

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of</p> <p>QWEST CORPORATION</p> <p>Petition for Commission Approval of 2007 Additions to Non-Impaired Wire Center List</p>	<p>Docket No. _____</p> <p>QWEST CORPORATION'S PETITION FOR COMMISSION APPROVAL OF 2007 ADDITIONS TO NON-IMPAIRED WIRE CENTER LIST AND MOTION FOR EXPEDITED ISSUANCE OF PROTECTIVE ORDER</p>
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Qwest Corporation (“Qwest”) hereby petitions the Commission to open a docket for approval of Qwest’s 2007 *additions* to its non-impaired wire center list as set forth in the Commission’s September 11, 2006 Report and Order in the Commission’s initial *TRRO* non-impaired wire center proceeding, Docket No. 06-049-40 (“Order”), and the joint settlement agreement between Qwest and a coalition of CLECs (“the Joint CLECs”) that Qwest has concurrently filed for Commission approval in Docket No. 06-049-40. In addition, pursuant to the Order and aforementioned settlement agreement filed for approval in Docket No. 06-049-40, Qwest requests that the Commission issue on an *expedited basis* a protective order based on the model protective order attached hereto as Attachment A. Qwest and the Joint CLECs in Docket No. 06-049-40 negotiated and agreed to this protective order 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 FCC’s *Triennial Review Remand Order* (“*TRRO*”),<sup>1</sup> in the Order, and in the settlement agreement filed in Docket No. 06-049-40 for which the parties seek Commission approval.

<sup>1</sup> 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 “*Triennial Review Remand Order*” or “*TRRO*”).

## INTRODUCTION AND PERTINENT BACKGROUND

On February 16, 2006, the Joint CLECs submitted a letter to the Commission requesting a proceeding for the purpose of determining the business line counts and numbers of collocators in Utah wire centers, 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 Commission docketed this request as Docket No. 06-049-40. Qwest then filed a response on March 1, 2006 and agreed that a proceeding for these and other related purposes was necessary, but also described how Qwest differed from the CLECs in some respects concerning the nature of the proceeding and the issues that the Commission should address.

The primary purpose of Docket No. 06-049-40 was for the Commission determine the quantities of business lines and fiber collocators in Utah wire centers so that carriers can implement the Section 251(d)(2) impairment standards set forth in the FCC's *TRRO* for high-capacity dedicated transport and loops. The docket also addressed other issues and disputes relating to the *TRRO*, including the process for identifying and adding in the future new wire centers to the non-impaired wire center list. The parties then filed testimony on these issues.

Thereafter, on September 11, 2006, after the evidentiary hearing and the filing of post-hearing briefs, the Commission issued its Report and Order resolving certain issues and disputes between Qwest and the Joint CLECs. The Order included a ruling relating to the requirements for adding wire centers to the list of non-impaired wire centers in the future.<sup>2</sup> The Commission's Order requires, among other things, that Qwest make an advance filing requesting issuance of a protective order in anticipation of filing an updated wire center non-impairment list at least five

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<sup>2</sup> Docket No. 06-049-40 remains pending because the Commission required additional information regarding costs for the nonrecurring charge (NRC) that Qwest intends to charge to CLECs for orders to convert from

(5) business days prior to Qwest filing its updated non-impaired wire center list request. Order, pp. 27-28.<sup>3</sup>

**SETTLEMENT AGREEMENT FILED WITH COMMISSION IN DOCKET NO. 06-049-40 AND PETITION FOR ADDITIONS TO NON-IMPAIRED WIRE CENTER**

Qwest and the Joint CLECs recently negotiated and executed a settlement agreement in Docket No. 06-049-40 and throughout the Qwest region that addresses all issues in Docket No. 06-049-40 and the other *TRRO* wire center dockets in Qwest's region.<sup>4</sup> Qwest has filed the settlement agreement in Docket No. 06-049-40 concurrently with this filing, and the parties in that docket (Qwest and the Joint CLECs) seek Commission approval of the agreement.<sup>5</sup> As set forth in the settlement agreement that has been submitted for Commission approval in Docket No. 06-049-40, the parties to the settlement agreement agree that Qwest may request the addition of non-impaired wire centers based in whole or in part upon line counts at any time up to *July 1st* of each year, based on prior year line count data, and using an agreed-upon methodology.<sup>6</sup> The parties to the settlement agreement also agreed that at least *five (5) business days prior to filing* new non-impairment or tier designations for Commission review, Qwest will request a *protective order* from the Commission to govern the handling of confidential information during this new

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unbundled network elements ("UNEs") to alternative products, services or facilities at wire centers that the Commission has determined to be non-impaired.

