

DECISION MEMORANDUM

TO: COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSIONER KEMPTON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: WELDON STUTZMAN
DEPUTY ATTORNEY GENERAL

DATE: JUNE 30, 2008

SUBJECT: QWEST CORPORATION'S PETITION FOR APPROVAL OF NON-IMPAIRED WIRE CENTER LISTS, CASE NO. QWE-T-08-07

On June 20, 2008, Qwest Corporation filed a Petition requesting Commission approval of Qwest's non-impaired wire center lists compiled pursuant to the Federal Communications Commission's Triennial Review Remand Order (TRRO). The TRRO, among many other things, established a standard for determining whether high-capacity dedicated transport and high capacity loops meet the "impairment" requirement for unbundled network elements (UNEs) set forth in Section 251(d)(2) of the 1996 federal Telecommunications Act. Pursuant to Section 251(d)(2)(B), Qwest must provide access to specific network elements if "the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer."

The FCC's impairment standard determines whether high-capacity transport and loops qualify as Section 251(c)(3) UNEs that Qwest must provide to competitive local exchange carriers (CLECs) at rates based on the FCC's total element long-run incremental cost (TELRIC) pricing methodology, or whether they are no longer subject to Section 251(c)(3) and instead are governed by the non-TELRIC pricing standard in Sections 201 and 202 of the Act. Under the TRRO framework, CLECs are deemed to not be impaired without access to DS1 transport on routes connecting a pair of wire centers where both wire centers contain at least four fiber-based collocators or at least 38,000 business access lines. For DS3 transport and dark fiber transport, there is no impairment on routes connecting a pair of wire centers where both wire centers contain at least three fiber-based collocators or at least 24,000 business lines.

Qwest's Petition states that it previously implemented a detailed, multi-step process designed to generate accurate wire center data and permit CLECs to verify the data and identify the wire centers in Qwest's operating areas that meet the non-impairment thresholds for DS1 and DS3 loops. The data included, on a wire center specific basis, numbers on switched business lines, UNE-P lines, UNE loops, and fiber collocators. Based on the data, Qwest filed a list of wire centers with the FCC. According to Qwest's Petition, several CLECs requested that various state utilities commissions open proceedings to investigate the issues to determine and establish line counts and numbers of collocators in Qwest's wire centers. Thereafter in 2007, Qwest and several CLECs negotiated a multi-state settlement agreement in the TRRO wire center dockets pending in Arizona, Colorado, Minnesota, Oregon, Utah, and Washington.

Qwest's Petition states that it did not file for approval of its non-impaired wire center list in Idaho as part of the earlier multi-state process. Qwest's Petition now seeks approval of the wire centers it has identified as meeting the non-impaired standards, and requests that the Commission approve the process outlined in the settlement agreement for identifying non-impaired wire centers in Idaho. Alternatively, if the Commission does not approve Qwest's non-impaired wire center list using the process agreed to by the parties in the settlement agreement, Qwest requests that the Commission fully investigate the wire center data issues and any related issues that the Commission may deem appropriate.

Staff recommends that the Commission issue a Notice of Petition and Notice of Intervention. Following the intervention period, Staff will schedule a prehearing conference and meet with the parties to determine the best procedure for completing the docket.

COMMISSION DECISION

Should the Commission issue a Notice of Petition and Notice of Intervention?



Weldon B. Stutzman
Deputy Attorney General

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