



3. Which services are exempt from the price index calculation process because they are currently priced below the price floor as specified by state statute?

4. Once the services and associated revenues are determined, and the proper discount has been applied, the compliance filing must specify how the required revenue reductions will be applied.

The major area of change between this year's filing and last year's filing occurs in the amount of revenue subject to the price index calculations. In 2003 the Commission granted pricing flexibility to Qwest for business service in a large number of central office areas. We also granted pricing flexibility for basic residential service in areas where Qwest faces Comcast as a competitor, and for all other residential services (those beyond basic service) in a large number of central office areas as well. These actions resulted in a significantly smaller percentage of Qwest's Utah revenues being subject to the price index. Additionally, a relatively small number of accounts in low cost areas (where pricing flexibility has not been granted) were also excluded from the calculations because the tariffed prices for the services purchased by these account holders are below the price floor threshold. The Division verified that Qwest's methodology properly accounted for these changes, that the revenue amounts included in the price index calculations for 2004 are correct, and that the proposed price reductions properly applied the required revenue reductions. The Commission finds that Qwest has properly accounted for each of the above items in its 2004 price cap (index) compliance filing.

#### The Committee's Request for an Extension

The reason the Committee cites for requesting an extension is that Qwest has included the full cost of the loop in the price floor calculations, thereby raising the price floor threshold higher than the Committee feels it should be. A price floor threshold that is higher than it ought to be (if true) would imply that Qwest improperly excluded some revenue from the price index calculation. The result of a higher than justified price floor threshold then would be a smaller overall required reduction in future revenue.

The Commission agrees with the concept that the physical loop is a necessary element of providing not only basic service, but also in providing each and every other service that is transmitted over a loop. However obvious that joint use may be, it does not override the fact that Utah Code 54-8b-3.3(3) specifies that the sum of the total service long-run incremental cost of non-essential facilities required for the provision of the service and the price of all essential facilities (as set by the Commission) required for the provision of the service must be added together to determine the “price floor”. Obviously the loop is an essential facility and the statute requires that the price set by the Commission for the loop be included in the price floor calculation. The statute simply does not allow for a portion of the cost of an essential facility to be excluded when the price floor calculation is performed.

In an effort to capture as much of the joint use nature of the loop as possible in the price floor test, the Commission has determined (in previous dockets) that the price floor test will apply to full services, not components, and that if a bundled set of services is sold, all of the associated revenues must be accounted for in the price floor calculation. But again, the statute does not allow for a portion of the loop’s cost to be excluded from the price floor calculation. One of the primary goals of the price floor test is to prevent a company with significant market power from voluntarily setting prices artificially low in an effort to drive a competitor, or potential competitor, out of the market. A second goal is to prevent the price index from forcing a company to lower the price of a product that is already relatively low priced. The price floor, as defined by statute, is not a measure of the least-cost, most-efficient price at which a company could sell a service, rather it is an arbitrary summation of a set of costs designed to prevent market power abuses.

Since the primary reason that the Committee cites for requesting an extension is based on the erroneous assumption that a previously approved, and statutorily mandated allocation of the entire loop cost in the calculation of the “price floor” is incorrect, the Commission denies the request for an extension.

#### Status of the 2003 Grant of Pricing Flexibility for Basic Residential Service

A final point of discussion regards the application of the price index in light of the still-unsettled nature

of the 2003 grant of pricing flexibility for basic residential service in areas served by Comcast. The Commission decided to open a new docket to address the issue of whether the same or substitutable services remain available to customers served by Comcast. There are issues of fact concerning the nature and extent of Comcast's service offerings which that new docket will address. Pending the outcome of that Docket, the amount of revenues that should have properly been included in the price index calculation for 2004 could conceivably change. Therefore, while the Commission acknowledges that the methodology Qwest used to calculate the required revenue reductions is correct, given the current information and state of pricing flexibility, it must address the issue of what to do if it determines that the grant of pricing flexibility must be altered. We do not wish to delay the implementation of the current price index filing. Therefore we approve the current filing, but make the resulting rates, and the required reduction amounts, interim.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Commission accepts Qwest's 2004 Price Cap (Index) Compliance filing, subject to the proposed rates and revenue reduction amounts being interim.
2. The Committee's request for an extension is denied.
3. Any person aggrieved by this Order may petition the Commission for review/rehearing pursuant to the *Utah Administrative Procedures Act, Utah Code Ann. '63-46b-1 et seq.* Failure so to do will preclude judicial review of the grounds not identified for review. *Utah Code Ann. '54-7-15.*

DATED at Salt Lake City, Utah, this 4<sup>th</sup> day of June 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

G#38700