

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Investigation into Qwest)
Wire Center Data))
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DOCKET NO. 06-049-40

ORDER GRANTING MOTION TO
COMPEL DISCOVERY

ISSUED: May 19, 2006

By The Commission:

On May 3, 2006, Covad Communications Company;, Eschelon Telecom of Utah, Inc.; Integra Telecom of Utah, Inc.; McLeodUSA Telecommunications Services, Inc.; and XO Communications Services, Inc. (“Joint CLECs”) filed a Motion to Compel Qwest to Respond to Data Requests (“Motion”) seeking Commission order compelling Qwest Corporation (“Qwest”) to respond to data requests for wire center data as of the end of 2004.

On May 12, 2006, Qwest filed its Response to the Joint CLECs’ Motion to Compel Qwest to Respond to Data Requests (“Response”) arguing the data requests to which Qwest objects do not seek data that is relevant to the issues in this case or that is reasonably calculated to lead to the discovery of admissible evidence and asking the Commission to deny the Joint CLECs’ Motion.

The data requests which are the subject of the Motion seek information as follows:

REQUEST NO. 031: For each wire center for which Qwest provided line count information in Highly Confidential Exhibit DLT-1 please

provide the information in Joint CLEC Request 01-030 that reflects line counts as of March 2005, if the data is not from this time period already. If March 2005 data is not available, please provide this information for the most recent time period prior to March 2005 and the most recent time period after March 2005 for which the data is available.

REQUEST NO. 033: For each wire center for which Qwest provided line count information in Highly Confidential Exhibit DLT-1, please provide the number of business QPP lines, total UNE-P lines, and business UNE-P lines as Qwest calculates those lines, as of March 11, 2005, or the date prior to and nearest that date if data for March 11, 2005 is not available.

Qwest argues these requests seek to expand the relevant data in this matter beyond Qwest's April 2004 filing of the December 2003 data in Qwest's ARMIS 43-08 annual report to the Federal Communications Commission ("FCC"). According to Qwest, this December 2003 ARMIS data is the data that Qwest provided to the FCC in its initial wire center list and upon which the FCC relied in making wire center non-impairment criteria determinations in its Triennial Review Remand Order ("TRRO"), as well as the data that Qwest submitted to the FCC in February 2006 pursuant to the FCC's request for such data in the TRRO. Qwest argues it should not be required to produce new, additional data different from that which the FCC used to make its fundamental determinations in the TRRO. Finally, Qwest argues providing the updated data requested by the Joint CLECs would add a level of complexity to this matter because if December 2004 ARMIS data were to be used, the process for adding wire centers to the list would need to be determined before the initial list could be finalized. Qwest believes the Commission should validate the original wire center list before it begins to update that validated list.

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The Joint CLECs note the Commission need not decide at this point whether Qwest should be required to use 2003 or 2004 data. We agree and conclude that because the requested data may be relevant to our findings in this matter, Qwest should be compelled to provide said data.

Therefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters this ORDER granting the Joint CLECs' Motion to Compel.

DATED at Salt Lake City, Utah, this 19th day of May, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

Attest:

/s/ Julie Orchard
Commission Secretary
G#49042