

Minnesota Public Utilities Commission
Staff Briefing Paper

Meeting Date: August 28, 2014 * Agenda Item # 1

Company: CenturyLink QC

Docket No. Docket No. P-421/AM-14-550
In the Matter of CenturyLink’s Petition for Approval of Additions for 2014 to the
Non-Impaired Wire Center List

Issue: Should the Commission change the impairment status of the Blaine wire center
from Tier 3 to Tier 2?

Staff: Kevin O’Grady.....651-201-2218

Relevant Documents

Settlement Agreement Governing Procedure (06-211 & 06-685)..... June 26, 2007
CenturyLink Petition for Reclassification of Wire Center June 30, 2014
Comments: DOC..... August 1, 2014
Comments: Integra..... August 1, 2014

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Background

On June 30, 2014, CenturyLink asked the Commission to designate the Blaine wire center as “non-impaired.” Impairment is determined by criteria set forth in the FCC’s *Triennial Review Remand Order* (TRRO). In general terms, “impairment” refers to the degree to which competitive local exchange carriers (CLECs) have access to wholesale unbundled facilities from sources **other than** the incumbent local exchange carrier (ILEC). Where a CLEC can obtain wholesale services from other sources (including self-provision, if feasible) then competition in that location is deemed to be non-impaired. To the extent that a wire center is non-impaired, the ILEC has more flexibility in setting rates for its wholesale elements.

On August 1, 2014, Integra filed comments stating that it does not object to CenturyLink’s request (to the extent that DOC does not find discrepancies in line-count data).

On August 1, 2014, DOC submitted comments recommending approval of CenturyLink’s request.

Staff Analysis

FCC Direction

The FCC requires ILECs, such as CenturyLink QC, to provide unbundled network elements (UNEs) to competitors at TELRIC (total element long run incremental) rates under the presumption that competition would be impaired otherwise. However, this obligation is relaxed where competitors have sufficient alternatives to the purchase of the ILEC’s wholesale elements (including the construction of facilities by the competitor where economically feasible). The FCC, in its *Triennial Review Remand Order* (TRRO), stated:

By using our section 251 unbundling authority in a more targeted manner, this Order imposes unbundling obligations only in those situations where we find that carriers genuinely are impaired without access to particular network elements and where unbundling does not frustrate sustainable, facilities-based competition. This approach satisfies the guidance of courts to weigh the costs of unbundling, and ensures that our rules provide the right incentives for both incumbent and competitive LECs to invest rationally in the telecommunications market in the

way that best allows for innovation and sustainable competition. [TRRO, ¶ 2, footnotes omitted]

And, with immediate relevance to the issue at hand, the FCC stated:

Competing carriers are impaired without access to DS1 transport except 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 [Tier 1 Wire Centers]. Competing carriers are impaired without access to DS3 or dark fiber transport except on routes connecting a pair of wire centers, each of which contains at least three fiber-based collocators or at least 24,000 business lines. [Tier 2 Wire Centers][¶ 5, TRRO]

All wire centers are presumed to be impaired (Tier 3) until evidence is presented to warrant reclassification as non-impaired (Tier 1 or Tier 2). Based on a count of business lines CenturyLink seeks designation of the Blaine wire center as Tier 2 non-impaired.

Procedural Agreement

On October 5, 2007, the Commission approved a procedure, proposed by joint agreement of the parties, to facilitate future petitions for the reclassification of the impairment status of wire centers (Dockets 06-211 and 06-685). That procedural document states:

A CLEC or any other party will have 30 days from the Filing Date to raise objections to Qwest's request with the Commission. (p. 11)

And,

If no objections are filed with the Commission, the Effective Date of the Non-Impairment Designation will be thirty (30) days after the Filing Date, unless the Commission orders otherwise The Parties agree that they will request that the Commission not alter the Effective Date for Undisputed Designations without good cause. (p. 11)

And,

If a CLEC or any other party disputes Qwest's proposed non-impairment designations, the Parties agree to ask the Commission to use its best efforts to resolve such dispute within 60 days of the date of the objection. (p.12)

Integra Position

A change in a wire center's impairment classification permanently alters the availability of unbundled network elements, such as dark fiber, unbundled DS3 transport, and unbundled DS1

transport, by limiting which unbundled elements the ILEC must make available to competitive LECs. Due to the permanency and impact of changes in wire center classifications, careful scrutiny of CenturyLink's petition is warranted before granting its requests. Integra has provided DOC with its review of its own line counts and has found its counts to be similar to the counts claimed by CenturyLink. To the extent DOC raises material questions as to the validity of the line count data provided by CenturyLink, Integra objects to CenturyLink's request to reclassify the Blaine wire center as Tier 2. In the event that DOC does not find material discrepancies in the business line count data, Integra does not object to CenturyLink's request for reclassification.

DOC Position

CenturyLink's requested non-impairment classification (Tier 2) involves business line counts rather than counts of fiber-fed collocations. The use of business line counts to support reclassification requires data from more CLECs than if the reclassification is to be based on fiber-fed collocations.

DOC attempted to contact each of the CLECs that CenturyLink used to support its reclassification proposal, asking each CLEC to review its own data for accuracy. DOC's analysis is dependent on CLECs review of its own data, and confirmation that CenturyLink's proposal is accurate with respect to the CLECs business line count. DOC received responses from several CLECs but did not receive responses from all CLECs. Even though DOC was not able to verify each CLEC's business line count, DOC believes it did receive enough information to agree that the Blaine central office is eligible for Tier 2 designation. Absent evidence of a significant discrepancy between CLEC data and CenturyLink data, DOC recommends approval of CenturyLink's petition.

Staff Comments

No party has objected to reclassification of the Blaine wire center. Staff recommends approval of CenturyLink's request.

Commission Options

- A. Approve the reclassification of the Blaine wire center as requested by CenturyLink (non-impaired, Tier 2).
- B. Do not approve the reclassification as sought by CenturyLink.
- C. Take other action.

Staff recommends Option A.