

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 COMMUNICATIONS, INC.,

7 Application for Increase in Revenues.

**QWEST CORPORATION'S RESPONSE  
TO NPCC'S REQUEST TO  
SUPPLEMENT RECORD**

8 Pursuant to the Prehearing Conference Memorandum issued November 30, 2023 ("PHC  
9 Memorandum"), Qwest Corporation respectfully submits its response to NPCC's Proposed  
10 Record Supplementation filed on December 14, 2023 ("NPCC's Request"). The Commission  
11 should deny NPCC's Request because it reasserts NPCC's erroneous positions regarding the  
12 scope of and procedures for the remand proceeding, which the Commission has already rejected,  
13 and because the records it seeks are not relevant to the first phase of this proceeding. NPCC's  
14 Request also exceeds the scope of the PHC Memorandum, which simply asked (at 2) whether  
15 "the record should be supplemented with additional material from the broader UT 125 record,"  
16 not with discovery from Qwest.

17 NPCC "requests that the ALJ order Qwest to produce its billing records for CustomNet  
18 and PAL services during the relevant time period so the first question in phase one can be  
19 answered" and that "those actual billing records be added to the record via supplementation."  
20 NPCC's Request at 2. This is precisely the same request for production of records NPCC made  
21 in its Proposal for Proceeding filed on November 7, 2023, which the Commission denied in the  
22 PHC Memorandum. NPCC's Request is also based on the same position it took in its  
23 November 7, 2023 Proposal for how the remand proceeding should be conducted, which the  
24 Commission rejected in the PHC Memorandum.

25 One of the issues to be addressed in Phase I of the remand is "whether Qwest's rates from  
26 1996-2003 complied with the new services test (NST)." PHC Memorandum at 1. NPCC asserts

1 that Qwest's complete record of billings to NPCC's members for that entire time period is  
2 needed to establish the rates that Qwest charged for payphone services from 1996-2003. That is  
3 not correct. The rates that Qwest charged for payphone services during that period were set forth  
4 in its rate schedules filed with the Commission. Those rates changed from time to time during  
5 that period based on Commission action (e.g., its 2001 orders in the rate design phase of this  
6 proceeding). The rates Qwest charged can be established by reference to filed rate schedules and  
7 those rates can then be evaluated for NST compliance during the 1996-2003 time period based,  
8 in part, on the evidence that was submitted in Phase I of the rate case.<sup>1</sup> There has been no  
9 suggestion that Qwest did not charge its filed rates at any time (which it is, of course, required to  
10 do under ORS 759.205), and production of billing records is not required to establish the rates  
11 that were effective during this time period.<sup>2</sup>

12 For the foregoing reasons, Qwest respectfully requests that the Commission deny  
13 NPCC's Request, including its request that the Commission order Qwest to produce its billing  
14 records.

15  
16  
17  
18  
19  
20  
21

---

22 <sup>1</sup> Qwest disagrees with NPCC's statement that the rates Qwest charged in 1996-2003 would be compared "to the  
23 NST-compliant charges which were approved by stipulation in PUC Order 07-497...." NPCC's Request at 2. While  
24 this issue will be addressed in the Phase I briefing and does not need to be argued or decided now, the rates charged  
in the 1996-2003 timeframe may be NST-compliant even if they were not the same rates that the parties stipulated in  
2007 were NST-compliant at that time.

25 <sup>2</sup> Qwest is confused and surprised by NPCC's statement that "the records requested above are solely in the  
26 possession of Qwest and the PUC...." NPCC's Request at 3. As parties who have serially litigated numerous claims  
for refunds from 2001 through the present, NPCC's members should have records of their bills and amounts paid  
that can be utilized if required at a later stage of this proceeding.

1 DATED: December 21, 2023

2  
3 **PERKINS COIE LLP**

4 By: /s/ Lawrence Reichman

5 **Lawrence Reichman**, OSB No. 860836

6 LReichman@perkinscoie.com

7 1120 N.W. Couch Street, 10th Floor

8 Portland, OR 97209-4128

9 Telephone: 503.727.2000

10 Facsimile: 503.727.2222

11 Representing Qwest Corporation