

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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| In the Matter of Qwest Corporation d/b/a CenturyLink QC's Petition for Commission Approval of 2013 Additions to its Non-Impaired Wire Center List | Docket No. 13-049-18 QWEST CORPORATION D/B/A CENTURYLINK QC'S PETITION FOR COMMISSION APPROVAL OF 2013 ADDITIONS TO ITS NON-IMPAIRED WIRE CENTER LIST AND MOTION FOR EXPEDITED ISSUANCE OF PROTECTIVE ORDER |
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Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”) petitions the Commission to add CenturyLink’s Clearfield and Kearns wire centers to its non-impaired wire center list in accordance with the FCC’s *Triennial Review Remand Order* (“*TRRO*”).¹ This petition is made in conformity with and pursuant to the Commission’s September 11, 2006 Report and Order (“Initial *TRRO* Order”) in Docket No. 06-049-40.² The addition of the Clearfield and Kearns wire centers is also consistent with the joint settlement agreement between Qwest³ and a coalition of CLECs (“the Joint CLECs”) approved by the Commission in Docket No. 06-049-40 (“*TRRO* Settlement Order”).

In addition, pursuant to the Initial *TRRO* Order and the *TRRO* Settlement Order, CenturyLink requests that the Commission issue on an *expedited basis* a protective order based

¹ 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*”).

² Docket No. 06-049-40 was the Commission’s initial *TRRO* non-impaired wire center proceeding.

³ Prior to April 2011, Qwest Corporation did business as Qwest. For references before April 2011, this petition will still say Qwest, and for references after April 2011, it will say CenturyLink.

on the model protective order attached hereto as Attachment A.⁴ This is the same process that the Commission followed in Docket No. 07-049-30 (“2007 Wire Center Update Docket”); Docket No. 08-049-29 (“2008 Wire Center Update Docket”); and Docket No. 10-049-22 (“2010 Wire Center Update Docket”).⁵

In the initial *TRRO* non-impaired wire center proceeding (Docket No. 06-049-40), Qwest and the Joint CLECs 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*. The model protective order attached hereto is the same protective order approved by the Commission in the previous dockets.

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

⁴ The attached protective order was approved by the Commission in earlier dockets, including Docket Nos. 08-049-29 and 10-049-22. This protective order is based on a Minnesota protective order used by Qwest and the Joint CLECs, and has minor modifications for use in Utah.

⁵ In the 2010 Wire Center Update Docket the Commission initially issued its standard protective order. The standard protective order does not contain a designation for highly confidential information. CenturyLink filed a motion to modify the protective order, and the Commission issued a modified protective order, which is the model protective order attached hereto as Attachment A.

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 (now CenturyLink) 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 CenturyLink filing its updated non-impaired wire center list request. See e.g., Initial *TRRO* Order, pp. 27-28.⁶

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.⁷ 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 settlement agreement on July 31, 2007.

⁶ 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.

⁷ 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.

The parties to the settlement agreement agreed that Qwest (now CenturyLink) may request the addition of non-impaired wire centers at any time based on the number of fiber-based collocators. Further, the settlement agreement states that CenturyLink 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. *The request to add the Clearfield and Kearns wire centers to the non-impaired wire center list is based entirely on the number of fiber-based collocators.* 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, CenturyLink will request a protective order from the Commission to govern the handling of confidential information during this new non-impairment proceeding.⁸ CenturyLink is attaching the model protective order as Attachment A to this petition.

Consistent with the above-described process, the requirements of the initial *TRRO* Order, and the settlement agreement approved by the Commission in Docket No. 06-049-40, Qwest filed petitions to approve additions to its list of non-impaired wires center in the 2007 Wire Center Update Docket, the 2008 Wire Center Update Docket, and the 2010 Wire Center Update Docket. The wire centers at issue in the 2007 Wire Center Update Docket were Midvale and Orem. The wire center at issue in the 2008 Wire Center Update Docket was Draper. And, the wire centers at issue in the 2010 Wire Center Update Docket were Salt Lake City West and Salt Lake City East. The Commission approved and added the wire centers at issue in the 2007, 2008 and 2010 dockets to the list of non-impaired wire centers.

⁸ The requirement in the settlement agreement that CenturyLink 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 Initial *TRRO* Order. See e.g., Initial *TRRO* Order, pp. 12-13.

**THE CLEARFIELD AND KEARNS WIRE CENTERS SHOULD BE ADDED TO
THE NON-IMPAIRED WIRE CENTER LIST**

CenturyLink now files this petition seeking to add the Clearfield and Kearns wire centers to its non-impaired wire center list. Consistent with the settlement agreement in Docket No. 06-049-40, the 2007 petition (Docket 07-049-30), the 2008 petition (Docket 08-049-29), and the 2010 petition (Docket No. 10-049-22), CenturyLink intends to file with the Commission, on Monday, September 9, 2013, the data supporting its request to add the Clearfield and Kearns wire centers to its list of non-impaired wire centers.⁹ Assuming the Commission issues the protective order described above by September 9, 2013, CenturyLink will also provide the data supporting the updated list to all CLECs once they sign the protective order.

To facilitate this process and to comply with the requirement in the settlement agreement that CenturyLink seek Commission approval of a protective order at least five (5) business days prior to filing changes to the list, CenturyLink now seeks the Commission's *expedited issuance* of 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 CenturyLink files the data on September 9, 2013.

As previously stated, the Clearfield and Kearns wire centers are the only wire centers that CenturyLink seeks to add to its list of non-impaired wire centers.¹⁰ The pertinent information is as follows:

⁹ Monday, September 2, 2013 is a holiday. Therefore, 5 business days after August 30, 2013 is September 9, 2013.

¹⁰ The confidential information that will be filed on September 9, 2013, supports the Clearfield and Kearns wire centers being deemed non-impaired.

| STATE | WIRE CENTER | CLLI | TIER | NON-IMPAIRMENT FOR |
|-------|-------------|----------|--------|------------------------------|
| UT | Clearfield | CLFDUTMA | Tier 2 | DS3 Transport and Dark Fiber |
| UT | Kearns | KRNSUTMA | Tier 2 | DS3 Transport and Dark Fiber |

REQUEST FOR PROTECTIVE ORDER

A protective order is needed in this proceeding because the information that CenturyLink will file on September 9, 2013 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 this data should be protected by a protective order that contains protections and limited disclosures of highly-confidential information. Specifically, CenturyLink seeks this protective order because it will be filing CLEC-specific wire center data in this proceeding for the purposes of counting fiber-based collocators in the wire centers 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, CenturyLink submits with this petition (Attachment A) a model protective order that was previously approved by the Commission, and respectfully requests that the Commission issue this as the protective order in this case as soon as possible.

CONCLUSION

CenturyLink respectfully requests the Commission approve the addition of CenturyLink’s Clearfield and Kearns wire centers to its non-impaired wire center list for which it will file supporting data on September 9, 2013. Further, CenturyLink requests that the

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Commission issue a protective order, based on the model protective order in Attachment A, as soon as possible.

Dated: August 30, 2013

Respectfully submitted,

CENTURYLINK

A handwritten signature in cursive script that reads "Torry Somers".

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