derived after extensive scrutiny, challenge and litigation by many parties.  
18 Inputs, assumptions, and various cost modeling approaches were examined in  
19 detail in the course of determining the final results. The methods used to

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<sup>14</sup> Principal resources for these dockets are (a) UM 773: Order No. 97-145, Adopted “Building Block” [unbundled network element] TSLRIC cost studies; (b) UM 844: Order No. 97-239, Approved “Building Block” [unbundled network element] rates; and (c) UT 148: Order No. 00-481, Established deaveraged UNE loop rates.

1 develop costs in these dockets conform to the FCC's new services test. I  
2 used the results of these dockets to check the results of Qwest's proposal.

3 **Q. DID YOU INCLUDE EXTENDED AREA SERVICE (EAS) RATES**  
4 **TOGETHER WITH PAL RATES IN MAKING YOUR COMPARISON?**

5 A. Yes.

6 **Q. PLEASE EXPLAIN WHY YOU INCLUDED EAS RATES.**

7 A. Although EAS calls are not local calls, they are essentially treated as local  
8 calls.<sup>15</sup> More importantly, where EAS is established, EAS is mandatory, and a  
9 choice of interexchange service providers is not allowed. Furthermore, in  
10 localities where EAS exists, the EAS rates apply to all types of dialed calls  
11 (business, residence, payphone, etc.) between the designated exchanges.  
12 Because EAS is mandatory and it is regulated as a local charge, I included  
13 EAS. This is consistent with Qwest's UT 125 cost studies, which included EAS  
14 traffic in PAL usage.<sup>16</sup>

15 **Q. WHAT WAS THE OUTCOME OF YOUR ANALYSIS?**

16 A. I used an overall approach to my evaluation. I compared the overall revenue  
17 generated by these rates to the costs developed in the UNE dockets. Because  
18 EAS is treated as a local service, as described earlier, I included EAS both in  
19 the revenue computation and in the costs of EAS traffic. Since payphone  
20 providers pay an end user common line charge, I added the revenue from that  
21 charge in order to compare overall revenue to overall cost. This comparison

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<sup>15</sup> Order No. 89-815, para. 1.

<sup>16</sup> EAS usage was included by Qwest in the original PAL cost studies submitted in Docket UT 125. (Docket UT 125, Qwest/219, Brigham/20-25.)

1           showed that the annual revenue resulting from Qwest's revised rates is very  
2           nearly the same as the forward looking cost that I calculated: 1.7% above.

3           (See Confidential Exhibit Staff/2, Reynolds/1, Line 6.)

4           **Q. WHAT IS STAFF'S RECOMMENDATION?**

5           A. Staff recommends that the stipulation be accepted.

6           **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

7           A. Yes, it does.

CASE: UT 125  
WITNESS: John Reynolds

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**CONFIDENTIAL STAFF EXHIBIT 2**

**Direct Testimony  
In Support of the Stipulation**

**OCTOBER 15, 2007**

**STAFF EXHIBIT 2**

**IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE  
ORDER NO. 96-045. YOU MUST HAVE SIGNED  
APPENDIX B OF THE PROTECTIVE ORDER IN  
DOCKET UT 125 TO RECEIVE THE  
CONFIDENTIAL VERSION  
OF THIS EXHIBIT.**

CASE: Docket UT 125  
WITNESS: John Reynolds

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 3**

**Witness Qualification Statement**

**OCTOBER 15, 2007**



**WITNESS QUALIFICATION STATEMENT**

NAME: JOHN REYNOLDS

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR TELECOMMUNICATIONS ANALYST

ADDRESS: 550 Capitol Street NE, Suite 215  
Salem, Oregon 97301-2551

EDUCATION  
AND TRAINING: Master of Science in Engineering-Economic Systems—  
Stanford University (1993).

Bachelor of Science in Mechanical Engineering – Stanford Uni-  
versity (1961).

Certificate -- Duke University Graduate School of Business—  
Pacific Bell Management Development Program (1992)

WORK  
EXPERIENCE: Employed with the Oregon Public Utility Commission as a Sen-  
ior Telecommunications Analyst since September, 1998

Principal of Decision Consulting Associates, performing eco-  
nomic decision and risk analyses (1994-1998)

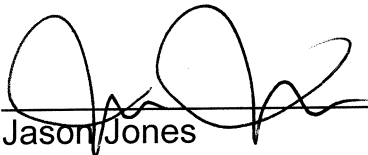
Pacific Bell (1966-1992). Various assignments in cost alloca-  
tion design, process redesign, maintenance engineering,  
capital budget management, long range planning, transmis-  
sion engineering, and equipment cost estimating.

# CERTIFICATE OF SERVICE

UT 125

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 15th day of October, 2007.



Jason Jones

Assistant Attorney General

Of Attorneys for Public Utility Commission's Staff

1162 Court Street NE

Salem, Oregon 97301-4096

Telephone: (503) 378-6322

**UT 125**  
**Service List (Parties)**

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<b>CITIZENS' UTILITY BOARD OF OREGON</b>  JASON EISDORFER (C) ENERGY PROGRAM DIRECTOR	610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org
ROBERT JENKS (C)	610 SW BROADWAY STE 308 PORTLAND OR 97205 bob@oregoncub.org
<b>DAVIS WRIGHT TREMAINE LLP</b>  MARK P TRINCHERO	1300 SW FIFTH AVE STE 2300 PORTLAND OR 97201-5682 marktrinchero@dwt.com
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# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

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October 15, 2007

OREGON PUBLIC UTILITY COMMISSION  
ATTENTION: FILING CENTER  
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SALEM OR 97308-2148

RE: **Docket No. UT125 PHASE II** - In the Matter of the application of QWEST CORPORATION – Public Access Lines Rates.

Enclosed for electronic filing in the above-captioned docket is the Stipulation between Qwest Corporation, Northwest Public Communications Council and Staff.

