

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-384T

IN THE MATTER OF THE PETITION OF QWEST CORPORATION AND QWEST WIRELESS FOR A TEMPORARY WAIVER FROM COMPLIANCE WITH COMMISSION RULE 723-22-5 – WIRELESS TELEPHONE SERVICE PROVIDERS’ AND LOCAL EXCHANGE CARRIERS’ RESPONSIBILITIES – NOTIFICATION OF DESIGNATED AGENT.

**ORDER GRANTING PETITION
FOR A TEMPORARY WAIVER**

Mailed Date: July 29, 2004
Adopted Date: July 27, 2004

I. BY THE COMMISSION

A. Statement

1. On July 23, 2004, Qwest Corporation and Qwest Wireless (collectively Qwest) filed a petition for a temporary waiver of the Colorado Public Utilities Commission’s requirements found in Rule 4 *Code of Colorado Regulations* (CCR) 723-22-5. Qwest is requesting a temporary waiver of the Colorado No-Call rule until October 5, 2004.

2. Commission Rule 4 CCR 723-22-5, states that not later than the 5th day of every calendar quarter (*i.e.*, January 5, April 5, July 5, and October 5) local exchange carriers shall provide electronically to the Designated Agent a list containing any changed, transferred, and disconnected telephone numbers of residential and wireless telephone service subscribers from the previous calendar quarter. These data must be in the format defined by Rule 4.3.3 such that the Designated Agent can use this information to amend the No-Call List.

3. The reason for the requested waiver is that Qwest failed to provide the required electronic list to the Designated Agent in a timely manner. Its reason for failing to comply with the requirements of Rule 4 CCR 723-22-5 is that the server in which the data resides was taken “off line” for maintenance.

4. The Designated Agent received the electronic list of the required information from Qwest on July 7, 2004. By this date, the Designated Agent already initiated the lengthy process to compile the required information from other residential and wireless telephone service providers and was unable to incorporate Qwest’s information into the quarterly process of updating the Colorado No-Call List in preparation for its distribution to telemarketers.

B. Discussion

5. Being fully advised of the facts in the matter, the Commission finds that good cause has been stated by the applicant and a waiver of the rule should be granted.

6. However, Qwest’s failure to provide the Designated Agent with the required information in a timely manner has significantly impacted the accuracy of the No-Call List. Qwest’s telephone and wireless service numbers represent a significant portion of the telephone and wireless numbers in the State of Colorado. In order for the No-Call List to be true and accurate, the Commission will direct the Designated Agent to incorporate Qwest’s electronic updates and to create a new Colorado No-Call List for re-distribution on or before August 2, 2004.

7. The contract governing the No-Call List does not contemplate this additional process or the associated costs. Although unintentional, Qwest was delinquent with the submission of the required electronic information, and should be required to pay for the

additional costs its failure to comply has created. The Designated Agent shall perform the functions necessary to bring the No-Call list up to date and then redistribute the list.

II. ORDER

A. The Commission Orders That:

1. Qwest Corporation and Qwest Wireless' petition for a waiver of Rule 4 *Code of Colorado Regulations* 723-22-5 is granted, subject to the terms and conditions set forth above in the Discussion portion of this Order.

2. The Designated Agent shall perform the functions necessary to bring the No-Call list up to date and then redistribute the list by August 2, 2004. The expenses for these additional steps shall be submitted for approval to the Commission. Upon approval of these expenses, the Commission shall submit the invoice to Qwest Corporation and Qwest Wireless for payment to the Designated Agent within 30 days of receipt

3. This Order is effective upon its Mailed Date.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners