

QWEST CORPORATION

STATE: Washington  
DOCKET NO: Docket UT-073035 (consolidated)  
CASE DESCRIPTION: In the Matter of the Petition of Qwest Corporation for Commission Approval of 2007 Additions to Non-Impaired Wire Center List, Docket UT-073033, and In the Matter of the Petition of Qwest Corporation for Investigation Concerning the Status of Competition and Impact of the FCC's Triennial Review Remand Order on the Competitive Telecommunications Environment in Washington State, Docket UT-073035 (consolidated)  
INTERVENOR: Washington Utilities and Transportation Commission  
REQUEST NO: WUTC BCH-001

REQUEST:

Please describe the process used and notice provided to competitive local exchange carriers of their opportunity to participate in discussions and/or negotiations regarding modification of the process to designate wire centers as non-impaired. Please provide copies of all notifications.

RESPONSE:

Qwest engaged in the settlement process with the Joint CLECs (Covad, Eschelon, Integra, McLeod, and XO) that were active participants in the wire center examination phase of the Commission's *Investigation Regarding the Status of Competition and Analysis of the Impact of FCC's Triennial Review Remand Order (TRRO) on the Competitive Environment*, Docket UT-053025. Qwest was approached by the Joint CLECs to commence the settlement negotiations, which addressed issues that were open in multiple jurisdictions including Washington. Qwest is not aware of the context or content of the contacts the Joint CLECs may have made with other CLECs who chose not to participate in the wire center examination phase of Docket UT-053025 or dockets open in other states, or to join in their joint pleadings.

Respondent: Carolyn Hammack

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INTERVENOR: Washington Utilities and Transportation Commission  
REQUEST NO: WUTC BCH-002

REQUEST:

The Settlement Agreement in this proceeding deviates from Commission precedent established in Docket UT-053025 regarding the methodology for designating facilities as non-impaired (Settlement Agreement, Section V) and the effective date of conversion of the wire center as non-impaired (Settlement Agreement, Section VI). The Joint Narrative in Support of Settlement Agreement was to provide the rationale for any deviations from Commission precedent and did not.<sup>1</sup> Please provide the rationale for these deviations from Commission precedent.

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<sup>1</sup>TR. 20:3-10.

RESPONSE:

*Paragraph 18 of the joint Narrative Regarding Settlement* discusses the deviation from the Commission's Order No. 6 and Modified Interpretive Statement ("Order") regarding the methodology for counting business lines. The process agreed to in the Settlement Agreement adopts a simplified approach as to how business lines are counted. The Parties have agreed to use "the most recently filed unadjusted ARMIS data reported to the FCC...without making any inter-wire center adjustments to this data. Paragraph V(A)(1) of the Proposed Settlement Agreement." The Parties go on to state in the Narrative that such a deviation from the "ratios or fill factors" contained in the Order was in the public interest because it "allows easier verification of the data (e.g., the Parties do not have to verify extra steps related to [ratio or fill factor] adjustments)." The methodology agreed to in the Settlement Agreement is efficient and helps avoid disputes before the Commission.

Although not inconsistent with the Order, another *difference* between the Settlement Agreement and the Order is the vintage of data used for the Initial Wire Center list. The Commission had authorized Qwest to use 2003 ARMIS data to support the business line counts for the 13 wire centers in Washington. Through the give and take of the negotiation process with the Joint CLECs, Qwest agreed to use 2004 ARMIS data instead of 2003 data. The use of the more current data for the Initial Wire Center List, along with the requirement in the Settlement Agreement that Qwest will use the most current ARMIS data (see Settlement Agreement VI(E)(2)) are both consistent with the Commission's direction in the Order, ("ILECs must provide the most current data filed with the FCC or available to the ILEC identifying the number of fiber-based collocators and business lines serving a wire center when seeking to designate the wire center as non-impaired.") *Modified Interpretive Statement, paragraph 18, page 6.* Further, the use of this more current data had no impact on the non-impairment and Tier designations previously approved and found by the Commission to be in the public interest.

As to the portion of the Bench Request regarding "the effective date of conversion of the wire center as non-impaired," Section VI of the Settlement Agreement is in the public interest as it provides efficiency and certainty for several components of the non-impairment and Tier designation process. It makes clear what data Qwest will provide in support of its filings, a means by which the CLECs and other Parties can review that data in a confidential manner; a reasonable timeframe for CLECs or other parties to object to the additions; an effective date for the non-impairment designation in the event there are no objections to the additions as well as a process for addressing wire centers where there are objections. Section VI also provides that as of fifteen (15) days from the effective date of a non-impairment designation, CLECs will not place orders in those non-impaired wire centers. This has public interest benefits in that CLECs will not be adding to an embedded base of UNE facilities that will ultimately have to be converted to alternative services. A definitive date for ceasing to order impacted UNE facilities, together with the reasonable transition timeframes agreed to by the industry participants as noted below, enable CLECs to incorporate the new facilities pricing into their business plans for customers in a measured and orderly way. CLECs agree to transition from UNEs to alternative services in those non-impaired wire centers within ninety (90) days from the effective date of the order in which the Commission approves the addition to the Commission-approved Wire Center List (180 days for dark fiber transport). The Order notes at paragraph 27 that "Where an ILEC designates wire centers as non-impaired in the future the FCC noted that ILECs and competing carriers would need to "negotiate appropriate transition mechanisms" through negotiation or arbitration under Section 252 of the Act." Negotiating "appropriate transition mechanisms" as contemplated by the FCC is exactly what Qwest and the Joint CLECs have done in this case. Negotiation of reasonable transition periods acceptable to the industry should always be the preferred path and ultimately benefits the public by sending appropriate market signals to competitors and providing certainty to the terms and conditions governing the products those firms purchase.

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