*/s/ Kay Barnes*

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

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c: UT 125 Service List - parties

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**PUBLIC UTILITY COMMISSION  
OF OREGON**

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**UT 125**

**STIPULATION**

**Entered into between  
Qwest Corporation, Northwest Public  
Communications Council and Staff**

**QWEST CORPORATION  
UT 125 Phase II—Public Access Line Rates**

**OCTOBER 15, 2007**

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UT 125

4 In the Matter of  
5 the Application of QWEST CORPORATION | STIPULATION  
6 for an Increase in Revenues.

7 This Stipulation is entered into for the purpose of resolving the Oregon Court of Appeals  
8 remand of Commission Order Nos. 01-810 and 02-009. Specifically, this Stipulation concludes  
9 that the rates proposed by Qwest on March 31, 2006, in response to the Court of Appeals  
10 remand, comply with federal requirements.

11 **PARTIES**

12 1. The parties to this Stipulation are the Public Utility Commission of Oregon Staff  
13 (Staff), Qwest Corporation (Qwest), and the Northwest Public Communications Council (NPCC)  
14 (collectively, the "Parties").

15 **BACKGROUND**

16 2. On April 14, 2000, the Public Utility Commission of Oregon (Commission) entered  
17 Order No. 00-190, adopting a Stipulation between U S WEST Communications, Inc. (now  
18 Qwest Corporation), and Staff in the revenue requirement phase (Phase I) of this docket.

19 3. On September 14, 2001, the Commission entered Order No. 01-810 establishing a rate  
20 design for the stipulated revenue requirement approved in Order No. 00-190. As part of Order  
21 No. 01-810, the Commission approved revised rates for public assess lines (PAL) and  
22 CustomNet service, adopting the rate recommendations proposed by Qwest and agreed to by  
23 Staff. The Northwest Payphone Association (now, NPCC) opposed the PAL and CustomNet  
24 rates adopted by the Commission, arguing that the rates were not developed in compliance with  
25 Section 276 of the Telecommunications Act of 1996.

26 ///

1           4. On November 13, 2001, NPCC filed an application for reconsideration of Order No.  
2 01-810. On January 8, 2002, the Commission entered Order No. 02-009 denying NPCC's  
3 application for reconsideration.

4           NPCC appealed Order Nos. 01-810 and 02-009 ("the rate design orders") to Marion  
5 County Circuit Court. On October 1, 2002, the Court entered a judgment affirming the  
6 Commission's orders. NPCC thereafter filed an appeal with the Oregon Court of Appeals.

7           5. On November 10, 2004, the Court of Appeals entered a decision reversing and  
8 remanding Order Nos. 01-810 and 02-009. The Court determined that the rate design orders  
9 were unlawful in that: (1) the Commission's rates for PAL did not comply with certain federal  
10 requirements, and (2) the Commission did not adequately consider whether Qwest's proposed  
11 rates for CustomNet were subject to the same federal requirements.

12           6. On March 13, 2006, the presiding Administrative Law Judge (ALJ) convened a  
13 telephone conference to establish procedures necessary to comply with the Court's remand.  
14 During the conference, Qwest indicated that it would file proposed PAL and Fraud Protection  
15 (formerly CustomNet) rates to comply with the Court's decision. Qwest also indicated that it  
16 would seek to adjust other Qwest rates because of the recalculation of payphone service rates.

17           7. On March 31, 2006, Qwest filed its proposed PAL and Fraud Protection rates<sup>1</sup>. On  
18 April 25, 2006, Qwest filed a letter on behalf of the parties requesting that the Commission  
19 decide, as a threshold matter, whether Qwest may raise any customer rates to offset reduced  
20 revenues resulting from a Commission decision approving lower PAL and Fraud Protection  
21 rates. On September 11, 2006, the Commission entered Order No. 06-515 denying Qwest's  
22 proposal to raise residential Caller ID rates to offset a decrease in PAL and Fraud Protection  
23 rates resulting from the Court-ordered remand in Docket No. UT 125.

24

25

26 <sup>1</sup> These were the same rates that Qwest submitted in Advice 1935 and that the Commission  
approved on March 17, 2003.



1           8. As a result of Order No. 06-515, the unresolved issues on remand are whether the  
2 PAL and Fraud Protection rates filed on March 31, 2006, comply with the Oregon Court of  
3 Appeals remand. Specifically, (1) whether Qwest's proposed PAL rates comply with federal  
4 requirements, and (2) whether Qwest's proposed Fraud Protection rates comply with federal  
5 requirements.

6           9. Since Order No. 06-515 was entered, Staff has performed a cost review of the rates  
7 proposed by Qwest on March 31, 2006. In addition, the Parties have held several settlement  
8 conferences to discuss whether the proposed rates are consistent with the Court of Appeals  
9 remand and federal requirements.

10   AGREEMENT

11           10. The Parties agree that Qwest's proposed PAL rates filed on March 31, 2006, comply  
12 with federal requirements. The Parties further agree that the proposed PAL rates, filed on March  
13 31, 2006, satisfy the Court of Appeals Remand Order.

14           11. The Parties agree that Qwest's proposed Fraud Protection rates filed on March 31,  
15 2006, comply with federal requirements. The Parties further agree that the proposed Fraud  
16 Protection rates, filed on March 31, 2006, satisfy the Court of Appeals Remand Order.

17           12. The written testimony of Staff, which is attached hereto, will be received in evidence  
18 pursuant to this Stipulation without requiring any Stipulating Party to lay a foundation for its  
19 admission.

20           13. The Parties agree that this Stipulation represents a compromise in the positions of the  
21 Parties. As such, conduct, statements and documents disclosed in the negotiation of the  
22 Stipulation shall not be admissible as evidence in this or any other proceeding.

