

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QWEST CORPORATION	DOCKET NO. INU-08-2
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**ORDER DOCKETING FOR INVESTIGATION AND
ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued August 25, 2008)

On June 20, 2008, Qwest Corporation (Qwest) filed with the Utilities Board (Board) a petition to open an investigation for the purpose of developing a Board-approved initial list of non-impaired wire centers. Qwest states that it filed this request pursuant to the Federal Communications Commission's (FCC's) *Triennial Remand Order*¹ for the purpose of reviewing the number of business lines and fiber-based collocators in certain Iowa wire centers that meet the non-impairment criteria.

Qwest seeks approval from the Board to establish a list of non-impaired wire centers in Iowa. The list would include the Des Moines Downtown, Des Moines Ashworth, Davenport Downtown, and Sioux City Downtown rate centers. Qwest states that the primary significance of these impairment determinations is that they will dictate whether high-capacity transport and loops qualify as unbundled network elements (UNEs) as defined in 47 U.S.C. § 251(c)(3), which Qwest must provide to

¹ In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, "Order on Remand," CC Docket No. 01-338, WC Docket 04-313 (Released February 4, 2005) (hereinafter "TRRO").

competitive local exchange carriers (CLECs) at rates based on the FCC's TELRIC² pricing methodology, or whether those UNEs are governed by the non-TELRIC pricing standard as indicated in 47 U.S.C. §§ 201 and 202.

Qwest states that on February 15, 2006, a coalition of CLECs submitted a letter to several state commissions within Qwest's territory, excluding Iowa, requesting proceedings that would develop a list of non-impaired wire centers. Dockets were opened in several states and evidentiary hearings, post-hearing briefs, and commission orders followed.³ Qwest states that in 2007, it negotiated a multi-state settlement with the CLECs regarding these wire center dockets. Qwest asserts that the settlement was filed with the states where these impairment proceedings were being conducted and that all but one of those states approved the agreement. Qwest asserts that the settlement establishes the timing of Qwest's filings that would add to the non-impaired list of wire centers, the use of an agreed-upon methodology, and the use of a protective order. Qwest asks that the process described in the settlement agreement be used in Iowa.

Qwest also states that other issues will be triggered should the Board determine that there is wire center impairment, including (1) Qwest's right to assess a nonrecurring charge at applicable tariffed rates for converting affected high-capacity loop and transport facilities in non-impaired wire centers to alternative products, and

² Total Element Long Run Incremental Cost.

³ The states receiving the letter were Arizona, Colorado, Minnesota, Oregon, and Utah. The commission in Washington reviewed the impairment list in an existing docket.

(2) the process for future updates of Qwest's list of non-impaired wire centers. Qwest asks that the Board resolve these issues during this proceeding.

In the TRRO, the FCC endorses the Board's role in matters that relate to the change of law provisions in interconnection agreements between Qwest and CLECs. However, the settlement reached between Qwest and certain CLECs involves other state proceedings. These settlements were not approved by this Board as part of any proceeding. As a result, other Iowa CLECs that were not parties to another state's proceeding where this settlement was reached did not have notice of the proceeding or the settlement. Therefore, the settlement proposal as described by Qwest cannot be directly adopted for use in this proceeding, as it may affect the interests of parties who did not have a realistic opportunity to participate in the negotiations.

Qwest's proposed alternative is to open an investigation to develop a Board-approved list of non-impaired wire centers in Iowa. Pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.3, this docket is assigned to the Board's administrative law judge, Amy Christensen, to conduct a hearing and issue a proposed decision with a proposed list.

Qwest is directed to provide notice of its filing to all affected carriers.

IT IS THEREFORE ORDERED:

1. A formal proceeding, identified as Docket No. INU-08-2, is initiated to develop a Board-approved list of non-impaired Qwest Corporation wire centers, as requested by Qwest on June 20, 2008.
2. Pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.3, this docket is assigned to the Board's administrative law judge, Amy Christensen, to conduct a hearing and issue a proposed decision. The administrative law judge shall have the authority provided under 199 IAC 7.3.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 25th day of August, 2008.