

purchasers under the same or substantially the same circumstances at the same rate, terms, and conditions.

ORS 759.210 states if the commission determines that a tariff filing under ORS 759.175 (filing rate schedules and data with commission) results in a rate classification primarily related to price competition or a service alternative, the commission, at a minimum, shall consider the following:

- a. Whether the rate generates revenues at least sufficient to cover relevant short and long run costs of the utility during the term of the rates; and
- b. Whether the rate generates revenues sufficient to insure that just and reasonable rates are established for remaining customers of the telecommunications utility.

ORS 759.260 (1) states except as provided in ORS 759.265 (practices not constituting unjust discrimination), no telecommunications utility or any agent or officer thereof shall, directly or indirectly, by any device, charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by it than:

- a. That prescribed in the public schedules or tariffs then in force or established; **or**
- b. It charges, demands, collects or receives from any other person for a like and contemporaneous service under substantially similar circumstances. A difference in rates or charges based upon a difference in classification pursuant to ORS 759.210 (Classification of service and rates) shall not constitute a violation of this paragraph.

Analysis

In late 2024, Qwest Corporation d/b/a CenturyLink QC (Qwest) became aware that numerous Special contract arrangements dating back to 2020 had not been filed with the Commission as per OAR 759.250(2). After meeting and discussions with Staff, Qwest agreed to file the five ADV notices listed above with the Commission so that the contracts could be assessed by Staff, and Qwest's special contract filings would be up to date.

Although the form of regulation that applies to Qwest changed November 12, 2008, pursuant to ORS 759.255, the regulatory plan allowed by the Commission under Order Nos. 08-408 and 14-346 (UM 1354), and under Order No. 18-359 (UM 1908), 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 (LRIC) 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'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.

All of the Advice filings are volume discount special contracts for the following services: Basic Business with Hunting, Choice Business, Choice Business Plus, Add-A-Line, and Choice Business Prime.

Docket No. ADV 1687/Advice No. C01-2024

Qwest proposes approval of a 36-month special contract with a confidential customer for a volume service price discount for basic business lines under CenturyLink™ Volume Plan (CLVP) Tier 500-999. The contract went into effect on August 29, 2022.

Docket No. ADV 1688/Advice No. C02-2024

Qwest proposes approval of three new 24-month special contracts, one renewal of a

24-month contract and three new 36-month contracts for a volume service price discount for basic business lines under CenturyLink™ Volume Plan (CLVP) Tier 10-49. The contracts went into effect on numerous dates over 2022 to 2024.

Docket No. ADV 1689/Advice No. C03-2024

Qwest proposes approval of a 24-month special contract with a confidential customer for a volume service price discount for basic business lines under CenturyLink™ Volume Plan (CLVP) Tier 50-499. The contract went into effect on March 31, 2022.

Docket No. ADV 1690/Advice No. C04-2024

Qwest proposes approval of three new 24-month special contracts, for a volume service price discount for basic business lines under CenturyLink™ Volume Plan (CLVP) Tier 50-499. The contracts went into effect on numerous dates over 2022 to 2024.

Docket No. ADV 1692/Advice No. C05-2024

Qwest proposes approval of five new 36-month special contracts, and three new 60-month contracts for a volume service price discount for basic business lines under CenturyLink™ Volume Plan (CLVP) Tier 50-499. The contracts went into effect on numerous dates over 2022 to 2023.

Qwest considers the contract services to be competitive,¹ and states that if Qwest does not provide the contract services, a number of competitors would be able to provide the services.

The filings state that the company will give the discounted prices to any similarly situated customer requesting it.

The discounted prices exceed the long run incremental cost (LRIC) of providing the service.

Conclusion

Staff has investigated these filings and finds that they comply with requirements listed above. The contracted services are subject to competition, the contract prices cover the company's cost for each respective service, and the company would offer the discounted contract prices to any similarly situated customer requesting them.

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

PROPOSED COMMISSION MOTION:

This is an informational only report with no recommendation for the Commission.