23           14. This Stipulation will be offered into the record of this proceeding as evidence  
24 pursuant to OAR 860-14-0085. The Parties agree to support this Stipulation throughout this  
25 proceeding and any appeal, provide witnesses, if necessary, to sponsor this Stipulation at the  
26

1 hearing and recommend that the Commission issue an order adopting settlements contained  
2 herein.

3 15. The Parties have negotiated this Stipulation as an integrated document. If the  
4 Commission rejects all or any material portion of this Stipulation, or imposes additional material  
5 conditions in approving this Stipulation, any party disadvantaged by such action shall have the  
6 rights provided in OAR 860-14-0085 and shall be entitled to seek reconsideration or appeal of  
7 the Commission's Order.

8 16. By entering into this Stipulation, no party shall be deemed to have approved,  
9 admitted, or consented to the facts, principles, methods, or theories employed by any other party  
10 in arriving at the terms of this Stipulation including those set forth in the written testimony of  
11 Staff submitted in support of this Stipulation, other than those specifically identified in the body  
12 of this Stipulation. No party shall be deemed to have agreed that any provision of this  
13 Stipulation is appropriate for resolving issues in any other proceeding.

14 17. The Stipulation may be executed in counterparts and each signed counterpart shall  
15 constitute an original document.

16 ///  
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1 This Stipulation is entered into by each party on the date entered below such party's  
2 signature.

3 QWEST CORPORATION

NORTHWEST PUBLIC COMMUNICATIONS  
4 COUNCIL (NPCC)

5 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

6 By: \_\_\_\_\_  
7 Print name

By: \_\_\_\_\_  
Print name

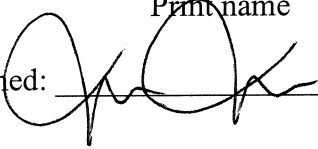
8 Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

9  
10 PUBLIC UTILITY COMMISSION STAFF

11 Dated: 10/10/07

12 By: Jason Jones  
13 Print name

14 Signed: 

1 This Stipulation is entered into by each party on the date entered below such party's  
2 signature.

3 QWEST CORPORATION

NORTHWEST PUBLIC COMMUNICATIONS  
COUNCIL (NPCC)

4  
5 Dated: 10/10/07

Dated: \_\_\_\_\_

6 By: Alex M. Duarte

By: \_\_\_\_\_

7 Print name Corporate Counsel

Print name

8 Signed: [Signature]

Signed: \_\_\_\_\_

9  
10 PUBLIC UTILITY COMMISSION STAFF

11 Dated: \_\_\_\_\_

12 By: \_\_\_\_\_

13 Print name

14 Signed: \_\_\_\_\_

1 This Stipulation is entered into by each party on the date entered below such party's  
2 signature.

3 QWEST CORPORATION

NORTHWEST PUBLIC COMMUNICATIONS  
4 COUNCIL (NPCC)

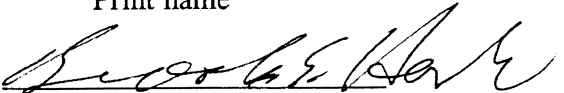
5 Dated: \_\_\_\_\_

Dated: 10/10/07

6 By: \_\_\_\_\_  
7 Print name

By: BROOKS E. HARLOW  
Print name

8 Signed: \_\_\_\_\_

Signed: 

10 PUBLIC UTILITY COMMISSION STAFF

11 Dated: \_\_\_\_\_

12 By: \_\_\_\_\_  
13 Print name

14 Signed: \_\_\_\_\_

# CERTIFICATE OF SERVICE

UT 125

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 15th day of October, 2007.



---

Jason Jones

Assistant Attorney General

Of Attorneys for Public Utility Commission's Staff

1162 Court Street NE

Salem, Oregon 97301-4096

Telephone: (503) 378-6322

**UT 125**  
**Service List (Parties)**

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ROBERT JENKS (C)	610 SW BROADWAY STE 308 PORTLAND OR 97205 bob@oregoncub.org
<b>DAVIS WRIGHT TREMAINE LLP</b>  MARK P TRINCHERO	1300 SW FIFTH AVE STE 2300 PORTLAND OR 97201-5682 marktrinchero@dw.com
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DAVID L RICE	601 UNION ST / 4400 TWO UNION SQ SEATTLE WA 98101-1367 david.rice@millernash.com
<b>PACIFIC NORTHWEST PAYPHONE</b>	
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<b>PERKINS COIE LLP</b>	
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<b>QWEST CORPORATION</b>	
ALEX M DUARTE CORPORATE COUNSEL	421 SW OAK ST STE 810 PORTLAND OR 97204 alex.duarte@qwest.com
<b>VERIZON NORTHWEST INC</b>	
DEAN RANDALL (C)	20575 NW VON NEUMANN DR STE 150 MC OR030156 HILLSBORO OR 97006 dean.randall@verizon.com
<b>WORLDCOM INC</b>	
MICHEL SINGER-NELSON REGULATORY ATTORNEY	707 - 17TH ST STE 4200 DENVER CO 80202



1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UT 125

4 In the Matter of

5 QWEST CORPORATION, fka  
6 U S WEST COMMUNICAITON, INC.,

7 Application for Increase in Revenues.

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STAFF REQUEST TO SUPPLEMENT RECORD

9 Pursuant to ALJ Mellgren’s November 30, 2023, Prehearing Conference Memorandum,  
10 Staff submits the following request to supplement the Court of Appeals Record with additional  
11 material from the broader UT 125 record. Specifically, Staff seeks to include the Stipulation  
12 approved in Commission’s Order No. 07-497 along with supporting Staff Testimony and  
13 Exhibits, as described in detail below.

