



PUBLIC NOTICE

Federal Communications Commission
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DA 09-1653
July 29, 2009

**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON
QWEST CORPORATION'S PETITION FOR FORBEARANCE
IN THE PHOENIX, ARIZONA METROPOLITAN STATISTICAL AREA**

WC Docket No. 09-135

Comments Due: August 28, 2009
Reply Comments Due: September 28, 2009

On March 24, 2009, Qwest Corporation (Qwest) filed a petition¹ pursuant to section 10 of the Communications Act of 1934, as amended,² requesting that the Commission forbear from applying to Qwest certain obligations in the Phoenix-Mesa-Scottsdale Metropolitan Statistical Area (Phoenix MSA).³ Specifically, according to its Petition, Qwest seeks forbearance from loop and transport unbundling obligations pursuant to sections 251(c) and 271(c)(2)(B)(ii) of the Act.⁴ Qwest also seeks forbearance from Part 61 dominant carrier tariffing requirements;⁵ Part 61 price cap regulation;⁶ and dominant carrier requirements arising under section 214 of the Act and Part 63 of the Commission's rules concerning the processes for acquiring lines, discontinuing services, making assignments or transfers of control.⁷ Finally, Qwest requests forbearance from *Computer III* requirements, including Comparably Efficient Interconnection (CEI) and Open Network Architecture (ONA) requirements for its mass market and enterprise switched access services "to the extent that Qwest offers information services in conjunction

¹ Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area, WC Docket No. 09-135 (filed Mar. 24, 2009) (Qwest Phoenix MSA Petition).

² See 47 U.S.C. § 160.

³ Qwest Phoenix MSA Petition at 1. Qwest indicates that its request for forbearance is limited to the geographic area that is encompassed by the 64 Qwest wire centers located within the boundaries of the Phoenix MSA. *Id.* at 1, 11.

⁴ *Id.* at 7 (citing 47 C.F.R. § 51.319(a), (b), (e)). Specifically, Qwest seeks this relief for its wholesale provision of voice-grade, DS1 and DS3 unbundled loop and transport facilities. *Id.*

⁵ *Id.* (citing 47 C.F.R. §§ 61.32, 61.33, 61.38, 61.58, 61.59).

⁶ *Id.* at 8 (citing 47 C.F.R. §§ 61.41-61.49).

⁷ *Id.* at 10 (citing 47 C.F.R. §§ 63.03, 63.04).

with such services” and “any remaining BOC-specific *Computer III* obligations.”⁸ Qwest also proposes certain conditions that it would be “willing to accept”⁹ if the Commission were to grant the requested forbearance relief.¹⁰

This is the second petition Qwest has filed seeking forbearance in the Phoenix MSA from the rules described above.¹¹ On July 25, 2008, the Commission denied Qwest’s first petition, concluding that the record evidence did not satisfy the section 10 forbearance standard.¹² Qwest asserts that its current petition addresses the Commission’s concerns identified in the *Qwest 4 MSA Forbearance Order* and provides “an even stronger case for forbearance for the Phoenix MSA.”¹³

Interested parties may file comments on the Qwest Phoenix MSA Petition on or before **August 28, 2009** and reply comment on or before **September 28, 2009**. All pleadings should reference **WC Docket No. 09-135**.

All filings must be addressed to the Commission’s Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Parties should also send a copy of their filings to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, or by e-mail to CPDcopies@fcc.gov. Parties shall also serve one copy with the Commission’s copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com. Pursuant to the *First Protective Order* and *Second Protective Order*, all parties should submit an electronic copy of filings containing Confidential and Highly Confidential Information to Tim Stelzig (Tim.Stelzig@fcc.gov) and Denise Coca (Denise.Coca@fcc.gov).¹⁴

Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.

⁸ *Id.* at 11.

⁹ *Id.* at 8.

¹⁰ *Id.* at 8-10.

¹¹ *Id.* at 1. On April 27, 2007, Qwest filed four petitions seeking certain forbearance relief in the Denver, Minneapolis-St. Paul, Phoenix and Seattle MSAs. *Petitions of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas*, WC Docket No. 07-97, Memorandum Opinion and Order, 23 FCC Rcd 11729, 11730, para. 1 (2008) (*Qwest 4 MSA Forbearance Order*), *pet. for review pending*, No. 08-1257 (D.C. Cir. filed July 29, 2008).

¹² *Id.*

¹³ Qwest Phoenix MSA Petition at 2.

¹⁴ *Petition of the Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, WC Docket No. 09-135, First Protective Order, DA 09-1667 (WCB, rel. July 29, 2009) (*First Protective Order*); *Petition of the Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, WC Docket No. 09-135, Second Protective Order, DA 09-1670 (WCB, rel. July 29, 2009) (*Second Protective Order*).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message: get form <your email address>. A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. **Parties are strongly encouraged to file comments electronically using the Commission's ECFS.**

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail at fcc@bcpweb.com.

This Public Notice establishes certain procedural requirements relating to consideration of the

Qwest Phoenix MSA Petition. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁵ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.¹⁶ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission’s rules.¹⁷

For further information regarding this proceeding, contact Tim Stelzig, Competition Policy Division, Wireline Competition Bureau, 202-418-0942 or Denise Coca, Competition Policy Division, Wireline Competition Bureau, 202-418-0574.

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¹⁵ See 47 C.F.R. §§ 1.1200, 1.1206.

¹⁶ See 47 C.F.R. § 1.1206(b).

¹⁷ 47 C.F.R. § 1.1206(b).