

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF QWEST)	
CORPORATION’S PETITION FOR)	CASE NO. QWE-T-09-15
APPROVAL OF NON-IMPAIRMENT)	
STATUS FOR DS3 LOOPS IN THE BOISE)	ORDER NO. 30959
MAIN WIRE CENTER)	

On August 31, 2009, Qwest Corporation filed a Petition for approval of non-impairment status for DS3 loops in the Boise Main wire center. In an earlier Order, the Commission determined that Qwest’s Boise Main wire center satisfies the standard as a Tier 1 non-impaired wire center with regard to DS1 and DS3 transport services. Order No. 30866. The Commission did not make a determination of non-impairment for DS3 loops because “the record does not reveal whether the 2008 year-end data supports a finding of non-impairment for DS3 loops in the Boise Main wire center.” Order No. 30866, p. 5. DS3 loop non-impairment is established when a wire center houses a minimum of four fiber-based collocators and at least 38,000 business lines. Qwest filed affidavits with its Petition to demonstrate that the standards for DS3 loop non-impairment are currently met at the Boise Main wire center.

On September 22, 2009, the Commission issued a Notice of Petition and Notice of Modified Procedure. During the comment period established by the Commission’s Notice, written comments were filed by Commission Staff and Integra Telecom (Integra Telecom of Idaho, Inc., Electric Lightwave, LLC and Eschelon Telecom, Inc. do business as Integra Telecom). Qwest filed responsive comments on October 26, 2009, along with new affidavits responding to the arguments raised by Integra.

THE WRITTEN COMMENTS

Integra’s first argument is that it is not able to verify Qwest’s line counts specifically associated with Integra in the Boise Main wire center. As an example of the discrepancy between its own count and Qwest’s count, Integra stated it identified significantly more DS1 loop and two-wire loop circuits than Qwest counted for Integra in Qwest’s wire centers. Second, Integra argues that Qwest improperly relied upon stale line count data because it was at least eight months old at the time Qwest filed its Petition. As part of this argument, Integra asserts that Qwest “should not be allowed to select one set of data from one time period and another set

of data from a different time period and then yet another time period to actually make its claim for non-impairment.” Integra Comments, pp. 3-4.

The third issue raised by Integra is that Qwest failed to provide evidence of the number of fiber-based collocators in the Boise Main wire center but filed supporting data only for switched business lines. Integra’s final argument is that Qwest’s switched business line count summary contains two different headings that make it unclear what time period Qwest relies on to support its request for DS3 loop non-impairment. A Qwest affidavit showing line count data contains a heading that references December 2008, while the actual table containing switched line count summary data lists “200712” under the heading “YRMO Data.”

Qwest filed responsive comments on October 26, 2009, addressing the issues raised by Integra. Qwest states that it based its Petition on year-end 2008 data to establish the line counts necessary for a finding of non-impairment, consistent with the earlier Commission Order stating that “Qwest should have relied upon end-of-year 2008 switched business line counts rather than end-of-year 2007.” Order No. 30866, p. 5. Qwest’s affidavits establish that it relied upon December 2008 data and that this is the most current data available for the Boise Main wire center for the number of business lines. Albersheim Response Affidavit, p. 3. Regarding Integra’s second argument, Qwest asserts that the line count data was eight months old when it filed its Petition because it is the December 2008 data. Regarding Integra’s argument about evidence to support a finding of the presence of five fiber-based collocators, Qwest points to its affidavit stating that the Boise Main office contains the same five fiber-based collocators that were present when the Commission issued its Order in Case No. QWE-T-08-07. Finally, Qwest clarifies that Integra’s issue with the heading on its data is simply a typographical error.

In its comments, Staff noted that the only question is whether the Boise Main wire center meets the standards for the DS3 loop non-impairment determination. To support this determination, the Commission directed Qwest to provide current line counts, and Staff concluded that Qwest did provide the current line count data.

COMMISSION FINDINGS AND CONCLUSIONS

Although Integra raised several arguments in its comments, Integra ultimately did not successfully contest the evidence presented by Qwest that establishes the required number of lines and collocators to support a non-impairment finding for the Boise Main wire center for DS3 loops. For example, although Integra was not able to independently verify the same number of

business lines as presented by Qwest's evidence, it is undisputed that the requisite number is present to establish a finding of non-impairment for DS3 Loops. Similarly, Integra argues that Qwest should not be allowed to selectively choose evidence of line counts from different time periods, but Integra does not point to evidence that Qwest did that in this case. Qwest's evidence of business line counts is from December 2008 and this is the most current data available for business lines in the Boise Main wire center. Albersheim Response Affidavit, p. 3. Integra is critical of Qwest's evidence regarding the number of fiber-based collocators in the Boise Main wire center, but concedes in a footnote that "this Commission recently reviewed the number of fiber-based collocations in the Boise Main wire center and there were likely not material changes since that review that would impact whether or not Qwest meets the DS3 loop fiber-based collocation non-impairment threshold." Integra Comments, p. 5, fn. 11.


Based on the record in this case, the Commission finds that the evidence establishes that the Boise Main wire center contains at least four fiber-based collocations and at least 38,000 business lines. The evidence thus supports a finding that the business line counts and fiber-based collocations are present to establish non-impairment of the Boise Main wire center for DS3 loops. The Commission accordingly approves Qwest's Petition for determination of non-impairment status for DS3 loops in the Boise Main wire center.

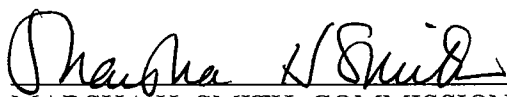
ORDER

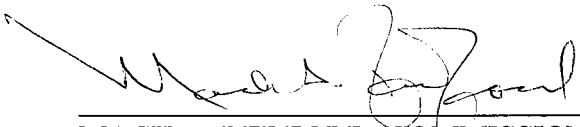
IT IS HEREBY ORDERED that the Petition of Qwest Corporation for approval of non-impairment status for DS3 loops in the Boise Main wire center is approved.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

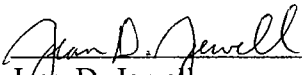
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 4th
day of December 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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