14 **I. Staff Testimony and Exhibits**

15 Staff seeks inclusion of Staff Exhibits 1-3, titled “Docket No. UT 125 Phase II - In the  
16 Matter of the application of Qwest Corporation – Public Access Lines Rates,” which were posted  
17 to the UT 125 docket on October 15, 2007. These exhibits are comprised of the Direct Testimony  
18 of Staff Witness John Reynolds in Support of the Stipulation (Staff Exhibit 1), Staff’s  
19 Calculation and Evaluation of Quest’s Proposed Rates (Confidential Staff Exhibit 2), and the  
20 Witness Qualification Statement of John Reynolds (Staff Exhibit 3).

21 These documents are relevant to determining whether Qwest’s rates from 1996-2003  
22 complied with the new services test (NST). Staff Exhibit 1 describes the requirements of the  
23 NST as set out in 47 U.S.C. § 276(b)(1)(C) as well as providing details of how Staff evaluates  
24 rates compliance with the NST. Though Staff Exhibit 1 looked at rates from 2006 forward, the  
25 description of NST requirements and discussion of appropriate inputs and considerations for  
26 evaluating compliance with the NST are equally applicable to Qwest’s 1996-2003 rates.

1 Staff's direct testimony in Staff Exhibit 1 is based in part on the analysis included in  
2 Confidential Staff Exhibit 2. Staff Exhibit 3 provides the qualifications of John Reynolds, who  
3 authored all three exhibits. Staff Exhibit 1 and Staff Exhibit 3 are attached to this request. Staff  
4 requests that Confidential Staff Exhibit 2 remain confidential and treated in accordance with  
5 Modified Protective Order No. 23-382. Staff has requested this the unredacted version of  
6 Confidential Staff Exhibit 2 from the Commission's archives but has not received at this time.  
7 Staff will provide the unredacted version of Confidential Staff Exhibit 2 as soon as it becomes  
8 available. In consideration of time, Staff requests that any party in possession of the unredacted  
9 version of Confidential Staff Exhibit 2 make it available through means specified in Order No.  
10 23-382.

## 11 **II. 2007 Stipulation**

12 Staff further seeks inclusion of the October 15, 2007, Stipulation among the Public Utility  
13 Commission of Oregon Staff (Staff), Qwest Corporation (Qwest), and the Northwest Public  
14 Communications Council (NPCC) adopted by the Commission in Order No. 07-497; attached to this  
15 request. Staff requests the inclusion of the Stipulation as it provides appropriate context and articulates  
16 the limitations for reliance on Staff Exhibits 1-3, discussed above. Paragraph 16 of the Stipulation  
17 clarifies that "no party shall be deemed to have approved (...) methods or theories employed by any  
18 other party in arriving at the terms of this Stipulation" and similarly "[n]o party shall be deemed to have  
19 agreed that any provision of this Stipulation is appropriate for resolving issues in any other  
20 proceeding."

## 21 **III. Party Positions**

22 As directed, Staff conferred with Qwest and NPCC to ascertain whether they agree and  
23 with inclusion of Staff Testimony and Exhibits and the 2007 Stipulation in the record. Both  
24 Qwest and NPCC communicated having no objection to the inclusion of these materials in the  
25 record.  
26

1 **IV. Additional Development of the Record**

2 Staff understands that the record being developed at this time is limited to Phase I of this  
3 proceeding, and that opportunity to further develop the record will be provided in Phase II, if  
4 applicable. As no arguments have been put forward by Parties at this point, Staff is unable to  
5 confirm that a sufficient factual basis exists to support a Commission decision on Phase I of this  
6 proceeding. Accordingly, Staff may request leave for additional supplementation of the record, if  
7 necessary, before oral argument.

8  
9 DATED this 14 day of December 2023.

10  
11 Respectfully submitted,

12 ELLEN F. ROSENBLUM  
13 Attorney General

14 /s/ Natascha Smith

15 \_\_\_\_\_  
16 Natascha Smith, OSB No. 174661  
17 Assistant Attorney General  
18 Of Attorneys for Staff of the Public Utility  
19 Commission of Oregon



# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

550 Capitol St NE, Suite 215

**Mailing Address:** PO Box 2148

Salem, OR 97308-2148

**Consumer Services**

1-800-522-2404

Local: (503) 378-6600

**Administrative Services**

(503) 373-7394

October 15, 2007

OREGON PUBLIC UTILITY COMMISSION  
ATTENTION: FILING CENTER  
PO BOX 2148  
SALEM OR 97308-2148

RE: **Docket No. UT125 PHASE II** - In the Matter of the application of QWEST CORPORATION – Public Access Lines Rates.

Enclosed for electronic filing in the above-captioned docket is the Public Utility Commission Staff's Direct Testimony.

*/s/ Kay Barnes*

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

(503) 378-5763

Email: [kay.barnes@state.or.us](mailto:kay.barnes@state.or.us)

c: UT 125 Service List - parties

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**PUBLIC UTILITY COMMISSION  
OF OREGON**

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**UT 125**

**STAFF DIRECT TESTIMONY OF**

**John Reynolds**

**QWEST CORPORATION  
UT 125 Phase II—Public Access Line Rates**

**REDACTED  
OCTOBER 15, 2007**

CASE: Docket UT 125  
WITNESS: John Reynolds

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 1**

**Direct Testimony  
In Support of the Stipulation**

**OCTOBER 15, 2007**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**  
2 **ADDRESS.**

3 A. My name is John Reynolds. The Public Utility Commission of Oregon  
4 (Commission) employs me as a Senior Telecommunications Analyst. My  
5 business address is 550 Capitol Street NE Suite 215, Salem, Oregon 97301-  
6 2551.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**  
8 **EXPERIENCE.**

9 A. My Witness Qualification Statement is in Exhibit Staff/3.

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A. The purpose of my testimony is to sponsor a stipulated agreement between the  
12 Public Utility Commission of Oregon Staff (Staff), Qwest Corporation (Qwest),  
13 and the Northwest Public Communications Council (NPCC).

