

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

In the Matter of the Investigation	)	DOCKET UT-053025
Concerning the Status of Competition	)	
and Impact of the FCC's Triennial	)	ORDER 08
Review Remand Order on the	)	
Competitive Telecommunications	)	ORDER CLOSING DOCKET
Environment in Washington State	)	
.....	)	

1 **NATURE OF THE PROCEEDING.** In this docket, the Washington Utilities and Transportation Commission (Commission) considered whether to issue an interpretive statement or policy statement addressing issues of competition in the telecommunications industry and challenges facing telecommunications carriers following the Federal Communication Commission’s (FCC) Triennial Review Remand Order (TRRO).<sup>1</sup>

2 **INTERESTED PARTIES.** Lisa A. Anderl, Associate General Counsel, and Adam L. Sherr, Corporate Counsel, Seattle, Washington, represent Qwest Corporation (Qwest). Timothy J. O’Connell and John H. Ridge, Stoel Rives LLP, Seattle, Washington, represent Verizon Northwest Inc. (Verizon). Gregory J. Kopta and Sarah Wallace, Davis Wright Tremaine LLP, Seattle, Washington, represent Covad Communications Company (Covad), Eschelon Telecom of Washington, Inc. (Eschelon), Integra Telecom of Washington, Inc. (Integra), McLeodUSA Telecommunications Services, Inc., and XO Communications Services, Inc. (collectively Joint CLECs). Gregory Diamond, Denver, Colorado, also represents Covad. Dennis Robins, Vancouver, Washington, represents Electric Lightwave, Inc. Karen Clausen, Minneapolis, Minnesota, also represents Eschelon. Karen Johnson, Beaverton, Oregon, also represents Integra. David Mittle, Santa Fe, New Mexico, represents Tel West Communications, LLC. Peter Healy, Olympia, Washington, represents TSS Digital Services, Inc. (TDS). Arthur A. Butler, Ater Wynne LLP, Seattle, Washington, represents the Washington Electronic Business and

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<sup>1</sup> *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand, FCC 04-290 (rel. Feb. 4, 2005) [Hereinafter “*Triennial Review Remand Order*” or “*TRRO*”].

Telecommunications Coalition (WeBTEC). Simon J. ffitich and Judith Krebs, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel).

3 **PROCEDURAL HISTORY.** The Commission opened this docket as a staff investigation in April 2005. After receiving comments from Qwest, Verizon and the Joint CLECs, the Commission held a workshop on February 1, 2006, concerning competition in the telecommunications industry and challenges facing competitive telecommunications carriers after the FCC adopted the TRRO.

4 One of the primary issues identified in the workshop was the proper designation of wire centers in Washington meeting the FCC's non-impairment standards for unbundled network element (UNE) loops, high-capacity circuits and transport. In particular, competitive local exchange carriers (CLECs) attending the workshop questioned whether Qwest and Verizon had correctly designated certain wire centers as non-impaired for purposes of unbundled access to high-capacity loops and transport.<sup>2</sup> After the workshop, the Commission redefined the nature of the proceeding, stating that it would consider whether to issue an interpretive statement or policy statement.<sup>3</sup>

5 On April 20, 2006, Administrative Law Judge Ann E. Rendahl entered Order 03 resolving disputes over the appropriate data Qwest and Verizon must provide, and interpreting the TRRO and FCC rules.

6 On April 28, 2006 and May 5, 2006 Qwest and Verizon provided to the Commission and certain CLECs the additional data required by Order 03.

7 The Joint CLECs filed comments on the additional data on May 5, 2006 and Verizon filed a response to the Joint CLECs' comments.

8 On August 9, 2006, the Joint CLECs filed a letter requesting the Commission initiate a proceeding to determine whether to require cost-based access to high-capacity loops

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<sup>2</sup> The initial order, Order 03, summarizes the history and explanation of the FCC's TRRO as well as much of the procedural history in this docket. We do not repeat that history here.

<sup>3</sup> See Order 02, ¶ 6.

and transport under Section 271 of the Telecommunications Act of 1996 (the Act)<sup>4</sup> or to classify the services as intrastate private line services under state law.

- 9 After considering petitions for review of the initial order filed by the Joint CLECs and Qwest, the Commission entered Order 04 on October 4, 2006, reversing the decision in the initial order concerning the appropriate age of data to use in determining non-impairment designations, and addressing other issues.
- 10 After considering responses by Qwest and Verizon, and the Joint CLECs' reply, the Commission entered Order 05 on November 9, 2006, denying the Joint CLECs' request for an adjudication.
- 11 After the Joint CLECs and Qwest filed petitions for reconsideration of Order 04, the Commission entered Order 06 on December 15, 2006, an order granting in part the Joint CLECs' petition for reconsideration of Order 04; granting Qwest's petition for reconsideration of Order 04, and issuing an Interpretive Statement.
- 12 After the Joint CLECs filed a petition for administrative review of Order 05, the Commission entered Order 07, denying the Joint CLECs' petition on February 9, 2007.
- 13 **CLOSURE OF THE DOCKET.** Through orders and an interpretive statement, the Commission addressed all matters brought forward in this proceeding including the proper designation of wire centers in Washington meeting the FCC's non-impairment standards for high-capacity loops, circuits and transport. Furthermore, the Commission established a process for Qwest, Verizon, and CLECs requesting access to high-capacity loops and transport, to determine the impairment status of serving wire centers. The Commission also entertained, but declined, the Joint CLECs' request to initiate a proceeding to determine whether to require cost-based access to high-capacity loops and transport under Section 271 of the Act or to classify the services as intrastate private line services under state law.
- 14 On February 27, 2007, the Commission issued to all interested parties a notice of intent to close this docket, requesting comments. Only Verizon and Public Counsel filed comments. Verizon supports the closure of the docket. Public Counsel does not

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<sup>4</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

object to closure, but asserts that “an investigation into the status of competition actually existing in Washington’s telecommunications market is essential to guiding future policy decisions.” Given our thorough treatment of all issues presented and the lack of objection to closure, we now close this docket.

**ORDER**

THE COMMISSION ORDERS That the proceeding in Docket UT-053025 is closed.

DATED at Olympia, Washington, and effective March 29, 2007.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

**NOTICE TO THE PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.**