

Decision No. C04-1295

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-411T

IN THE MATTER OF THE COMBINED APPLICATION OF QWEST CORPORATION FOR RECLASSIFICATION AND DEREGULATION OF CERTAIN PART 2 PRODUCTS AND SERVICES AND DEREGULATION OF CERTAIN PART 3 PRODUCTS AND SERVICES.

DOCKET NO. 04D-440T

STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION'S PETITION FOR A DECLARATORY ORDER CONCERNING THE RECLASSIFICATION AND DEREGULATION OF TELECOMMUNICATIONS SERVICES UNDER PARTS 2 AND 3, TITLE 40, ARTICLE 15 OF THE COLORADO REVISED STATUTES.

ORDER GRANTING MOTIONS

Mailed Date: November 5, 2004

Adopted Date: October 27, 2004

I. BY THE COMMISSION

A. Statement

1. In its October 1, 2004, Application for Reclassification of Certain Part 2 Services and Products, Deregulation of Certain Part 3 Services and Products, Motion for Waivers, Qwest Corporation (Qwest) included a Motion for Order Permitting Qwest to Produce Information in its Possession that Might Reveal a Carrier's Identity and a Motion for Protective Order.

2. In this Motion Permitting Qwest to Produce Information, Qwest states that it anticipates that it will receive data and information requests during this proceeding, or it will be required to introduce data or information into evidence, regarding its provisioning and billing activities with respect to other competitors. Qwest states that in many instances, producing this

information is likely to reveal the identity of a competitor and its purchase and/or billing of services, such as the number of access lines served through UNE-Platform or UNE-Loop.

3. Qwest requests that it be allowed to produce such information and that it be marked "Highly Confidential" as contemplated by Qwest's Motion for Protective Order.

4. In the Motion for Protective Order, Qwest requests the Commission enter an order similar to the one entered into in Docket No. 04M-435T which protects the content of highly confidential filings in that Competitive Investigation docket.

5. No responses were received from any parties concerning either of Qwest's pending Motions. Therefore, the Commission, now being duly advised, grants Qwest's Motions. The Rules Relating to the Claim of Confidentiality of Information Submitted to the Colorado Public Utilities Commission, 4 *Colorado Code of Regulations* 723-16, shall apply to this proceeding as modified by Attachment A.

II. ORDER

A. The Commission Orders That:

1. Qwest Corporation's Motion for Order Permitting Qwest to Produce Information in its Possession that Might Reveal a Carrier's Identity and Motion for Protective Order are granted consistent with the above discussion.

2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 27, 2004.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners



SUPPLEMENTAL PROTECTIVE ORDER

November 5, 2004

Highly Confidential Information:

Any person, whether a party or non-party, may designate certain competitively sensitive confidential information as “Highly Confidential Information” if it determines in good faith that it would be competitively disadvantaged by the disclosure of such information to its competitors. Parties must carefully scrutinize responsive documents and information and limit their designations as Highly Confidential Information to information that truly might impose a serious business risk if disseminated without the heightened protections provided in this order. The first page and individual pages of a document determined in good faith to include Highly Confidential Information must be marked by a stamp that reads:

“HIGHLY CONFIDENTIAL—USE RESTRICTED PER PROTECTIVE ORDER IN DOCKET NOS. 04A-411T and 04D-440T.”

Placing a “Highly Confidential” stamp on the first page of a document indicates only that one or more pages contain Highly Confidential Information and will not serve to protect the entire contents of a multi-page document. Each page that contains Highly Confidential Information must be marked separately to indicate Highly Confidential Information, even where that information has been redacted. The unredacted versions of each page containing Highly Confidential Information, which shall be provided under seal, should be submitted on paper distinct in color from non-confidential information and “confidential information.”

Parties seeking disclosure of Highly Confidential Information must designate the person(s) to whom they would like the Highly Confidential Information disclosed in advance of disclosure by the providing party. Such designation may occur through the submission of the non-disclosure agreement which is attached hereto as Exhibit “A” and incorporated herein. Parties seeking disclosure of Highly Confidential Information shall not designate more than (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to

Highly Confidential Information; (2) two in-house experts; and (3) a reasonable number of outside counsel and outside experts to review materials marked as "Highly Confidential." All designees must have a direct role in this proceeding. A complete Exhibit "A" shall describe in detail the job duties or responsibilities of the person being designated to see Highly Confidential Information and the person's role in the proceeding. Highly Confidential Information may not be disclosed to persons engaged in developing, planning, marketing, or selling retail or wholesale services, strategic or business planning, competitive assessment, or network or system planning or procurement on behalf of the receiving party.

Any party, providing Highly Confidential Information may object to the designation of any individual as a person who may review Highly Confidential Information. Such objection shall be made in writing to counsel submitting the challenged individual's signed Exhibit "A" within three (3) business days after receiving the challenged individual's signed Exhibit "A." Any such objection must demonstrate good cause to exclude the challenged individual from the review of the Highly Confidential Information. Written response to any objection shall be made within three (3) business days after receipt of an objection. If after receiving a written response to a party's objection, the objecting party still objects to disclosure of Highly Confidential Information to the challenged individual, the Commission shall determine whether the Highly Confidential Information must be disclosed to the challenged individual.

Copies of Highly Confidential Information may be provided to the in-house attorneys, outside counsel and outside experts only. The in-house experts who have signed and Exhibit "A" may inspect review, and make notes from the in-house attorney's copies of Highly Confidential Information.

Persons authorized to review the Highly Confidential Information will maintain the documents and any notes reflecting their contents in a secure location to which only designated counsel and experts have access. No additional copies will be made, except for use during hearings. Any testimony or exhibits prepared that reflect Highly Confidential Information

must be maintained in the secure location until removed to the hearing room for production under seal and under circumstances that will ensure continued protection from disclosure to persons not entitled to review Highly Confidential Information.

Unless specifically addressed in this section, all other sections of the Commission's Confidentiality Rule 4 CCR 723-16 shall apply.

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EXHIBIT "A"

HIGHLY CONFIDENTIAL INFORMATION

I have read the Supplemental Protective Order dated November 5, 2004,

in Docket Nos. 04A-411T and 04D-440T and agree to be bound by the terms and conditions of this

Order.

Name

Employer

Job Title and Job Description

Party

Signature

Date