14 **Q. DID YOU PREPARE EXHIBITS FOR THIS DOCKET?**

15 A. Yes. I prepared two exhibits. Confidential Exhibit Staff/2 consists of  
16 spreadsheets detailing my calculations and evaluation of Qwest's proposed  
17 rates. Exhibit Staff/3 contains my witness qualification statement.

18 **Q. WHY DID STAFF REVIEW QWEST'S PUBLIC ACCESS LINE (PAL)**  
19 **RATES?**

20 A. The Court of Appeals of the State of Oregon reversed and remanded to the  
21 Commission its final order (No. 01-810) and its reconsideration order  
22 (No. 02-009) in Docket UT 125 for reconsideration of the issues related to PAL

1 and CustomNet<sup>1</sup> rates contained in those orders.<sup>2</sup> The Court found that the  
2 Commission did not require Qwest to follow the recent directives of the Federal  
3 Communication Commission (FCC) to ensure the proposed rates met the  
4 prescribed “new services test”.

5 **Q. WHAT IS THE “NEW SERVICES TEST”?**

6 A. The new services test is a set of criteria to ensure that rates are “cost-based,  
7 non discriminatory, and consistent with both section 276 [of the  
8 Telecommunications Act of 1996 (the Act)] and the Commission’s [FCC]  
9 Computer III tariffing guidelines.”<sup>3</sup> The FCC prescribed the new services test  
10 as early as 1988.<sup>4</sup> The FCC issued orders more recently specifically  
11 addressing the new services test as it applies to payphone rates.<sup>5, 6, 7</sup>

12 The new services test requires the following:

13 (a) Proposed rates must not recover more than the direct costs of the  
14 service plus “a just and reasonable portion of the carrier’s overhead  
15 costs.”<sup>8</sup>

16 (b) Costs must be determined by the use of an appropriate forward  
17 looking, economic cost methodology that is consistent with the

---

<sup>1</sup> CustomNet service is now known as Fraud Protection.

<sup>2</sup> Court of Appeals of the State of Oregon, 02C-12247; A119640, filed November 10, 2004.

<sup>3</sup> FCC Order No. DA 00-347, para. 2.

<sup>4</sup> FCC Order No. 88-172, Further Notice of Proposed Rulemaking [regarding Price Caps],  
May 23, 1988.

<sup>5</sup> FCC Order No. DA 00-347; [“the Wisconsin Order”], March 1, 2000.

<sup>6</sup> FCC Order No. FCC 02-25, Memorandum Opinion and Order [“New Services Order”],  
January 28, 2002.

<sup>7</sup> Telecommunications Act of 1996, Section 276, *Provision of Payphone Service*.

<sup>8</sup> FCC Order No. DA 00-347, para. 9.



1 principles that the Commission set forth in the Local Competition  
2 First Report and Order.<sup>9</sup>

3 (c) Cost study inputs and assumptions used to justify payphone rates  
4 should be consistent with the cost inputs used in computing rates  
5 for other services offered to competitors.<sup>10</sup>

6 (d) LECs must justify the overhead cost methodology, and must not  
7 recover a greater share of overhead than in comparable services,  
8 such as unbundled network elements (UNEs).<sup>11</sup>

9 (e) Rates must take into account other sources of revenue that are  
10 used to recover the cost of facilities used, e.g., subscriber line  
11 charge (SLC), primary interexchange carrier charge (PICC), and  
12 carrier common line charge (CCL), in order to avoid double  
13 recovery.<sup>12</sup>

14 (f) Certain “retail” costs, although prohibited from inclusion in UNE  
15 rates, may be included in payphone rates.<sup>13</sup>

16 **Q. DID QWEST PROPOSE REVISED RATES?**

17 A. Yes. On March 31, 2006, Qwest filed revised rates intended to implement the  
18 remand order. Qwest’s proposal incorporated the cost studies filed with Advice  
19 1935 on February 28, 2003.

20 ///

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<sup>9</sup> Id, para. 9.

<sup>10</sup> Id, para. 10.

<sup>11</sup> Id, para. 11.

<sup>12</sup> Id, para. 12.

<sup>13</sup> FCC Order No. FCC 02-25, Memorandum Opinion and Order [“New Services Order”],  
January 28, 2002, para. 50.

1 **Q. HOW DID YOU EVALUATE QWEST'S PROPOSAL?**

2 A. I reviewed the proposal to ensure the general methodology met the FCC's  
3 requirements. To check the reasonability of the assumptions and the accuracy  
4 of the calculations, I compared the results of the submitted cost studies with  
5 costs I calculated using the UNE costs developed in Dockets UM 773, UM 844,  
6 and UT 148. Using the results of the UNE dockets to compare costs avoided  
7 the need to evaluate each element of input and computation in great detail, a  
8 task which would be equivalent to a complete revision of UNE costs.

9 **Q. DOES QWEST'S METHODOLOGY CONFORM TO THE REQUIREMENTS**  
10 **OF THE NEW SERVICES TEST?**

11 A. Yes. The methodology used by Qwest meets the requirements of the new  
12 services test as listed earlier:

13 (a) Proposed rates do not recover more than direct costs plus a just and  
14 reasonable amount of overhead;

15 (b) The cost studies employ Qwest's Integrated Cost Model (ICM),  
16 September 26, 2002 version. The ICM is a forward looking cost model  
17 which the company used in current UNE filings. The ICM is consistent  
18 with the total service long run incremental cost (TSLRIC) method used  
19 in determining UNE costs.

20 (c) Inputs used in the cost study are consistent with those used in other  
21 current cost studies. For the supporting studies, Qwest used current  
22 (2002) input costs, rather than input costs that were current at the time  
23 of the UNE dockets. To account for any difference between current

1 input costs and UNE docket input costs, Qwest weighted the input  
2 investment by a “benchmark” ratio of approved UNE rates to the  
3 September 2002 study-calculated UNE rates.

