

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-061T

IN THE MATTER OF THE APPLICATION OF WESTERN WIRELESS HOLDING CO., INC.
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.

**ORDER GRANTING MOTIONS FOR PROTECTIVE
ORDER AND FOR ENLARGEMENT OF TIME**

Mailed Date: July 7, 2003
Adopted Date: July 2, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of two motions filed by WWC Holding Co., Inc., a subsidiary of Western Wireless Corporation (Western Wireless). In its first motion, filed June 27, 2003, Western Wireless seeks a protective order pursuant to 4 *Code of Colorado Regulations* (CCR) 723-16-3.2. In its second motion, filed July 1, 2003, Western Wireless seeks an enlargement of time for parties to file rebuttal and cross answer testimony in this docket.

2. Now, being duly advised in the matter, we grant both motions with certain clarifications.

B. Motion for Protective Order

3. In this motion, Western Wireless indicates that it objects to Commission Staff's Second Set of Data Requests to the extent the data request asks for maps showing Western Wireless' existing signal coverage area, and maps showing its radio frequency signal propagation information. Western Wireless represents that the requested information is of an "extremely

proprietary nature,” and would not be adequately protected by the Commission’s rules regarding confidentiality found in 4 CCR 723-16-3.4 to 3.9. According to the motion, the damage caused by improper disclosure would be incalculable, and no remedy could suitably compensate Western Wireless after the fact for such a disclosure.

4. As such, Western Wireless seeks extraordinary protection pursuant of the indicated maps pursuant to 4 CCR -723-16-3.2, which states:

To the extent there may be information which a party believes requires extraordinary protection beyond that provided for in these rules the party shall submit a motion seeking such extraordinary protection. The motion shall state the grounds for seeking relief, the specific relief requested, and advise all other parties of the request and the subject matter of the material at issue.

5. Western Wireless further proposes to make the maps and supporting documentation available at the offices of its legal counsel during regular business hours. It requests that we enter an order stating that only counsel of record signing appropriate non-disclosure agreements may make arrangements to view the maps and supporting documentation by appointment, and may not in any way record, copy, or reproduce them. Western Wireless further requests that no party be permitted to use any information acquired as a result of this arrangement, including their recollections of the maps and supporting documentation, for any purpose outside this docket. Western Wireless also requests that we order that any references to this information within the docket be filed under seal, and that those references may not have the practical effect of defeating a protective order by disclosing the information contained in the maps and supporting documentation. Western Wireless further represents that no other party to this matter opposes this motion.

6. We find that Western Wireless states good cause to grant its motion for extraordinary protection pursuant to 4 CCR 723-16-3.2, of its maps which show existing signal

coverage area, and its radio frequency signal propagation information. We are further persuaded to grant this motion since the parties to this matter agree to Western Wireless' proposed review process of these maps through their respective legal counsels.

7. However, we clarify that the extraordinary protection granted to these maps shall in no way impede the ability of a party to this proceeding to attempt to introduce into evidence certain portions of the maps at hearing or make reference to the maps at hearing, in order to make its case or advocate its position. We point out that the protections offered confidential material at hearing is adequate to protect the sensitive nature of the maps.

8. For example, should a party to this proceeding wish to introduce the maps or portions of them as exhibits at hearing, our procedure is to clear the room of any party who does not have a signed confidentiality agreement on file with the Commission. Further, the streaming video camera is disengaged until all confidential matters have been discussed. Additionally, the record shall indicate that any exhibit that includes a portion of the maps in question is confidential, filed under seal, and as such, is unavailable for review to anyone not a party to this proceeding. We find that these procedures afford Western Wireless the confidential protection it seeks with regard to its maps.

9. Therefore, we grant Western Wireless' motion for extraordinary protection as clarified above.

C. Motion for Enlargement of Time

10. Western Wireless also seeks an enlargement of time for the parties to file rebuttal and cross answer testimony in this docket. Western Wireless points out that on June 20, 2003, we vacated the original hearing dates in this docket and rescheduled the hearing for August 4 and

5, 2003, but left all other procedural dates intact. Western Wireless now seeks an enlargement of time of the current deadline of July 7, 2003 for the parties to file rebuttal and cross answer testimony. We find that good cause exists to grant the motion for an enlargement of time for the parties to file rebuttal and cross answer testimony to July 14, 2003.

II. ORDER

A. The Commission Orders That:

1. The Motion of WWC Holding, Inc., a subsidiary of Western Wireless Corporation for Protective Order Regarding Documents Responsive to Staff's Second Set of Data Requests is granted with the clarifying language indicated above.

2. The Motion of WWC Holding, Inc., a subsidiary of Western Wireless Corporation for Enlargement of Time to File Rebuttal and Cross Answer Testimony to July 14, 2003 is granted.

3. Response time to both motions is waived.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 2, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

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Commissioners