

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Qwest) Application No. C-4625/PI-189
Corporation d/b/a CenturyLink)
QC, Denver, Colorado, seeking)
approval of non-impaired wire) ORDER
center lists pursuant to the)
Triennial Review Remand Order.) Entered: December 17, 2013

BY THE COMMISSION:

Background

By Application filed August 30, 2013, Qwest Corporation d/b/a CenturyLink QC (Qwest), of Denver, Colorado, seeks approval of non-impaired wire center lists pursuant to the Triennial Review Remand Order ("TRRO").¹ Notice of the application appeared in the Daily Record, Omaha, Nebraska, on September 9, 2013. No protests or interventions were filed. The Commission issued a Protective Order in this matter to safeguard confidential information provided by Qwest.

In 2005, the FCC, through the TRRO, established a structural framework for determining whether high-capacity dedicated transport and high-capacity loops meet the "impairment" requirement for unbundled network elements (UNEs) set forth in Section 251(d)(2) of the Telecommunications Act of 1996. The primary significance of this impairment determination, is it dictates whether high-capacity transport and loops qualify as Section 251(c)(3) UNEs, which Qwest must provide to CLECs at rates based on the FCC's total element long-run incremental cost (TELRIC) pricing methodology or whether they are governed by the non-TELRIC pricing standard in Sections 201 and 202 of the Communications Act of 1934.

Under the TRRO framework, CLECs are deemed not to be impaired without access to DS1 transport on routes connecting a pair of wire centers where both wire centers contain at least four fiber-based collocators or at least 38,000 business access lines. For DS3 transport and dark fiber transport, there is no impairment on routes connecting a pair of wire centers where both wire centers contain at least

¹ *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, Order on Remand (Rel. February 4, 2005) (“TRRO”).

three fiber-based collocators or at least 24,000 business lines.

The impairment criteria for high-capacity loops depends upon the DS1 and DS3 capacity. For DS1 loops, CLECs are not impaired in any building within the service area of a wire center containing 60,000 or more business lines and four or more fiber-based collocators. CLECs are not impaired without access to DS3 loops in any building within the service area of a wire center containing 38,000 or more business lines and four or more fiber-based collocators.

After the TRRO, Qwest states that it attempted to develop a cooperative process with the CLECs and state commissions to ensure the accuracy of its wire center data. Qwest states it entered into a settlement agreement with numerous competitive local exchange carriers who were parties to a similar proceeding in states in which Qwest operates as an incumbent local exchange carrier (ILEC). On February 15, 2006, a coalition of CLECs submitted a letter to various state commissions in Qwest's 14-state ILEC region (not-including Nebraska) requesting proceedings for the purpose of establishing a list of non-impaired wire centers by determining the business line counts and numbers of collocators in wire centers in those states, explaining that these determinations were necessary to implement the rulings in the TRRO relating to unbundled dedicated transport and high-capacity loops. Qwest states it did not ask for a proceeding to be opened in Nebraska at that time as there was only one wire center identified by Qwest which met the non-impaired wire center criterion.

As set forth in the settlement agreement with the CLECs in other states, a practice was developed where Qwest could request the addition of non-impaired wire centers 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 the agreed-upon methodology. Although the Commission is not bound by the multi-state settlement agreement in Nebraska, Qwest asks the Commission to follow it.

Qwest's Request for Approval

Qwest requests a non-impairment designation for the wire center(s) in Omaha, Nebraska, identified in its application based on the confidential information filed on October 3, 2013. Qwest is not asking the Commission to make any

impairment determinations related to the high-capacity transport and loops as the FCC has the authority to make those determinations. No interested party challenged or opposed the request.

O P I N I O N A N D F I N D I N G S

The Commission agrees with Qwest that based on the information filed, the Omaha, Nebraska, 84th Street wire center should be added to the non-impaired wire center list. Having reviewed the application, the Commission finds approval of the application to be just and reasonable and in the public interest. Accordingly, the Commission designates the wire center set forth in the application as a non-impaired wire center in accordance with the FCC's TRRO.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the opinion and findings described herein shall be and are hereby adopted.

MADE AND ENTERED at Lincoln, Nebraska, this 17th day of December, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned application be, and it is hereby, granted.

MADE AND ENTERED at Lincoln, Nebraska, this 17th day of December, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tim Schram

Deed Johnson

Gerald L. Voss

//s//Anne C. Boyle
//s//Frank E. Landis

Anne Boyle

Chair

ATTEST:

Irene Meredith

Executive Director