4 (d) The overhead cost methodology is the same as is used in other Qwest  
5 studies and is consistent with the method used in UNE pricing.

6 (e) To avoid double recovery, Qwest deducted the subscriber line charge  
7 (SLC) from the cost calculations to determine the tariff rate.

8 (f) Certain additional “retail” costs, such as billing and sales expense, were  
9 appropriately included.

10 **Q. WHY DID YOU USE DOCKETS UM 773, UM 844 AND UT 148 AS COST**  
11 **REFERENCES?**

12 A. Dockets UM 773, UM 844, and UT 148 produced total service long run  
13 incremental costs (TSLRIC) and UNE rates for all network elements.<sup>14</sup> These  
14 costs are the standard that Staff uses for evaluating tariff submissions for  
15 conformance to Oregon Revised Statutes (ORS) Chapter 759,  
16 *Telecommunications Utility Regulation*. The costs in these dockets were  
17 derived after extensive scrutiny, challenge and litigation by many parties.  
18 Inputs, assumptions, and various cost modeling approaches were examined in  
19 detail in the course of determining the final results. The methods used to

---

<sup>14</sup> Principal resources for these dockets are (a) UM 773: Order No. 97-145, Adopted “Building Block” [unbundled network element] TSLRIC cost studies; (b) UM 844: Order No. 97-239, Approved “Building Block” [unbundled network element] rates; and (c) UT 148: Order No. 00-481, Established deaveraged UNE loop rates.

1 develop costs in these dockets conform to the FCC's new services test. I  
2 used the results of these dockets to check the results of Qwest's proposal.

3 **Q. DID YOU INCLUDE EXTENDED AREA SERVICE (EAS) RATES**  
4 **TOGETHER WITH PAL RATES IN MAKING YOUR COMPARISON?**

5 A. Yes.

6 **Q. PLEASE EXPLAIN WHY YOU INCLUDED EAS RATES.**

7 A. Although EAS calls are not local calls, they are essentially treated as local  
8 calls.<sup>15</sup> More importantly, where EAS is established, EAS is mandatory, and a  
9 choice of interexchange service providers is not allowed. Furthermore, in  
10 localities where EAS exists, the EAS rates apply to all types of dialed calls  
11 (business, residence, payphone, etc.) between the designated exchanges.  
12 Because EAS is mandatory and it is regulated as a local charge, I included  
13 EAS. This is consistent with Qwest's UT 125 cost studies, which included EAS  
14 traffic in PAL usage.<sup>16</sup>

15 **Q. WHAT WAS THE OUTCOME OF YOUR ANALYSIS?**

16 A. I used an overall approach to my evaluation. I compared the overall revenue  
17 generated by these rates to the costs developed in the UNE dockets. Because  
18 EAS is treated as a local service, as described earlier, I included EAS both in  
19 the revenue computation and in the costs of EAS traffic. Since payphone  
20 providers pay an end user common line charge, I added the revenue from that  
21 charge in order to compare overall revenue to overall cost. This comparison

---

<sup>15</sup> Order No. 89-815, para. 1.

<sup>16</sup> EAS usage was included by Qwest in the original PAL cost studies submitted in Docket UT 125. (Docket UT 125, Qwest/219, Brigham/20-25.)

1           showed that the annual revenue resulting from Qwest's revised rates is very  
2           nearly the same as the forward looking cost that I calculated: 1.7% above.

3           (See Confidential Exhibit Staff/2, Reynolds/1, Line 6.)

4           **Q. WHAT IS STAFF'S RECOMMENDATION?**

5           A. Staff recommends that the stipulation be accepted.

6           **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

7           A. Yes, it does.

CASE: UT 125  
WITNESS: John Reynolds

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**CONFIDENTIAL STAFF EXHIBIT 2**

**Direct Testimony  
In Support of the Stipulation**

**OCTOBER 15, 2007**

**STAFF EXHIBIT 2**

**IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE  
ORDER NO. 96-045. YOU MUST HAVE SIGNED  
APPENDIX B OF THE PROTECTIVE ORDER IN  
DOCKET UT 125 TO RECEIVE THE  
CONFIDENTIAL VERSION  
OF THIS EXHIBIT.**

CASE: Docket UT 125  
WITNESS: John Reynolds

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 3**

**Witness Qualification Statement**

**OCTOBER 15, 2007**



**WITNESS QUALIFICATION STATEMENT**

NAME: JOHN REYNOLDS

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR TELECOMMUNICATIONS ANALYST

ADDRESS: 550 Capitol Street NE, Suite 215  
Salem, Oregon 97301-2551

EDUCATION  
AND TRAINING: Master of Science in Engineering-Economic Systems—  
Stanford University (1993).

Bachelor of Science in Mechanical Engineering – Stanford Uni-  
versity (1961).

Certificate -- Duke University Graduate School of Business—  
Pacific Bell Management Development Program (1992)

WORK  
EXPERIENCE: Employed with the Oregon Public Utility Commission as a Sen-  
ior Telecommunications Analyst since September, 1998

Principal of Decision Consulting Associates, performing eco-  
nomic decision and risk analyses (1994-1998)

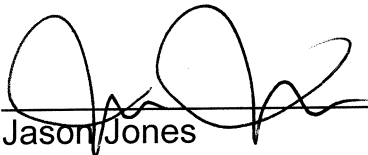
Pacific Bell (1966-1992). Various assignments in cost alloca-  
tion design, process redesign, maintenance engineering,  
capital budget management, long range planning, transmis-  
sion engineering, and equipment cost estimating.

# CERTIFICATE OF SERVICE

UT 125

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 15th day of October, 2007.

A handwritten signature in black ink, appearing to read "Jason Jones", is written over a horizontal line.

