OREGON PUBLIC UTILITY COMMISSION
INTEROFFICE CORRESPONDENCE

DATE: August 31, 2016

TO: File through Bryan Conway BAC and Bruce Hellebuyck

FROM: Jim Stanage JS

SUBJECT: QWEST CORPORATION: (ADV 361/Advice No. C70-2016) Establishes a Special Contract submitted pursuant to ORS 759.250(5).

BACKGROUND

This filing will appear on the Commission's September 13, 2016, public meeting agenda.

Qwest Corporation d/b/a CenturyLink QC (Qwest) proposes approval of a 24-month special contract with a confidential customer for Line Volume Plan services, including One-party Flat Rate Business (1FB) Lines with Hunting, Choice Business, Choice Business Plus, Choice Business Add-A-Line, and Choice Business Prime. The contract went into effect on June 28, 2016, and it was filed on August 12, 2016. Pursuant to ORS 759.250, the Commission has 90 days from the date of filing to terminate the effectiveness of a special contract. For this filing, the end of the 90-day statutory period would be November 10, 2016.

Description of Contract

The filing is a 24-month, multi-state, volume discount special contract with a confidential customer for the services listed above. The contract includes services provided to the customer in Oregon as well as several other states.

The contract includes an unusual provision: it provides for standard tariffed rates for a line tier of 50-499 lines, but with the customer initially purchasing more than 500 contributory access lines. By choosing to contract for a line count that exceeds the required number of lines for the 50-499 line tier, the customer is mitigating the risk of incurring the contributory access line "Shortfall Charge" (penalty) of $60.00 per line per month. The penalty would apply whether the services were purchased under the proposed contract or under the Qwest Price List. For example, if the customer contracted for 500 or more contributory access lines, but subsequently reduced its subscriptions to less than 500 lines, it would be charged a Shortfall Charge of $60.00 per line per month---i.e., a ten line shortfall would cost the customer $600.00 per month. Therefore, the customer avoids the risk of shortfall charges by contracting for the 50-499 line tier rates for which the shortfall level is 49 lines instead of 500 lines.

The services are being provided under the contract at the following monthly unit rates (compared to the tariffed rates):

	Contract Rate	Tariff Rate	Discount
1FB with Hunting	$24.99	$24.99	0%
Choice Business	$28.99	$28.99	0%
Choice Business Plus	$25.99	$25.99	0%
Choice Business Add-A-Line	$29.99	$29.99	0%
Choice Business Prime	$27.99	$27.99	0%

The company's tariff does not offer the terms proposed in this special contract, and thus, the contract provides the customer unique rates for the contract services. Qwest also considers the contract services to be competitive.[1] If Qwest does not provide the contract services, a number of competitors would be able to provide the services.

Description of Services

The Line Volume Plan is a volume and term discount plan that encompasses several business access line services and includes the services covered by this contract.

One-party Flat Rate Business Line service provides a flat rate local exchange access line available to business customers. Service is furnished at a fixed monthly rate which provides unlimited calling within a customer's local calling area. Rates for 1FB service with Hunting vary among Qwest's three rate groups.

Hunting is an optional feature available to customers with two or more individual access lines. The access lines are arranged so that incoming calls to a busy line will overflow to other available lines.

Choice Business is a package of features available to business customers in conjunction with a simple flat rate access line. Business customers subscribing to the package are entitled to unlimited use of *any three* of the fourteen package features.

Choice Business Plus is a package of features available to business customers in conjunction with a simple flat rate access line. Business customers subscribing to the package are entitled to unlimited use of *all* of the fourteen package features.
Choice Business Add-A-Line allows a customer to select any number of optional Add-A-Line packages per location for every Choice Business Plus package. For each Add-A-Line package the customer may select one feature listed below:

[1] Commission Order No. 96-021 gave the company pricing flexibility, pursuant to ORS 759.050, in exchanges that comprise competitive zones.

- Series Hunting or,
- Call Forwarding Busy or,
- Call Forwarding Don't Answer or,
- Call Forwarding Busy/Don't Answer.

Choice Business Prime is a package of features available to business customers in conjunction with an individual flat rate or additional flat rate access line. Business customers subscribing to the package are entitled to choose three services/features from a list of thirteen services/features.

STAFF ANALYSIS

Review Procedures

Although the form of regulation that applies to Qwest changed November 12, 2008, pursuant to ORS 759.255 and the regulatory plan allowed by the Commission under Order Nos. 08-408 and 14-346 (UM 1354), its services offered through special contracts remain fully regulated. Thus, Qwest special contracts for its regulated services are still subject to ORS 759.250. This statute allows telecommunications utilities to enter into special contracts with customers without being subject to standard tariff filing procedures under ORS 759.175. In addition, these contracts are not subject to hearings (ORS 759.180) or suspension (ORS 759.185).

ORS 759.250 outlines the requirements for approval of telecommunications special contracts, which are as follows:

1. The contract service must be a new service with limited availability, respond to a unique customer requirement, or be subject to competition.

2. Prices must exceed the long-run incremental cost of providing the service.

3. Telecommunications utilities are required to file special contracts no later than 90 days following the effective date of the contract. Contracts must not exceed five years, and ORS 759.250 does not permit automatic contract renewals.

4. The Commission shall issue an order on the filed contract within 90 days of the filing. If the Commission does not act within 90 days of the filing, the contract is deemed approved. Staff understands that if a telecommunications utility does not provide sufficient evidence to support the contract under ORS 759.250, staff may recommend that the Commission reject the contract.

Two areas of importance in assessing special contracts were identified in Order No. 92-651 in docket UM 254, a generic docket to consider procedures and guidelines for special contract filings. These are the reasonableness of the contract rates and discrimination. Statutes that address these areas are ORS 759.210, classification of service and rates, and ORS 759.260, unjust discrimination.

Staff's analysis regarding conformance with ORS 759.210 is twofold. First, staff determines if a special contract rate class is developed by the telecommunications utility for one or more of the following reasons: a) the quantity of the contract service used; b) the purpose for which the contract service is used; c) whether price competition or a service alternative exists; d) the contract service being provided; e) the conditions of contract service; or f) other reasonable considerations. Second, staff determines if the special contract results in revenue sufficient to ensure just and reasonable rates for remaining customers (i.e., a "prudency review").

To determine conformance with ORS 759.260, staff determines if the special contract avoids unjust discrimination and is dependent upon the outcome of the analyses outlined above. The statute does not restrict the Commission from subsequent scrutiny of the reasonableness of special contracts for ratemaking purposes.

The company submitted a financial analysis that shows that the proposed rates cover the company's estimated long-run, incremental cost of service (LRIC) for the contract service(s).

Conclusions

Staff has investigated the filing and finds that it complies with Order No. 92-651 (UM 254) and the memorandum of understanding between staff and the company referenced in the order, the contracted services are subject to competition, the contract price(s) is above the company's cost of service, and the company would offer the discounted contract price(s) to any similarly situated customer requesting it.