

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

Petition for Exemption from WAC 480-80-204, Price lists format and content

Docket No. UT-

**QWEST CORPORATION'S  
PETITION FOR PERMANENT  
EXEMPTION**

1 Qwest Corporation (“Qwest”) hereby petitions the Washington Utilities and Transportation Commission (“Commission”) for a permanent exemption from WAC 480-80-204(4) as that rule pertains to the requirement for filing minimum rates in price lists for competitively classified services.

**I. THE RULE**

2 WAC 480-80-204 contains requirements for the format and contents of price lists for competitively classified companies and services. A number of Qwest’s services in Washington have been competitively classified, and Qwest files price lists for those services under the requirements of this rule.

3 WAC 480-80-204 reads as follows: **Price lists format and content.** (1) A price list must

include, for each service in the price list, a description of the service, any limitations, terms, or conditions on the offering of that service, and all rates, charges, or prices at which the service is offered.

(2) A price list must:

(a) Plainly state the places where the offered telecommunications service will be rendered;

(b) Include the effective date clearly marked on each page;

(c) Include the complete name, address, phone number, unified business identifier (UBI) number, and if available, the mail address and web page address of the issuing utility; and

(d) Conform to all applicable laws, rules, and orders. The filing of a nonconforming price list will not be deemed a waiver of the law, rule, or order. A company may not enforce a price list provision that conflicts with a law, rule, or order unless the commission waives that law, rule, or order.

(3) A price list of a competitive telecommunications company may state the rates, charges, or prices as maximum amounts rather than as specific prices.

(4) A price list of a telecommunications company not classified as competitive offering a service classified as competitive under RCW 80.36.330 may state the rates, charges, or prices as maximum and minimum amounts rather than as specific prices. The minimum price must comply with the cost requirement in subsection (6) of this section.

(5) A transmittal letter must accompany a price list change in compliance with the provisions of WAC 480-80-203.

(6) The rates, charges, and prices of services classified as competitive under RCW 80.36.330 must cover the cost of providing the service. Costs must be determined using a long-run incremental cost analysis, including as part of the incremental cost, the price charged by the offering company to other telecommunications companies for any essential

function used to provide the service, or any other commission-approved cost method.

## II. DISCUSSION

4 WAC 480-80-204 currently contains different requirements for the filing of price lists by a competitively classified company (subsection (3)) and by a non-competitively classified company for competitively classified services (subsection (4)). Competitively classified companies are permitted to file price lists stating only maximum rates, while non-competitively classified companies which have some services competitively classified are nevertheless required to file both a minimum rate and a maximum rate in their price lists.

5 Qwest hereby asks the Commission to exempt it from the requirements under WAC 480-80-204 (4) pertaining to filing minimum rates in its price list. The effect of this exemption would be that Qwest's competitively classified services could be price listed in the same manner as those competitively classified services offered by CLECs, and would state only a maximum rate. If this exemption is granted, Qwest asks that it be treated as if its services were regulated under WAC 480-80-204(3) and that it be permitted to operate under the provisions of WAC 480-80-241(2) that states that a carrier is not required to file contracts for price listed services where the price in the contract is less than the maximum rate stated in its price list.

6 Qwest believes that granting this exemption would be consistent with the public interest. There is no statutory requirement that mandates that Qwest file minimum rates in its price list. The fact that the price listed services have been competitively classified means that the Commission has determined that there is effective competition for those services. As such, once there is a determination of effective competition, it makes sense to regulate those services in the same manner in which competitive companies are regulated, requiring only maximum rates to be filed in the Company's price list.

- 7 There is no need for Qwest to state minimum rates in its price list, and doing so is anti-competitive. Stating minimum rates in a price list merely signals to competitors and customers the lowest price at which a company is willing to sell a particular service. However, in a truly competitive market, there are a number of factors that drive pricing decisions. Different customers may be offered different prices depending upon their size, location, competitive alternatives and a host of other factors. Stating a minimum price leads some customers to expect pricing they will not receive, and sends a signal to competitors of the exact price they must beat to compete against Qwest on price – information that Qwest does not have about any of its competitors.
- 8 Not filing contracts would reduce the administrative burden on Qwest and on Commission Staff. In 2004, more than 80 ICB contracts were filed by Qwest and allowed to go into affect by the Commission. Between January and August 2005, approximately 61 ICB contracts were filed for the Commission’s review that were also allowed to go into affect.
- 9 Qwest would still be required to comply with the statute and the rule that requires rates to cover their costs. It should be noted that Qwest is not asking for an exemption of WAC 480-80-206(6), the requirement that rates cover their costs, a requirement that is also found in RCW 80.36.330(3). Thus, if there were ever a complaint or investigation of Qwest’s contract rates, Qwest would still bear the burden of establishing that those rates are above cost in accordance with RCW 80.36.330(4). In fact, Qwest will still provide cost support for price listed services which would establish price floors for any contracted rates for such services. Qwest will continue to file cost support for price listed services until the requirement to file price lists with the Commission has been eliminated.

### III. CONCLUSION

- 10 For the reasons stated herein, the Commission should grant Qwest a permanent exemption

from the requirements of WAC 480-80-204(4) pertaining to the requirement to file minimum prices in its price lists. The Commission should confirm that after the exemption is granted, Qwest is not required to file contracts for price listed services where the price is below the maximum stated in the price list and the terms and conditions of the contract are otherwise consistent with its price list.

DATED this \_\_\_\_\_ day of September, 2005.

QWEST

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