Jason Jones

Assistant Attorney General

Of Attorneys for Public Utility Commission's Staff

1162 Court Street NE

Salem, Oregon 97301-4096

Telephone: (503) 378-6322

**UT 125**  
**Service List (Parties)**

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<b>AT&amp;T NEVADA</b>  DANIEL FOLEY GENERAL ATTORNEY & ASST GEN COUNSEL	645 E PLUMB LANE B132 PO BOX 11010 RENO NV 89520 dan.foley@att.com
<b>CITIZENS' UTILITY BOARD OF OREGON</b>  JASON EISDORFER (C) ENERGY PROGRAM DIRECTOR	610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org
ROBERT JENKS (C)	610 SW BROADWAY STE 308 PORTLAND OR 97205 bob@oregoncub.org
<b>DAVIS WRIGHT TREMAINE LLP</b>  MARK P TRINCHERO	1300 SW FIFTH AVE STE 2300 PORTLAND OR 97201-5682 marktrinchero@dwt.com
<b>DEPARTMENT OF JUSTICE</b>  JASON W JONES ASSISTANT ATTORNEY GENERAL	REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE SALEM OR 97301-4096 jason.w.jones@state.or.us
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# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

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Salem, OR 97308-2148

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1-800-522-2404

Local: (503) 378-6600

### Administrative Services

(503) 373-7394

October 15, 2007

OREGON PUBLIC UTILITY COMMISSION  
ATTENTION: FILING CENTER  
PO BOX 2148  
SALEM OR 97308-2148

RE: **Docket No. UT125 PHASE II** - In the Matter of the application of QWEST CORPORATION – Public Access Lines Rates.

Enclosed for electronic filing in the above-captioned docket is the Stipulation between Qwest Corporation, Northwest Public Communications Council and Staff.

*/s/ Kay Barnes*

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

(503) 378-5763

Email: [kay.barnes@state.or.us](mailto:kay.barnes@state.or.us)

c: UT 125 Service List - parties

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**PUBLIC UTILITY COMMISSION  
OF OREGON**

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**UT 125**

**STIPULATION**

**Entered into between  
Qwest Corporation, Northwest Public  
Communications Council and Staff**

**QWEST CORPORATION  
UT 125 Phase II—Public Access Line Rates**

**OCTOBER 15, 2007**

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UT 125

4 In the Matter of  
5 the Application of QWEST CORPORATION | STIPULATION  
6 for an Increase in Revenues.

7 This Stipulation is entered into for the purpose of resolving the Oregon Court of Appeals  
8 remand of Commission Order Nos. 01-810 and 02-009. Specifically, this Stipulation concludes  
9 that the rates proposed by Qwest on March 31, 2006, in response to the Court of Appeals  
10 remand, comply with federal requirements.

11 **PARTIES**

12 1. The parties to this Stipulation are the Public Utility Commission of Oregon Staff  
13 (Staff), Qwest Corporation (Qwest), and the Northwest Public Communications Council (NPCC)  
14 (collectively, the "Parties").

15 **BACKGROUND**

16 2. On April 14, 2000, the Public Utility Commission of Oregon (Commission) entered  
17 Order No. 00-190, adopting a Stipulation between U S WEST Communications, Inc. (now  
18 Qwest Corporation), and Staff in the revenue requirement phase (Phase I) of this docket.

19 3. On September 14, 2001, the Commission entered Order No. 01-810 establishing a rate  
20 design for the stipulated revenue requirement approved in Order No. 00-190. As part of Order  
21 No. 01-810, the Commission approved revised rates for public assess lines (PAL) and  
22 CustomNet service, adopting the rate recommendations proposed by Qwest and agreed to by  
23 Staff. The Northwest Payphone Association (now, NPCC) opposed the PAL and CustomNet  
24 rates adopted by the Commission, arguing that the rates were not developed in compliance with  
25 Section 276 of the Telecommunications Act of 1996.

26 ///

1           4. On November 13, 2001, NPCC filed an application for reconsideration of Order No.  
2 01-810. On January 8, 2002, the Commission entered Order No. 02-009 denying NPCC's  
3 application for reconsideration.

4           NPCC appealed Order Nos. 01-810 and 02-009 ("the rate design orders") to Marion  
5 County Circuit Court. On October 1, 2002, the Court entered a judgment affirming the  
6 Commission's orders. NPCC thereafter filed an appeal with the Oregon Court of Appeals.

7           5. On November 10, 2004, the Court of Appeals entered a decision reversing and  
8 remanding Order Nos. 01-810 and 02-009. The Court determined that the rate design orders  
9 were unlawful in that: (1) the Commission's rates for PAL did not comply with certain federal  
10 requirements, and (2) the Commission did not adequately consider whether Qwest's proposed  
11 rates for CustomNet were subject to the same federal requirements.

12           6. On March 13, 2006, the presiding Administrative Law Judge (ALJ) convened a  
13 telephone conference to establish procedures necessary to comply with the Court's remand.  
14 During the conference, Qwest indicated that it would file proposed PAL and Fraud Protection  
15 (formerly CustomNet) rates to comply with the Court's decision. Qwest also indicated that it  
16 would seek to adjust other Qwest rates because of the recalculation of payphone service rates.

17           7. On March 31, 2006, Qwest filed its proposed PAL and Fraud Protection rates<sup>1</sup>. On  
18 April 25, 2006, Qwest filed a letter on behalf of the parties requesting that the Commission  
19 decide, as a threshold matter, whether Qwest may raise any customer rates to offset reduced  
20 revenues resulting from a Commission decision approving lower PAL and Fraud Protection  
21 rates. On September 11, 2006, the Commission entered Order No. 06-515 denying Qwest's  
22 proposal to raise residential Caller ID rates to offset a decrease in PAL and Fraud Protection  
23 rates resulting from the Court-ordered remand in Docket No. UT 125.

