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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of QWEST CORPORATION'S
Land Development Agreements (LDA) Tariff
Provisions

Docket No. 03-049-62
**QWEST'S NOTICE OF LDA
PRICE LIST FILING AND
EFFECTIVE DATE**

Qwest Corporation ("Qwest") hereby provides notice to the parties that it filed its Land Development Agreement ("LDA") Price List on May 2, 2005 and that the price list is effective on May 9, 2005. The LDA Price List is an attachment to this filing.

On October 4, 2004, Qwest filed as Exhibit DP-4 to the Direct Testimony of Dennis Pappas (now marked as Qwest Exhibit 2.4) proposed amendments to section 4.4 of its Exchange and Network Services Tariff dealing with LDA provisions. On April 14, 2005, at the commencement of the evidentiary hearing in this matter, Qwest provided to

the Administrative Law Judge and the parties a copy of its Draft Proposed Revised LDA Price List Provision, showing changes from Exhibit 2.4. On May 2, 2005, Qwest filed Price List Advice Letter 05-___, including its Exchange and Network Services Price List. The Commission has assigned that portion of the Price List Advice Letter Docket No. 05-049-T11. Section 4.4 of the Exchange and Network Services Price List is the LDA Price List, a copy of which is attached.

The LDA Price List does not show changes from the current tariff, Exhibit 2.4 or the April 14, 2005 draft in legislative format. The substantive provisions of the Price List have not been changed from the draft submitted on April 14, 2005. However, the LDA Price List has been reorganized and clarified based on input from the parties and further review by Qwest. Because of the extensive reorganization, Qwest does not believe it would be helpful to show changes in legislative format.

In its May 2 advice letter, Qwest provided the following explanation with respect to the LDA Price List:

1. Land Development Agreements (“LDA”)

Qwest is filing with these price lists, a new Land Development Agreement provision. Qwest is doing this for several reasons. First, the Construction Charges and Other Special Charges portion of Qwest’s tariff is part of its Exchange and Network Services Tariff. This tariff includes services and terms and conditions on which Qwest provides service to its retail end user customers. The Construction Charges and Other Special Charges portion of the tariff provide[s] the terms and conditions upon which Qwest will install facilities to provide service to retail end user customers. These include line extension charges for remotely located customers and the terms and conditions on which Qwest will install facilities in new developments. Second, the terms and conditions on which competitors will install facilities are consistently included in their price lists. A primary purpose of SB108 was to put Qwest on the same footing as its competitors. *See* 54-8b-2.3(2)(b)(i), as

amended by SB108. Third, these services are not wholesale services provided to other telecommunications corporations.

With the exception of the Land Development Agreement provisions of the current Construction Charges and Other Special Charges portion of the tariff, Qwest is essentially moving the terms and conditions from its tariffs to its price lists. However, Qwest is proposing a revised Land Development Agreement provision consistent with its advocacy in Docket No. 03-049-62. In that docket, Qwest has presented compelling evidence for revisions to the existing tariff, including elimination of Option 2 of the tariff. The hearings have not yet concluded, so the Commission has not yet issued a decision in that docket. Consistent with Qwest's view that it is entitled to include this provision in its price list, it would be counterproductive for Qwest to voluntarily adopt a price list provision which includes provisions it is contemporaneously advocating be deleted in a pending docket.

Qwest wishes to assure the Commission that it will abide by its decision in Docket No. 03-049-62. When the Commission has issued its final order in that docket, if it adopts a provision that differs from that included in this price list and Qwest does not obtain a stay of the order pending reconsideration or appeal, Qwest will amend this provision of its price list consistent with the Commission's decision.

Qwest agreed to provide a copy of its LDA Price List to the parties as soon as it was finalized. Accordingly, Qwest makes this filing to notify the parties that it has filed its Price List and to provide a copy of its LDA Price List to the Commission and the parties.

Qwest further makes this filing to notify the parties that the LDA Price List will be effective on May 9, 2005. Among other things, 1st Substitute Senate Bill 108 ("SB108") provides:

(a) . . . beginning on May 2, 2005, an incumbent telephone corporation may offer retail end user public telecommunications services by means of a price list or

competitive contract in the same manner as a competing telecommunications corporation

. . . .

