

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer
David C. Boyd
Marshall Johnson
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Unilateral Decision by
Qwest to Stop Posting CLEC Contracts for
DSL (Broadband Service) on its Website

ISSUE DATE: September 14, 2007

DOCKET NO. P-421/M-07-836

ORDER CLOSING DOCKET

PROCEDURAL HISTORY

On June 18, 2007, Qwest Corporation (Qwest) filed with the Commission a letter regarding commercial agreements for broadband services previously known as Qwest Digital Subscriber Line (DSL). Qwest stated that based on its interpretation of changes in federal law with respect to information services, the Commission's prior orders requiring that such agreements be filed for inspection with the Commission or posted on its website should not apply to commercial DSL broadband agreements. Qwest stated that it no longer intended to file or post such agreements on its website.

On July 18, 2007, the Department of Commerce filed comments, recommending that the Commission order Qwest to seek Commission approval of any change in the process the Commission established for the handling of commercial agreements.

On September 6, 2007, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

Since 2004, the Commission has had in place a process for Qwest Corporation (Qwest) to file for inspection with the Commission agreements that: 1) are associated with elements of Qwest's

network; 2) make reference to unbundled network elements; 3) reflect a Telecommunications Act § 271 obligation; or 4) reflect a state obligation.¹

Since the 2004 order, Qwest has filed with the Commission commercial agreements, agreements to resolve billing disputes and other contracts and agreements.

Following the Covad Order, the Commission, in Docket No. P-5827, 421/M-06-313, allowed Qwest to simply post the date and the competitive local exchange company (CLEC) name for any agreement identical to an agreement that had previously been reviewed and judged to not require further Commission action. Qwest has followed this procedure for DSL agreements.

Qwest's June 18, 2007 letter indicates that the Company does not believe the Commission's prior orders continue to apply to commercial DSL broadband agreements following the FCC's decision in its Wireline Broadband Order² and federal court decisions in Minnesota. The letter also indicated that Qwest no longer intended to file or post such agreements.

At the Commission meeting, however, Qwest acknowledged that it should have sought Commission approval prior to changing its process with respect to DSL agreements. While maintaining its position that Commission review is no longer necessary, Qwest agreed to follow existing procedures for such agreements.

The Department stated that it was willing to engage in discussions with Qwest about restructuring the process regarding DSL agreements, but asserted that the mixture of information and telecommunications services offered by Qwest poses an issue. The Department also asserted that other parties should be allowed the opportunity to comment.

As Qwest has agreed to follow existing procedures for commercial agreements, including DSL agreements, for the present, the Commission will close this docket. The Commission does so with the understanding that prior to any change in its procedures for commercial agreements, including DSL agreements, Qwest will file a request with the Commission to modify the process currently required.

¹ See Order Directing Qwest to File Commercial Agreements, Docket No. P-5692, 421/CI-04-804 (September 27, 2004)("Covad Order").

² (making clear that broadband services are information services, not telecommunications services) In the Matter of the Appropriate Framework for Broadband Access to Internet Order Wireless Facilities et. al., FCC Docket No. 02-33 et. al., FCC 05-150, Report and Order and Notice of Proposed Rulemaking (September 25, 2005).

ORDER

1. This docket shall be closed without prejudice.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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