24

25

26 <sup>1</sup> These were the same rates that Qwest submitted in Advice 1935 and that the Commission  
approved on March 17, 2003.



1 8. As a result of Order No. 06-515, the unresolved issues on remand are whether the  
2 PAL and Fraud Protection rates filed on March 31, 2006, comply with the Oregon Court of  
3 Appeals remand. Specifically, (1) whether Qwest's proposed PAL rates comply with federal  
4 requirements, and (2) whether Qwest's proposed Fraud Protection rates comply with federal  
5 requirements.

6 9. Since Order No. 06-515 was entered, Staff has performed a cost review of the rates  
7 proposed by Qwest on March 31, 2006. In addition, the Parties have held several settlement  
8 conferences to discuss whether the proposed rates are consistent with the Court of Appeals  
9 remand and federal requirements.

10 AGREEMENT

11 10. The Parties agree that Qwest's proposed PAL rates filed on March 31, 2006, comply  
12 with federal requirements. The Parties further agree that the proposed PAL rates, filed on March  
13 31, 2006, satisfy the Court of Appeals Remand Order.

14 11. The Parties agree that Qwest's proposed Fraud Protection rates filed on March 31,  
15 2006, comply with federal requirements. The Parties further agree that the proposed Fraud  
16 Protection rates, filed on March 31, 2006, satisfy the Court of Appeals Remand Order.

17 12. The written testimony of Staff, which is attached hereto, will be received in evidence  
18 pursuant to this Stipulation without requiring any Stipulating Party to lay a foundation for its  
19 admission.

20 13. The Parties agree that this Stipulation represents a compromise in the positions of the  
21 Parties. As such, conduct, statements and documents disclosed in the negotiation of the  
22 Stipulation shall not be admissible as evidence in this or any other proceeding.

23 14. This Stipulation will be offered into the record of this proceeding as evidence  
24 pursuant to OAR 860-14-0085. The Parties agree to support this Stipulation throughout this  
25 proceeding and any appeal, provide witnesses, if necessary, to sponsor this Stipulation at the  
26

1 hearing and recommend that the Commission issue an order adopting settlements contained  
2 herein.

3 15. The Parties have negotiated this Stipulation as an integrated document. If the  
4 Commission rejects all or any material portion of this Stipulation, or imposes additional material  
5 conditions in approving this Stipulation, any party disadvantaged by such action shall have the  
6 rights provided in OAR 860-14-0085 and shall be entitled to seek reconsideration or appeal of  
7 the Commission's Order.

8 16. By entering into this Stipulation, no party shall be deemed to have approved,  
9 admitted, or consented to the facts, principles, methods, or theories employed by any other party  
10 in arriving at the terms of this Stipulation including those set forth in the written testimony of  
11 Staff submitted in support of this Stipulation, other than those specifically identified in the body  
12 of this Stipulation. No party shall be deemed to have agreed that any provision of this  
13 Stipulation is appropriate for resolving issues in any other proceeding.

14 17. The Stipulation may be executed in counterparts and each signed counterpart shall  
15 constitute an original document.

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26 ///

1 This Stipulation is entered into by each party on the date entered below such party's  
2 signature.

3 QWEST CORPORATION

NORTHWEST PUBLIC COMMUNICATIONS  
COUNCIL (NPCC)

5 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

6 By: \_\_\_\_\_  
7 Print name

By: \_\_\_\_\_  
Print name

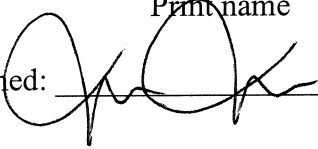
8 Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

9  
10 PUBLIC UTILITY COMMISSION STAFF

11 Dated: 10/10/07

12 By: Jason Jones  
13 Print name

14 Signed: 

1 This Stipulation is entered into by each party on the date entered below such party's  
2 signature.

3 QWEST CORPORATION

NORTHWEST PUBLIC COMMUNICATIONS  
4 COUNCIL (NPCC)

5 Dated: 10/10/07

Dated: \_\_\_\_\_

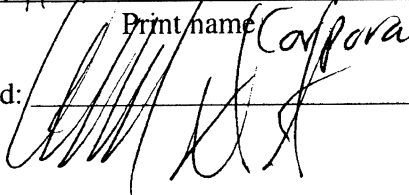
6 By: Alex M. Duarte

By: \_\_\_\_\_

7 Print name

Corporate Counsel

Print name

8 Signed: 

Signed: \_\_\_\_\_

9  
10 PUBLIC UTILITY COMMISSION STAFF

11 Dated: \_\_\_\_\_

12 By: \_\_\_\_\_

13 Print name

14 Signed: \_\_\_\_\_

1 This Stipulation is entered into by each party on the date entered below such party's  
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3 QWEST CORPORATION

NORTHWEST PUBLIC COMMUNICATIONS  
4 COUNCIL (NPCC)

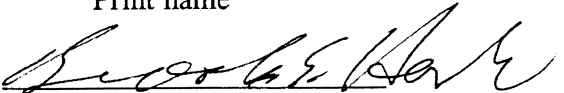
5 Dated: \_\_\_\_\_

Dated: 10/10/07

6 By: \_\_\_\_\_  
7 Print name

By: BROOKS E. HARLOW  
Print name

8 Signed: \_\_\_\_\_

Signed: 

10 PUBLIC UTILITY COMMISSION STAFF

11 Dated: \_\_\_\_\_

12 By: \_\_\_\_\_  
13 Print name

14 Signed: \_\_\_\_\_

# CERTIFICATE OF SERVICE

UT 125

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 15th day of October, 2007.



---

Jason Jones

Assistant Attorney General

Of Attorneys for Public Utility Commission's Staff

1162 Court Street NE

Salem, Oregon 97301-4096

Telephone: (503) 378-6322

**UT 125  
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