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April 2, 2008

EX PARTE

Filed via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Seattle Metropolitan Statistical Area, WC Docket No. 07-97*

Dear Ms. Dortch:

In its consideration of Section 251 forbearance petitions for the Omaha, Anchorage, Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach areas, the Federal Communications Commission ("Commission") examined the extent to which alternative service providers, and specifically cable service providers, offered service within the relevant geographic areas via non-incumbent local exchange carrier ("ILEC") network facilities. In so doing, the Commission established a "coverage threshold test" as a metric to determine whether cable service providers could offer competitive voice telephone services to 75% of the end-user locations in the relevant geographic area within a commercially reasonable time.¹ To assist the Commission in its assessment of the merits of Qwest Corporation's ("Qwest") petition for

¹ See *In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area, Memorandum Opinion and Order*, 20 FCC Rcd 19415, 19443 ¶ 57, 19444-45 ¶¶ 59-60 (2005), *pets. for rev. dismissed and denied on the merits, Qwest v. FCC*, 482 F.3d 471 (D.C. Cir. 2007); *In the Matter of Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as Amended, for Forbearance from Sections 251(c)(3) and 252(d)(1) in the Anchorage Study Area, Memorandum Opinion and Order*, 22 FCC Rcd 1958, 1977 ¶¶ 31-32 (2007), *appeals dismissed for lack of standing, Covad Communications Group, Inc. v. FCC*, Nos. 07-70898, 07-71076 and 07-71222 (9th Cir. 2007); *In the Matter of Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas, Memorandum Opinion and Order*, 22 FCC Rcd 21293, 21312 ¶ 36 (2007), *pet. for rev. filed Jan. 14, 2008* (D.C. Cir. No. 08-1012).

forbearance in the Seattle MSA, Qwest has conducted further research into the extent to which cable television facilities “pass” customer locations within Qwest’s service territory in the greater Seattle market and offers such data herein for the Commission’s consideration.

As an initial matter, it is important to note that granular data regarding “homes passed”² within Qwest’s service territory is confidential information closely held by the cable Multiple Service Operators (“MSOs”), and as such, Qwest is not in possession of this confidential data. In establishing the “75% coverage” metric regarding end-user locations passed directly by Cox in the Omaha MSA,³ the Commission utilized Cox’s own confidential information to determine the proportion of the Omaha market that met the threshold. Subsequently, the Commission has similarly sought such confidential data from the cable MSOs in Anchorage as well as the six markets for which Verizon sought forbearance, and Qwest suggests that the Commission should follow the same course as it assesses Qwest’s Seattle MSA forbearance petition.

As discussed extensively in the Brigham/Teitzel declaration, Comcast is the largest cable MSO in the Seattle MSA⁴ and has been highly aggressive in marketing its residential and business telephone services in that market. Cable MSOs are required by the Commission to publicly report in the Commission’s Cable Operations and Licensing System (“COALS”) database on an annual basis, via Form 325, the number of “households passed” by each cable system in operation in each state. Qwest has accessed the Commission’s COALS database and has reviewed Comcast’s most recent Form 325 data submission for its Seattle market to determine the extent to which the Comcast data provides useful insights into the number of “households passed” by Comcast’s cable network in that area. Since cable MSOs are not obligated to report “homes passed” via the Form 325 process by MSA or by city within an MSA, a close correlation between the geographic area represented by the publicly-available Comcast Form 325 data for its Seattle-area cable system and Qwest’s service area in the Seattle MSA cannot be made. However, the Form 325 information Comcast has publicly reported for its Seattle system provides strong insight into the scope of its operations within the Seattle MSA. As of December 2006 (well over one year ago), Comcast reported to the Commission that the number of “potential subscribers” covered by its Seattle cable system (Physical System ID 003471) was 237,041 and the number of “potential subscribers” covered by its Bellevue cable

² It is Qwest’s understanding that cable television service providers report a “home passed” to be a living unit that is located near the provider’s existing cable infrastructure and that may be conveniently served within normal service provisioning intervals.

³ Cox is the cable MSO serving the Omaha MSA.

⁴ As noted in the Brigham/Teitzel declaration, other cable MSOs also operate in the Seattle MSA. For instance, Millennium Digital Media provides cable service, broadband internet service and digital telephone service in the downtown Seattle area. Millennium Digital Media changed its name to Broadstripe on October 1, 2007.

http://www.broadstripe.com/about/press_releases/broadstripe_pr.php

system (Physical System ID 001984) was 211,497, for a total of 448,538.⁵ Comcast reported on its “signal leakage” Report 320, also posted publicly at the Commission’s COALS website, that its Seattle/Bellevue cable networks (System ID 003471 and 001984) encompass the following communities: Seattle, Algona, Black Diamond, Enumclaw, Pacific, Kent, Renton, King (south), Auburn, Des Moines, Lake Forest Park, Maple Valley, Normandy Park, Tukwila, Vashon Island, Burien, SeaTac, Federal Way, Shoreline, Covington, Seattle (north), Bellevue, North Bend, Medina, Mercer Island, Issaquah, Bothell, Redmond, Snoqualmie, Fall City, Carnation, Beaux Arts, Hunts Point, Yarrow Point, Woodinville, Newcastle, Carnation, Kenmore, Clyde Hill, Sammamish, and Snohomish.⁶ This list of communities Comcast reports to the Commission as being actively served by Comcast overlays the vast majority of Qwest’s service area in the Seattle MSA and also encompasses some areas not served by Qwest. It is interesting to note that the U.S. Census Bureau identified the total number of housing units in the 2000 census for the Seattle/Bellevue/Everett MSA (which includes areas not served by Qwest) at 1,010,820.⁷ While direct comparisons between Comcast’s publicly-reported data and Census Bureau data are not precise due to differences in geographical area encompassed by the reports and in the vintage of the reports, the data suggests that Comcast’s network facilities pass a high percentage of the households in Qwest’s service territory of the Seattle MSA -- a percentage that is highly likely to be well above the Commission’s 75% coverage threshold in at least certain areas of the MSA.

The public data reported by Comcast to the Commission regarding “households passed” is only reported at a system-wide basis for the Comcast cable systems serving its general Seattle market. Therefore, Qwest does not have access to confidential Comcast data to evaluate any variations in Comcast network coverage at a lower level of geographic specificity. Qwest encourages the Commission to seek confidential, granular community-specific data from Comcast for all communities it serves by its Seattle-area system to verify the accuracy of Qwest’s observation that the 75% Comcast network coverage threshold is likely met, at least in certain areas of the Seattle MSA.

Respectfully submitted,

/s/ Daphne E. Butler

⁵ <https://fjallfoss.fcc.gov.csb/coals.intex.html>, Form 325, Reference Numbers 187426222 and 186091435, Section II.2.b. The terms “potential subscribers” and “homes passed” are synonymous on the Commission’s Form 325. The Commission’s Form 325 input instructions define the number of potential subscribers as: “Total number of single family dwellings + total number of individual households in multiple dwelling units (apartments, condominiums, mobile home parks, etc.) for all locations with access to the existing cable plant (*i.e., homes passed*).” (emphasis added). See Form 325 Instructions, II. General Information, 2(b), December 2002.

⁶ *Id.*

⁷ <http://factfinder.census.gov>

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