

Decision No. C04-1203

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 WAIVING PROCEDURAL SCHEDULE IN RULES,
GRANTING MOTION FOR WAIVER OF NOTICE
REQUIREMENTS, IN PART, AND NOTICE OF
PREHEARING CONFERENCE**

Mailed Date: October 15, 2004
Adopted Date: October 14, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of various procedural matters related to the Application for Reclassification and Deregulation of certain services by Qwest Corporation. The Application for deregulation was filed under Rule 10, 4 *Code of Colorado Regulations* (CCR) 723-38 (Rules Relating to Deregulation). Rule 10 specifies certain dates and procedures for applications for deregulation, such as the date for a Commission procedural order (Rule 10.2.2); the date for intervenor testimony (Rule 10-2.4.1); the date for completion of discovery (Rule 10.2.4.2); the date for hearing (Rule 10.2.4.3); and the date for

closing statements of position (Rule 10.2.4.4). Given the comprehensive nature of Qwest's application, we now waive these procedural rules. Instead, we now schedule a prehearing conference (discussion below) at which the parties shall appear and the procedural requirements for this case will be established at that time.

2. In its October 1, 2004 Application, Qwest requested that the Commission grant a Motion for Waiver of the Notice requirements found at 4 CCR 723-38-8.2. Rule 8.2 requires notice be given within 15-days of the application date to all existing customers in accordance with § 40-3-104 C.R.S., unless the Commission approves a different means to notify customers.

3. Section 40-3-104, C.R.S. requires publication of notice in each newspaper of general circulation in each county in which the public utility provides service. These notices shall be 4 columns wide by 11 inches high and shall be published once a week for two consecutive weeks during the first 20 days of the 30 day intervention period.

4. Qwest seeks a waiver of the 15-day requirement found in Rule 8.2 and the 4 columns by 11 inch size requirement found in § 40-3-104(1)(c)(I)(A). Qwest states that it did not issue its bill insert after the Application was filed, rather, it issued the bill inserts one month before the Application was filed during in the September billing cycle. Further, Qwest states that the form of notice that it is having published in newspapers across the state is slightly smaller than 4 columns by 11 inches required. Qwest states that the Office of Consumer Counsel (OCC) provided Qwest with this notice.

5. On October 7, 2004, Qwest filed a Filing to Submit Mock Tariff, List of Newspapers in which Notice of the Application Will Be Published and the Dates in which the Notice Will Be Published in Each Newspaper and the Text of the Newspaper Notice. This filing included Attachment 1 which is a list of the newspapers, cities, and dates for the Qwest

newspaper notice. Qwest states that it chose these newspapers by identifying the dominant paper in each zip code.

6. On August 10, 2004 in Docket No. 04A-380T, Qwest filed a Response to our Decision No. C04-0905 withdrawing its first Application for deregulation. In that Response Qwest indicated that it would be mailing the bill insert notices as well as publishing newspaper notices in “every county in the state.” While the Commission did not rule on the merits of that statement, we believe that for an Application of this magnitude with possible far reaching effects, notice should be given in every county in the state.

7. It is not clear to us from Qwest’s list in Attachment 1, whether the list of papers is complete enough so that residents in all counties in the state will receive a notice of this Application for deregulation. This list appears to leave out a large section of mountain counties as well as many on the eastern plains of the state.

8. We find that Qwest has given adequate direct customer notice of the Application, and, therefore, grant the request for waiver of the 15-day notice requirement and the four columns by 11 inch size requirement. However, we find that the newspaper notice proposed by Qwest does not appear to adequately cover all counties of the state. Qwest is ordered to publish the notice in a newspaper that has the largest circulation in each of the respective 64 Colorado counties as soon as possible. Alternatively, in a filing due by close of business Monday, October 18, 2004, Qwest shall file a statement with the Commission that it believes that the notice already planned and outlined in Attachment 1 to Qwest’s filing, covers all 64 counties. Qwest shall support this position by listing all 64 counties, the newspaper that covers that county, and the dates of publication.

9. In addition, regardless of which option Qwest chooses, once the notices have been published in the newspapers, Qwest shall file attestations of those publications. We now schedule a prehearing conference on the Application at the below-stated time and place. The Commission will set the procedural schedule for this case at that time.

II. ORDER

A. The Commission Orders That:

1. The procedures specified in Rule 10, 4 CCR 723-38, for considering the Application for Reclassification and Deregulation by Qwest Corporation are waived consistent with the above discussion.

2. The motion for waiver of notice requirements in Rule 8.2, 4 CCR 723-38 by Qwest Corporation are granted consistent with the above discussion. Qwest shall publish the notice in a newspaper with the largest circulation in each of the 64 Colorado counties. Alternatively, by close of business Monday, October 18, 2004, Qwest shall file a statement with the Commission that it believes that the notice already planned and outlined adequately covers all 64 counties.

3. A prehearing conference is set in this matter at the following time and place:

DATE: November 23, 2004

TIME: 9:00 a.m.

PLACE: Colorado Public Utilities Commission
1580 Logan St., OL2
Denver, Colorado

The parties shall appear for the above-stated purposes.

4. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 14, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners