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

UT 125

In the Matter of the Application of )  
QWEST CORPORATION for ) ORDER  
an Increase in Revenues. )

DISPOSITION: MOTION FOR APPROVAL OF TARIFF REVISIONS  
*NUNC PRO TUNC* GRANTED

On March 7, 2002, Qwest Corporation (Qwest) filed a motion for an order approving tariff revisions filed under Advice No. 1900 on March 7, 2002, *nunc pro tunc* as of January 1, 2002, and supporting memorandum.

Qwest represents that some of the tariff pages it filed to comply with the Commission’s orders in this proceeding contained inadvertent errors with respect to the final rates. Notwithstanding this error, Qwest asserts that the rates that have been effective since January 1, 2002, are consistent with the Commission’s orders. Qwest has now filed tariff revisions to reflect the correct rates and requests the Commission to approve these tariff revisions *nunc pro tunc* as of January 1, 2002, to approve the rates that have been in effect since that date and to avoid any concern that customers have not paid the rates set forth in Qwest’s tariff as required by ORS 759.205.

Commission Staff filed a response to Qwest’s motion on March 26, 2002. Staff does not oppose Qwest’s motion to correct certain ministerial type errors in the tariffs now on file.

**Statement of Facts.** In Order No. 01-1098, the Commission approved a Memorandum of Understanding (MOU) between Qwest and Staff. The MOU provided for changes to the rates for Local Business Access Services and Business Basic Measured Services from the rates included in the tariffs that Qwest filed on October 12, 2001. The precise rates agreed upon were set forth in Appendix A to the MOU. The rates in Appendix A were intended to be reflected in the supplemental filing that Qwest made on November 16, 2001 in connection with Qwest’s application for approval of the MOU (referred to in the MOU as the “First Supplement”). The Commission approved the first

Supplement in Order No. 01-1098, and those tariff pages are currently included in Qwest's effective Oregon tariffs.

Qwest noted that it overlooked making some of the required revisions in the First Supplement to match the rates set forth in Appendix A to the MOU. In those instances, the approved tariffs include the (generally higher) rates from the October 12, 2001 tariff filing. Despite this error in the filed tariffs, the rates that have been effective as of January 1, 2002 for the services at issue are the rates set forth in Appendix A to the MOU.<sup>1</sup>

Qwest also discovered that several of the other rates in the tariffs filed on October 12, 2001 are inconsistent with Commission Order No. 01-810. The Commission also approved these rates in Order No. 01-1098. These inconsistencies were not previously discovered and therefore are not addressed in the MOU. Advice No. 1900 updates Qwest's tariff to comply with Order No. 01-810 with respect to these rates. As with the MOU rate changes, Qwest asserts that despite the errors in the approved tariffs, the rates that have been effective as of January 1, 2002 for the services at issue are consistent with order No. 01-810.

**Argument.** Qwest argues that the Commission should approve the tariff revisions filed under Advice No. 1900 so that Qwest's tariffs correctly reflect the rates ordered by the Commission in this case. There should be no disagreement as to what the correct rates are, according to Qwest. The first category of revisions is set out in Appendix A to the MOU, which is incorporated in Order No. 01-1098, and the second category of changes is evident from order No. 01-180. Qwest contends that the Commission should also order that the tariff revisions are effective *nunc pro tunc* as of January 1, 2002, such an order would ensure that the effective rates as of January 1, 2002, are the rates that the Commission ordered.

Finally, Qwest argues that retroactive approval of these tariff revisions is appropriate to protect customers. With respect to the MOU changes, in most cases the incorrect rates included in the First Supplement are higher than the rates the Commission ordered. Thus if the Commission approved the tariff revisions only prospectively and Qwest had to charge the tariffed rates from January 1, 2002, to the date the Commission approves the tariff revisions, customers would generally pay more than they would if the approval were made retroactively.

**Disposition.** We agree that Qwest's tariff revisions filed under Advice No. 1900 should be approved, for the reasons Qwest states. We also agree that the revisions should be effective *nunc pro tunc* as of January 1, 2002, so that the filed rates are in compliance with the rates we ordered in this proceeding.

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<sup>1</sup> Qwest and Staff disagree about use of the term "effective." See Order No. 02-192. Qwest implemented the rates in Appendix A to the MOU on February 23, 2002 and used those rates as the basis to make adjustments to customers' bills to reflect the January 1, 2002 effective date of those rates. Qwest argues that tariff revisions must be made at this time regardless of when the rate changes are implemented.

**ORDER**

IT IS ORDERED that the revisions to Qwest Corporation's tariffs filed under Advice No. 1900 are approved *nunc pro tunc* effective as of January 1, 2002.

Made, entered, and effective \_\_\_\_\_.

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**Roy Hemmingway**  
Chairman

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**Lee Beyer**  
Commissioner

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**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.