

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the 2002 Price Cap)	<u>DOCKET NO. 02-049-36</u>
Compliance Filing of QWEST)	
CORPORATION Pursuant to)	<u>ORDER APPROVING QWEST</u>
R746-352-7)	<u>2002 PRICE CAP COMPLIANCE FILING</u>

ISSUED: June 24, 2002

By The Commission:

Pursuant to Utah Administrative Code Rule 746-352, Qwest is required to make an annual Price Cap Compliance Filing, providing proposed price cap indices, measures, supporting evidence and proposed rate changes for services covered by Utah Code §54-8b-2.4. On April 16, 2002, Qwest submitted its filing for the year 2002. Review of the April 16th filing by the Division of Public Utilities (DPU) identified some areas and calculations in Qwest's filing that were disputed by the DPU. Through the DPU's review, Qwest agreed with the DPU's position regarding service/product quantities and consequential calculation revisions. Qwest filed a Second Amended Price Cap Compliance Filing on May 17, 2002, incorporating the agreed upon revisions. There is one remaining area of contention between Qwest and the DPU concerning the application of the price cap regime to packages of services/products which contain both tariffed services and non-tariffed services (combined packages). No other comments, beyond those of the DPU, were submitted to either the April 16th filing or the May 17th filing.

From the information submitted, we understand the dispute is over the correct determination of the amount of revenues, associated with combined packages, which should be included in the price cap calculations. Qwest's approach is to use the current tariff price for any tariffed service(s)/product(s), contained in a combined package, as a basis for allocating a portion of revenues derived from combined packages as revenues included in the price cap calculations. Through this manner, Qwest apportions revenue derived from combined packages into two classifications. The first is the revenue includable in the price index calculations; the allocation to this classification is based on the proportion which the tariffed price(s) of the included tariffed service(s)/product(s) may have to the overall price of a combined package. The second classification is revenue outside of the price index calculations; with the allocation being the remaining balance of revenue from a combined package after making the first allocation. As an example, consider a combined package, priced at \$10, comprised of one tariffed service and one non-tariffed service. If the stand-alone tariffed price for the tariffed service included in the combined package were \$6, Qwest would allocate \$6 of the combined package's revenue to be included in the price cap calculations and the remaining \$4 as not includable.

The DPU maintains that the proper approach, in applying the price cap regime, is to include all revenue derived from combined packages in the price cap calculations. In the example above, the DPU would include the full \$10 derived from the hypothetical combined package, in contrast to Qwest's allocated \$6. The DPU's rationale for its approach is that combined packages are to be treated as a separate, single tariffed service/product. According to the DPU, Utah statutes classify public telecommunications services into only two categories, those which may be price listed and those which are to be tariffed. In order for a public telecommunications service, offered by a company such as Qwest, to be a price listed service, the service must be a "new public telecommunications service," as defined in Utah Code §54-8b-2(9), or price listed status must be obtained through Utah Code §54-8b-2.3. The DPU argues that combined packages, by the statutory definition, cannot be "new public telecommunications services." A "new public telecommunications service" cannot contain an "existing public telecommunications service," which is the tariffed service/product included in a combined package. *See*, Utah Code 54-8b-2(9)(b)(ii). The DPU acknowledges that Qwest has obtained price listed status for a number of the component services/products which are part of the combined packages offered. The DPU argues, however, that Qwest has not obtained price listed status for any of the combined packages themselves, irrespective of the status of an individual component. Since a combined package is not a "new public

telecommunications service" and Qwest has not obtained price listed status for any of the individual combined packages, the DPU concludes that a combined package, as a whole, must then be a separate, tariffed service.

We do not agree with the DPU's premise that a combined package must be treated as a separate, tariffed telecommunications service when making the calculations attendant to the Price Cap Compliance Filing. There is no statute or rule that requires a group of services, which may be marketed together as a package, to be classified, individually, as either a price listed service or a tariffed service. Relative to Rule 746-352, we believe that it is acceptable to treat a combined package as exactly what it is: combinations of various services; not a separate telecommunications service in and of itself. In applying the price index regime to Qwest, we believe Qwest's approach is an appropriate method which recognizes that combined packages are neither a separate tariffed service nor a separate price listed service. Because combined packages are not wholly one or the other, some allocation of revenues is necessary in order to make the Price Cap Compliance Filing calculations. We conclude that Qwest's use of a weighted allocation, based on the proportion of the tariffed price(s) for the tariffed service(s) included in a combined package, is a reasonable allocation method. As we agree that Qwest's approach in allocating revenues from combined packages is an acceptable manner in making calculations for the Price Cap Compliance Filing, we will approve Qwest's Amended filing.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

Qwest's May 17, 2002, Second Amended Price Cap Compliance Filing is approved by the Commission.

DATED at Salt Lake City, Utah, this 24th day of June, 2002.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

G#29844