(b)(i) The incumbent telephone corporation's pricing flexibility shall be the same as a competing telecommunications corporation's pricing flexibility for all public telecommunications services except basic residential service.

. . . .

(5) A price list filed with the commission under this section shall take effect five days after it is filed with the commission.

Utah Code Ann. § 54-8b-2.3(2)(a), (2)(b)(i) & (5), as amended. Qwest has proposed that its price lists be effective on May 9, 2005, rather than May 7, 2005, because this is the first price list filing under the new law, it is comprehensive and May 7 is a Saturday.

While Qwest has agreed to modify its LDA Price List, if necessary, based on a final decision by the Commission in this docket, the Price List should be effective on at least an interim basis in accordance with the statute until a decision is made. As the Commission is aware, this docket has been pending since July 15, 2003. After extensive briefing and technical conferences, a schedule was established setting hearings in January 2005. The hearings have been rescheduled five times. At the time SB108 was enacted, it was contemplated that the hearings would have been concluded and a decision made by the Commission prior to the time the Price List would have been effective. Based on subsequent rescheduling, which Qwest either supported or to which it did not object, it was anticipated that the hearing would be concluded and that a decision would be forthcoming by or shortly following the effective date. However, the unfortunate health problems experienced by counsel for SBS Telecommunications, Inc., Clear Wave

Communications, L.C., East Wind Enterprises, LLC, and Prohill, Inc. dba Meridian Communications of Utah (collectively “Option 2 Contractors”), which clearly justify a reasonable delay in the hearing, have created a significant uncertainty regarding when the hearings may be held and the Commission may issue an order and have created potential confusion regarding what provisions apply between the effective date of the Price List and a Commission order.

Section 4.4.B.6 of the attached LDA Price List provides:

An Option 2 Land Development Agreement entered into pursuant to the Company’s Exchange and Network Services [Tariff] [sic] prior to the effective date of this Price List, will be honored if placement of telecommunications facilities pursuant to the Agreement is completed prior to July 31, 2005.

Thus, in the Price List, Qwest has provided an almost three-month transition period for jobs that are in place prior to the effective date of the Price List. Although the provision states that an LDA must be entered into prior to May 9, 2005, Qwest is willing to have this provision applied to situations where an Option 2 contractor, including Option 2 contractors not parties to this proceeding, has entered into an agreement with a developer and has obtained a signed Power of Attorney prior to May 9, 2005 and completes the work by July 31, 2005. Therefore, Option 2 contractors will have opportunity to complete work in progress under the terms of the LDA Tariff currently in effect while the matter is concluded.

At the same time, Option 2 contractors will not be able to enter into new arrangements with developers to place Qwest’s facilities while the matter is concluded. This is an equitable result given the unfortunate delay in conclusion of this matter. The undisputed evidence filed with the Commission demonstrates that Qwest incurs

substantially higher costs under Option 2 than under Option 1, even when Option 2 contractors, through developers, bill Qwest only its CPD cost estimate. Of course, in many cases Option 2 contractors bill substantially in excess of that amount, often billing the cap, which the undisputed evidence indicates is almost 30 percent more than the costs Qwest typically incurs in Option 1 projects. While Qwest has entered into a stipulation with the Option 2 contractors that it will pay only the CPD estimate pending conclusion of Docket No. 04-049-06, the amount in controversy in that docket continues to grow significantly during the pendency of this matter. Under the Price List, growth in this amount will be limited to work already in progress on the effective date.

Having the Price List in effect on at least an interim basis until the Commission issues its decision in this docket is not only consistent with SB108, it provides an appropriate balancing of the interests of the parties during the pendency of this matter.

RESPECTFULLY SUBMITTED: May 4, 2005.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **QWEST'S NOTICE OF LDA PRICE LIST FILING AND EFFECTIVE DATE** was served upon the following by electronic mail, on May 4, 2005:

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and upon the following by first-class mail, postage prepaid, on May 3, 2005:

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