

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UT 125
DR 26/UT 600**

In the Matter of §
QWEST CORPORATION fka §
US WEST COMMUNICATIONS, INC. §

NPCC’S PROPOSED RECORD SUPPLEMENTATION

In response to the November 30, 2023 *Prehearing Conference Memorandum* (Memorandum), Northwest Public Communications Council (NPCC) hereby proposes the following supplementation of the record relevant to phase one of this proceeding.

In the Memorandum, Hon. John Mellgren stated:

During the first phase of this remand proceeding, we will answer two questions. First, we will determine whether Qwest’s rates from 1996-2003 complied with the new services test (NST). If the answer is no, we must also determine whether the law requires the Commission to issue refunds.¹

¹ Respectfully, this statement of purpose is not exactly correct. The inquiry is not whether the law “requires the Commission to issue refunds.” Actually, per the Court of Appeals, the actual inquiry is whether refunds are an “appropriate remedy” for overcharges, and it would not be the Commission “issuing” the refunds but rather the Commission ordering Qwest to do so.

Thus, in the first part of the first phase, we must determine if Qwest's actual, charged rates were NST compliant during the relevant time period. In order to do that, we must know what rates Qwest was actually charging ratepayers during the relevant time period so we may compare those charges to the NST-compliant charges which were approved by stipulation in PUC Order 07-497 and which set the lawful ceiling for those rates.

RECORDS FROM QWEST

NPCC therefore requests that the ALJ order Qwest to produce its billing records for CustomNet and PAL services during the relevant time period so the first question in phase one can be answered. NPCC has asked Qwest to produce these records multiple times informally, but Qwest has refused to do so. The ALJ is therefore asked to order their production.

Once produced, NPCC proposes that those actual billing records be added to the record via supplementation to assist in resolving phase one of the proceeding.

INABILITY TO ATTACH

Because the records requested above are solely in the possession of Qwest and the PUC, NPCC is unable to fulfill the Memorandum's mandate that they be attached to this pleading. However, the basis for their inclusion is provided above.

RIGHTS RESERVED

NPCC reserves the right to request additional supplemental record documents once it has reviewed the records identified by Qwest and the PUC.

RESPECTFULLY SUBMITTED:

/s/ Frank G. Patrick

OSB 760228

Attorney for NPCC

I hereby certify that I electronically Filed and Served a copy of the foregoing PROPOSAL as follows:

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