

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of  QWEST CORPORATION  Petition for Commission Approval of 2008 Additions to Non-Impaired Wire Center List	Docket No. 08-049-29  QWEST CORPORATION'S PETITION FOR COMMISSION APPROVAL OF 2008 ADDITIONS TO NON-IMPAIRED WIRE CENTER LIST AND MOTION FOR EXPEDITED ISSUANCE OF PROTECTIVE ORDER
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Qwest Corporation ("Qwest") hereby petitions the Commission to open a docket for approval of Qwest's 2008 *addition* of its Draper wire center to its non-impaired wire center list in accordance with the FCC's *Triennial Review Remand Order* ("TRRO").<sup>1</sup> This petition is made in conformity with and pursuant to the Commission's September 11, 2006 Report and Order ("Initial TRRO Order") in the Commission's initial TRRO non-impaired wire center proceeding (Docket No. 06-049-40). This wire center addition is also consistent with the joint settlement agreement between Qwest and a coalition of CLECs ("the Joint CLECs") that the Commission approved in Docket No. 06-049-40 on July 31, 2007 ("TRRO Settlement Order").

In addition, pursuant to the Initial TRRO Order and the TRRO Settlement Order, Qwest requests that the Commission issue on an *expedited basis* a protective order based on the model protective order attached hereto as Attachment A.<sup>2</sup> This is the process that the Commission used in Docket 07-049-30, which pertained to the 2007 additions to Qwest's non-impaired wire center list ("the 2007 Wire Center Update Docket"), and which the Commission approved on October

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<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*").

<sup>2</sup> Qwest has made minor edits to the Minnesota form of protective order agreed upon by the Joint CLECs and Qwest in the settlement agreement, for use in this Utah proceeding.

1, 2007 (Midvale wire center) and on November 20, 2007 (Orem wire center) (“2007 Wire Center Update Orders”). Qwest and the Joint CLECs in the initial *TRRO* non-impaired wire center proceeding (Docket No. 06-049-40) negotiated and agreed to use this protective order as a basis for any protective order entered in future proceedings 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 *TRRO*.

### **INTRODUCTION AND PERTINENT BACKGROUND**

On February 16, 2006, a consortium of CLECs (“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.

The primary purpose of Docket No. 06-049-40 was for the Commission to determine the quantities of business lines and fiber collocators in Utah wire centers so that carriers can implement the Section 251(d)(2) non-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 future new wire centers to the non-impaired wire center list.

Thereafter, on September 11, 2006, after prefiled testimony, an evidentiary hearing and the filing of post-hearing briefs, the Commission issued its Report and Order in Docket 06-049-40 resolving certain issues and disputes between Qwest and the Joint CLECs. The Initial *TRRO* Order included a ruling relating to the requirements for adding wire centers to the list of non-impaired wire centers in the future. The Commission’s Initial *TRRO* 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 (5) business days prior to Qwest filing its updated non-impaired wire center list request. See e.g., Initial *TRRO* Order, pp. 27-28.<sup>3</sup>

**SETTLEMENT AGREEMENT APPROVED BY THE COMMISSION IN  
DOCKET NO. 06-049-40 AND PETITION FOR 2008 ADDITION TO  
NON-IMPAIRED WIRE CENTER LIST**

In 2007, Qwest and the Joint CLECs negotiated and executed a settlement agreement in Docket No. 06-049-40 and in five other Qwest states that addressed all issues in Docket No. 06-049-40 and the other *TRRO* wire center dockets in Qwest's region.<sup>4</sup> Qwest filed the settlement agreement in Docket No. 06-049-40 concurrently with its petition for approval of its 2007 additions to the non-impaired wire center list, and the Commission later approved the agreement on July 31, 2007.

As set forth in the settlement agreement that the Commission approved 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>5</sup> The parties to the settlement agreement also agreed that at least *five (5) business days prior to filing*

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<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 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> 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.

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 non-impairment proceeding.<sup>6</sup> The parties also agreed 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 initial *TRRO* Order and the settlement agreement that the Commission approved on July 31, 2007 in Docket No. 06-049-40, on June 22, 2007, Qwest filed a petition for approval of its 2007 additions to its non-impaired wire center list (“the 2007 Wire Center Update Docket”). The wire centers at issue in that petition were the Midvale and Orem wire centers. The Commission docketed this petition as Docket 07-049-30. The Commission then approved that petition on October 1, 2007 (Midvale wire center) and November 20, 2007 (Orem wire center) (“2007 Wire Center Update Orders”).

Qwest now files its petition for its 2008 addition (the Draper wire center) to its non-impaired wire center list. Further, consistent with the settlement agreement in Docket No. 06-049-40 and its 2007 petition (Docket 07-049-30), Qwest intends to file with the Commission, on Friday, June 27, 2008, the data supporting its additional non-impaired wire center, 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

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<sup>6</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

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 27th.

As stated, the only wire center that Qwest is seeking to add to its list of non-impaired wire centers based on the confidential data it will file on June 27, 2008 is the Draper wire center. The pertinent information is as follows:

STATE	WIRE CENTER	CLLI	TIER	NON-IMPAIRMENT FOR
UT	Draper	DRPRUTMA	Tier 2	DS3 Transport and Dark Fiber

**REQUEST FOR PROTECTIVE ORDER**

Finally, a protective order is needed in this new proceeding because the information that Qwest will file on June 27, 2008 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 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/or fiber-based collocators in the wire center at issue, and because the parties in Docket No. 06-049-40 agreed that a protective order would be needed for these future dockets.

Accordingly, Qwest submits with this petition (Attachment A) a model protective order

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review in order to govern the handling of confidential information during this new non-impairment proceeding is consistent with the Commission's Order. See e.g., Initial *TRRO* Order, pp. 12-13.

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 and in Docket 07-049-30 that it may wish to consider in this new proceeding.

### **CONCLUSION**

Accordingly, Qwest respectfully requests the Commission open a docket for approval of Qwest's 2008 addition of the Draper wire center to its non-impaired wire center list for which Qwest will file supporting data on June 27, 2008, and that it issue a protective order, based on the model protective order in Attachment A, as soon as possible.

Dated: June 20, 2008

Respectfully submitted,

QWEST CORPORATION

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