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IDAHO PUBLIC
UTILITIES COMMISSION

June 20, 2008

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702-5983

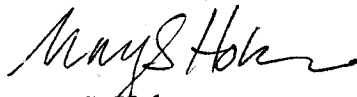
RE: Docket No. QWE-T-08-07

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **QWEST CORPORATION'S PETITION FOR COMMISSION APPROVAL OF NON-IMPAIRED WIRE CENTER LISTS PURSUANT TO THE TRIENNIAL REVIEW REMAND ORDER.**

If you have any questions, please contact me. Thank you for your cooperation in this matter.

Very truly yours,


Mary S. Hobson

Enclosures

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BEFORE THE PUBLIC IIDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF QWEST
CORPORATION'S PETITION FOR
APPROVAL OF NON-IMPAIRED WIRE
CENTER LISTS PURSUANT TO THE
TRIENNIAL REVIEW REMAND ORDER

Docket No. QWE-T-08- 07

**QWEST CORPORATION'S PETITION FOR COMMISSION APPROVAL OF NON-
IMPAIRED WIRE CENTER LISTS PURSUANT TO THE TRIENNIAL REVIEW
REMAND ORDER**

INTRODUCTION AND SUMMARY

Qwest Corporation ("Qwest") hereby petitions the Commission to open an investigation to develop a Commission-approved initial list of non-impaired wire centers, pursuant to the FCC's *Triennial Review Remand Order* ("TRRO"),¹ after party review and discussion of relevant data, and to implement a process of updating and approving the lists. Qwest submits that the

primary purpose of this docket should be to review the number of business lines and fiber-based collocators in certain Idaho wire centers that meet the non-impairment criteria outlined by the FCC in its *TRRO*.

Qwest and several major CLECs (“Joint CLECs”)² who were parties to similar proceedings in several larger states in Qwest’s 14-state ILEC region have reached a settlement agreement (Attachment A), which sets out procedures to be followed by the parties in dockets of this kind, including procedures for the protection of confidential information. That settlement agreement has been adopted by all but one commission.³ With regard to confidential documents, Qwest and the Joint CLECs in the initial *TRRO* non-impaired wire center proceedings negotiated and agreed to a model protective order to be issued by commissions in future proceedings in order to allow Qwest to file confidential wire center information regarding “business line” counts and the number of “fiber-based collocators” as defined in the *TRRO*. Because this Commission’s Rules of Practice and Procedure (*See* IDAPA 31.01.01.067) provide for the use of protective agreements in lieu of orders issued by the Commission, Qwest offers its proposed protective agreement (Attachment B), which is based on the model protective order entered in the other jurisdictions that have approved Attachment A. Attachment B is available for signature by Staff members, or any party who may wish to review the confidential information that will be produced in the course of this docket.

¹ Order on Remand, *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, WC Docket No. 04-313 (FCC rel. February 4, 2005) (hereafter “*TRRO*”).

² The Joint CLECs were Covad Communications Company, Eschelon Telecom, Inc., McLeodUSA Telecommunications Services, Inc., Integra Telecom and XO Communications Services, Inc. Integra and Eschelon have since merged into one company, called Integra.

³ Regulatory commissions of Utah, Oregon, Minnesota, Arizona and Washington have adopted the settlement agreement. Colorado did not, although a motion for reconsideration of the decision is currently pending.

Specifically, as described below, Qwest submits that findings from the Commission on these narrow issues relating to business line counts and fiber-based collocators will facilitate the efforts of Qwest and the CLECs to implement the FCC's regulatory framework for unbundled dedicated transport and high-capacity loops set forth in the *TRRO* in Idaho. In addition, Qwest requests that the Commission issue findings and make determinations on other issues that relate directly to and will be affected by the findings on business line count and fiber-based collocator data. To this end, Qwest believes that most if not all CLECs choosing to intervene in this proceeding will likely agree with Qwest that the Commission adopt processes consistent with those outlined in the multi-state settlement agreement that Qwest and certain CLECs ("Joint CLECs") entered into in 2007 to resolve certain business line count methodology and related process issues to implement the TRRO in those other states. Qwest's request that the Commission take action on the issues described in this petition is supported by the FCC's endorsement in the *TRRO* of an ongoing role for state commissions in these matters that relate to the change of law provisions in interconnection agreements between Qwest and CLECs and to Sections 251 and 252 of the Telecommunications Act of 1996 ("the Act"). *See e.g., TRRO*, ¶¶ 233, 234.

