

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET UT-073033
)	<i>(Bifurcated)</i>
QWEST CORPORATION,)	
)	ORDER 08
For Commission Approval of 2007)	
Additions to Non-Impaired Wire Center)	ORDER DENYING PETITION TO
List)	INTERVENE
.....)	

1 **NATURE OF PROCEEDINGS.** Docket UT-073033 involves Qwest Corporation’s (Qwest) request before the Washington Utilities and Transportation Commission (Commission) for approval of additions to its non-impaired wire center list.

2 **PROCEDURAL HISTORY.** By Order 06 entered on March 21, 2008, the Commission, among other things, afforded interested persons an additional opportunity to file a petition to intervene in this proceeding.¹ On April 4, 2008, CBeyond Communications LLC (CBeyond) filed a petition to intervene. On April 7, 2008, the Commission issued a Notice of Opportunity to Respond to Petition. On April 11, 2008, Qwest filed a response.

3 **APPEARANCES.** Lisa A. Anderl, Associate General Counsel, Seattle, Washington, represents Qwest. Gregory J. Kopta, attorney, Davis Wright Tremaine, LLP, Seattle, Washington, represents Covad Communications Company (Covad), McLeodUSA Telecommunications Services, Inc. (McLeodUSA), Integra Telecom of Washington, Inc.(Integra), and XO Communications Services, Inc. (XO Communications)² Karen Clauson, Associate General Counsel, Minneapolis, Minnesota, represents Eschelon Telecom, Inc. (Eschelon).

¹ A complete procedural history is set forth in Order 06 and will not be repeated herein.

² Collectively referred to as the Joint Competitive Local Exchange Carriers or Joint CLECs.

4 **PETITION TO INTERVENE.** CBeyond asserted that it is a registered and competitively classified telecommunications company authorized to provide both intraexchange and interexchange telecommunications services throughout Washington. CBeyond has an interconnection agreement with Qwest. CBeyond stated that while it currently has no customers in Washington, it soon may begin to compete actively in this state. CBeyond asserted that it has a substantial interest in this proceeding because Qwest's petition could impact the rates that Qwest offers its wholesale customers if additional wire centers are designated as non-impaired and unbundled network elements are not available at cost-based rates.

5 Qwest opposed the petition arguing that CBeyond failed to state its position regarding the matters in controversy and because CBeyond failed to state a substantial interest in this proceeding. Qwest contended that because CBeyond did not state its position regarding the proposed non-impairment designation for certain wire centers, Qwest cannot fairly assess the position it should take with respect to the position. Furthermore, Qwest argued that CBeyond's interest in this case is speculative because it does not have any customers in Washington, is not operating in any wire centers and has not provided any information that there is a reasonable likelihood that it will be impacted by a decision regarding the wire centers at issue.

6 **COMMISSION DECISION.** The petition to intervene filed by CBeyond should be denied. We consider petitions to intervene according to the standard set forth in WAC 480-07-355. That rule provides that the Commission may grant a petition to intervene if the petitioner discloses a substantial interest in the subject matter of the proceeding or if the petitioner's participation is in the public interest. In this case, CBeyond asserts that it has a substantial interest in the subject matter of this proceeding. However, CBeyond's petition does not support that assertion. While CBeyond has the authority to provide both intraexchange and interexchange telecommunications service in Washington, it does not exercise that authority. By its own admission, CBeyond does not have any customers in Washington at the present time. Moreover, CBeyond did not provide any information regarding a date certain when it intends to commence operations in Washington. Rather, CBeyond asserts that it ". . . soon may begin to compete actively in this state."³ It is unclear from this ambiguous statement when, or even if, CBeyond intends to commence providing telecommunications service in Washington. Accordingly, CBeyond's interest in this

³*CBeyond's Petition to Intervene*, ¶2 at 2.

proceeding appears to be speculative, not substantial, and the petition to intervene should be denied.

Dated at Olympia, Washington, and effective April 16, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.