<sup>3</sup> On October 11, 2006, both Qwest and the Joint CLECs filed motions for reconsideration on issues not relevant to the issues here. The Commission denied both motions for reconsideration.

<sup>4</sup> 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), and Oregon (docket UM 1251). 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.

<sup>5</sup> The settlement agreement includes an agreement on the nonrecurring charge (NRC) for conversions from UNEs to alternative services, products or facilities at wire centers the Commission has declared to be non-impaired that is still pending before this Commission in Docket No. 06-049-40.

non-impairment proceeding.<sup>7</sup> The parties also agree to seek from the Commission approval of a standing protective order, which is a new protective order, based on an agreed-upon model protective order. Qwest is attaching the model protective order as Attachment A to this petition.

Consistent with this process and the requirements of the Order and settlement agreement, Qwest intends to file with the Commission, on Friday, June 29, 2007, the data supporting its list of additional non-impaired wire centers, along with a request for Commission approval of the list. Assuming that the Commission has issued the protective order described above by that date, Qwest will also provide the data supporting the updated list to all CLECs that have signed the protective order. To facilitate this process and to comply with the requirement in the settlement agreement that Qwest seek Commission approval of a protective order at least five (5) business days prior to filing changes to the list, Qwest now seeks the Commission's *expedited issuance* of either a standing protective order or a new protective order based on the model protective order attached as Attachment A. Expedited issuance of the protective order will permit CLECs that sign the order to begin reviewing the confidential wire center data promptly after Qwest files the data on June 29th.

The wire centers that Qwest is seeking to add to the list of non-impaired wire centers based on the confidential data it will file on June 29, 2007 are as follows:

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<sup>6</sup> With respect to fiber-based collocators, Qwest may request the addition of non-impaired wire centers to the Commission-approved wire center list at any time based on the number of fiber-based collocators.

<sup>7</sup> The requirement in the settlement agreement that Qwest will request a protective order from the Commission at least five (5) business days prior to filing new non-impairment or tier designations for Commission review in order to govern the handling of confidential information during this new non-impairment proceeding is consistent with the Commission's Order. See Order, pp. 12-13.

<b>STATE</b>	<b>WIRE CENTER</b>	<b>CLLI</b>	<b>TIER</b>	<b>NON-IMPAIRMENT FOR</b>
UT	Midvale Main	MDVAUTMA	Tier 2	DS3 Transport and Dark Fiber
	Orem Main	OREMUTMA	Tier 2	DS3 Transport and Dark Fiber

**REASON FOR PROTECTIVE ORDER**

Finally, the reason that a protective order is needed in this new proceeding is that the information that Qwest will file will include certain highly-confidential wire center data, including highly-confidential CLEC-specific data. Qwest and the Joint CLECs in Docket No. 06-049-40 have agreed these data should be protected by a protective order that contains protections and limited disclosures of highly-confidential information. Specifically, Qwest seeks this protective order because Qwest will be filing CLEC-specific wire center data in this proceeding for the purposes of counting business line counts and fiber-based collocators in specific wire centers, and because the parties in Docket No. 06-049-40 agree that a protective order is needed here.

Accordingly, Qwest submits with this petition (Attachment A) a model protective order that the parties in Docket No. 06-049-40 agreed to in their settlement agreement (based on a Minnesota protective order). Qwest respectfully requests that the Commission issue either a standing protective order, or a new protective order, based on the model protective order in Attachment A as soon as possible. Alternatively, Qwest notes that the Commission previously issued a modified protective order in Docket No. 06-049-40 that it may wish to consider in this new proceeding.

## CONCLUSION

Accordingly, for the reasons set forth above, Qwest respectfully requests the Commission to open a docket for approval of Qwest's 2007 additions to its non-impaired wire center list listed above for which Qwest will file supporting data on June 29, 2007, and that it issue a protective order, based on the model protective order in Attachment A, as soon as possible.

Dated: June 22, 2007

Respectfully submitted,

QWEST CORPORATION

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