Qwest respectfully requests that, the Commission promptly schedule a prehearing conference and establish an expedited process and schedule for addressing these issues. In the discussion that follows, Qwest explains the need for expedited resolution of these issues and describes the binding, adjudicatory process it envisions as appropriate to ensure that the regulatory framework established by the *TRRO* is implemented expeditiously and with clarity.

BACKGROUND

On February 15, 2006, a coalition of CLECs (“the Joint CLECs”) submitted a letter to certain state commissions in Qwest’s 14-state ILEC region (primarily those with the greatest concentration of affected wire centers) requesting proceedings for the purpose of establishing a list of non-impaired wire centers by determining the business line counts and numbers of collocators in wire centers in those states, explaining that these determinations were necessary to implement the FCC’s rulings in the *TRRO* relating to unbundled dedicated transport and high-capacity loops. The commissions docketed these requests.⁴

I. The FCC’s Impairment Criteria for Dedicated Interoffice Transport and High-Capacity Loops

The necessity for this proceeding arises from the structural framework the FCC established in the *TRRO* 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 Act. The primary significance of these impairment determinations is that they dictate whether high-capacity transport and loops qualify as Section 251(c)(3) UNEs that Qwest must provide to CLECs at rates based on the FCC’s TELRIC (“total element long-run incremental cost”) pricing methodology or whether they are no longer subject

⁴ Some or all of the Joint CLECs were parties to similar Joint CLEC filings at the state utility regulatory commissions in Arizona (Docket Nos. T-03632A-06-0091, T-03406A-06-0091, 03267A-06-0091, T-03432A-06-0091, T-04302A-06-0091 and T-01051B-06-0091), Colorado (Docket No. 06M-080T), Minnesota (Docket Nos. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211), Oregon (docket UM 1251) and Utah (Docket 06-049-40). The Washington Utilities and Transportation Commission (WUTC) investigated Qwest’s initial non-impairment list in an existing docket (number UT-053025) established to review the impacts of the *TRRO* on local competition.

to Section 251(c)(3) and are governed by the non-TELRIC pricing standard in Sections 201 and 202 of the Communications Act of 1934.⁵

Under the *TRRO* framework, CLECs are deemed not to 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. *TRRO*, ¶ 126.⁶ 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. *TRRO*, ¶¶ 118, 129, 133.⁷

The impairment criteria for high-capacity loops also are based on a capacity-specific approach that distinguishes between DS1 and DS3 capacity. For DS1 loops, CLECs are not impaired in any building within the service area of a wire center containing 60,000 or more business lines and four or more fiber-based collocators. *TRRO*, ¶ 178. CLECs are not impaired without access to DS3 loops in any building within the service area of a wire center containing 38,000 or more business lines and four or more fiber-based collocators. *TRRO*, ¶ 174.

⁵ Under this standard, rates must not be unjust, unreasonable, or unreasonably discriminatory. Responsibility for administering the Section 201-02 pricing standard rests with the FCC. *See, e.g., Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Dkt. Nos. 01-338, 96-98, 98-147, FCC 03-36 at 664 (FCC rel. Aug. 21, 2003) (“*Triennial Review Order*” or “*TRO*”), *vacated in part, remanded in part, U.S. Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (“*USTA II*”).

⁶ The wire centers meeting these criteria are referred to as “Tier 1 wire centers.” They are the wire centers “with the highest likelihood for actual and potential competitive deployment, including wholesale opportunities.” *TRRO*, ¶ 111.

⁷ The FCC defines wire centers with three or more fiber-based collocators or 24,000 or more business lines as “Tier 2 wire centers.” *TRRO*, ¶ 118. According to the FCC, the presence of three or more fiber-based collocators “establishes that multiple carriers have overcome the costs of deployment in a wire center, signifying that substantial revenues exist in the wire center to justify deployment.” *Id.*

II. Qwest's Initial Identification of Non-Impaired Wire Centers

To implement the FCC's impairment framework, Qwest undertook a detailed, multi-step process designed to generate accurate wire center data and to permit CLECs to verify these data. On February 18, 2005, Qwest responded to a request from the FCC's Wireline Competition Bureau with a submission designating the wire centers in Qwest's operating areas as Tier 1, Tier 2, or Tier 3 based on the criteria in the *TRRO*.⁸ This submission also identified the wire centers in Qwest's operating areas that meet the non-impairment thresholds for DS1 and DS3 loops.⁹

After providing this information to the FCC, Qwest attempted to develop a cooperative process with the CLECs and state commissions to ensure the accuracy of its wire center data. Under the protection of a nondisclosure agreement, Qwest provided CLECs and state commission staffs access to the confidential data underlying its February 18 submission. These data included, on a wire center-specific basis, numbers of switched business lines, UNE-P lines, UNE loops, and fiber collocators. Qwest also provided to each carrier upon whose data it relied in the February 18, 2005 submission a list of the wire centers where, according to Qwest's records and investigation, the carrier has fiber-based collocation. These carriers were given the opportunity to review and, if appropriate, contest the accuracy of Qwest's data.

As a further step toward verification, Qwest conducted an additional internal review of the collocation and line count data used for its February 18, 2005 submission. Based on this additional review, which included another comprehensive evaluation of collocation arrangements

⁸ A copy of this February 18, 2005 letter to the FCC is attached as Attachment C. Because the list of wire centers that was attached to the original letter is quite voluminous and is not necessary to this petition, Qwest is not including that list with Attachment C.

⁹ Qwest based the counts of switched business access lines on its most recent ARMIS Report 43-08 data, which were current as of December 2003. To develop an estimate of the business UNE-P lines in each wire center, Qwest relied on the percentage of white page listings for each wire center that are business, not residential. Qwest

in Qwest's wire centers, Qwest refined its list of wire centers. In another submission to the FCC on July 8, 2005 Qwest provided a revised list of wire centers.¹⁰ Qwest continued reviewing its wire center data after this submission, leading to a third submission on August 18, 2005 that made minor corrections to the wire center data.¹¹

III. State Commission Proceedings in Other States

Thereafter, in February 2006, the Joint CLECs requested various state commissions to open proceedings to investigate these issues and to determine and establish line counts and numbers of collocators in Qwest wire centers, and Qwest agreed to such requests. Neither Qwest nor the Joint CLECs filed any petition in Idaho.¹² These commissions opened dockets to investigate these issues, which included evidentiary hearings, post-hearing briefs and commission orders regarding these issues.

IV. Settlement Agreement Approved By Other State Commissions

In 2007, Qwest and the Joint CLECs negotiated and executed a comprehensive multi-state settlement agreement in the *TRRO* wire center dockets addressing all issues in the *TRRO* wire center dockets pending in Arizona, Colorado, Minnesota, Oregon, Utah and Washington.¹³ Qwest filed the multi-state settlement agreement in all of those states, along with its petitions for

determined the number of collocation arrangements that meet the *TRRO*'s definition of "fiber-based collocator" based on billing data that were current as of February 2005 and physical inspections of wire centers.

¹⁰ A copy of this July 8, 2005 letter to the FCC is attached hereto as Attachment D. Qwest is not including the list of wire centers that was provided with the original submission because that list is voluminous and is not necessary to this petition.

¹¹ This third submission to the FCC, on August 18, 2005, is attached as Attachment E. Qwest is not including the list of wire centers that was provided with the original submission because that list is voluminous and is not necessary to this petition.

¹² Nevertheless, Qwest's FCC filing of August 18, 2005 (*See* Attachment E to this petition) listed the Boise Main and Boise West wire centers as Tier 1 and Tier 2 respectively. Qwest's decision as to where to file its state petitions was based on the number wire centers that met a *TRRO* non-impaired wire center criterion in the state and how it could best conserve regulatory resources.

¹³ For a list of the state regulatory dockets in these wire center cases, see footnote 4 above.

