

WC 09-171

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WAIVER—EXPEDITED ACTION REQUESTED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED - FCC  
SEP 21 2009  
Federal Communications Commission  
Bureau / Office

In the Matter of )  
)  
Petition of Qwest Corporation for Emergency )  
Waiver of Section 51.333(b)(2) of the )  
Commission's Rules )

FILED/ACCEPTED  
SEP 24 2009  
Federal Communications Commission  
Office of the Secretary

Attention: Wireline Competition Bureau

**QWEST CORPORATION PETITION FOR EMERGENCY WAIVER  
OF SECTION 51.333(b)(2) OF THE COMMISSION'S RULES**

Qwest Corporation ("Qwest"), pursuant to Section 1.3 of the Commission's rules, hereby requests that the Commission waive Section 51.333(b)(2) of its rules to permit Qwest to retire copper plant less than ninety days after the Commission's public notice of Qwest's short form network disclosure announcing such retirement. As is shown herein, no harm will result from this grant, and Qwest will be harmed in the event that this petition is denied. The standards for a rule waiver are met in this request. In support of this request, the following is shown.

Qwest currently maintains several copper feeder lines across the I-8/16<sup>th</sup> Street Bridge in Yuma, Arizona. Qwest was notified by the Arizona Department of Transportation that it would be necessary to remove this copper in order to make way for a bridge-widening project. This presented an opportunity to replace the copper plant with fiber facilities over a different route.<sup>1</sup> Qwest anticipated that the best date for removal of

<sup>1</sup> At a more technical level, this job is required in order to provide service to Yuma Main Rt 3 as a road widening is underway and Qwest has to reroute all facilities that are east of the I-8/16<sup>th</sup> Street bridge. This will allow Qwest to cutover from copper feed to 2 fiber fed RT's. The existing XBOX 1495 E 16th Street will be removed and feed from new

the copper over the bridge was December 30, 2009. Accordingly, Qwest filed a short form network disclosure with the FCC on July 9 2009, announcing the replacement date as between September 1, 2009 and December 30, 2009. Financial retirement of the copper was set for December 30, 2009. Commission public notice of this filing was made on August 18, 2009.<sup>2</sup> Accordingly, under the Commission's rules, the earliest date that Qwest could have implemented the copper replacement is November 16, 2009.

Qwest has only one customer that uses the copper facility whose service will be affected by the copper retirement. This customer was duly served with the initial notice of copper retirement.

Qwest has been notified that it is expected to remove its facility from the bridge no later than Friday, September 25, 2009. This date is less than 90 days from the date of the Commission's public notice of the Qwest copper replacement filing.

Upon learning of this schedule, Qwest immediately contacted the affected customer and devised an acceptable transition method whereby service can be continued to the customer through December 30, allowing the customer to continue to implement its plans based on the original discontinuance date. A copy of this waiver petition is being served on the customer.

Qwest submits that it meets the standard for grant of a waiver of the 90 day notice period for copper retirement specified in Section 51.333(b)(2) of the Commission's

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RT 1680 S. Pacific Ave., the 2nd RT will be at 1571 S. Engler Ave., this will cutover from copper to fiber, which is in conflict with the Yuma County Rd improvement CI5.0584.

<sup>2</sup> Report No. NCD-1738, August 18, 2009.

rules.<sup>3</sup> Special circumstances exist insofar as retaining the copper loop across the bridge will interfere with the bridge construction project. Qwest has recognized that the CLEC that uses the copper across the bridge may have established business plans in reliance on a later retirement date, and Qwest has devised a manner of continuing copper-equivalent service until December 30. The public interest is served by this grant in that it allows the bridge construction to go forward without delay while at the same time enabling Qwest and its customer to continue as expected up to December 30, 2009. Wherefore, Qwest respectfully requests that the Commission waive Section 51.333(b)(2) of its rules to permit Qwest to remove the copper facility from the bridge in Yuma on September 25, 2009. Qwest will modify its formal network disclosure to reflect this change.

Respectfully submitted,

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QWEST CORPORATION

September 21, 2009

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<sup>3</sup> The basic standards for evaluating a waiver are “good cause [is] shown.” 47 C.F.R. Section 1.3. A petitioner seeking a waiver is required to demonstrate that “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.” *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

CERTIFICATE OF SERVICE

I, Joan O'Donnell, do hereby certify that I have caused an original and four copies of the foregoing **QWEST CORPORATION PETITION FOR EMERGENCY WAIVER OF SECTION 51.333(b)(2) OF THE COMMISSION'S RULES** to be: 1) filed with the Secretary of the Federal Communications Commission; 2) served on J.M. Wetzel, President, New Edge Network Inc. d/b/a New Edge Networks, via First Class United States mail, postage prepaid, and 3) served via email on the FCC's duplicating contractor, Best Copy and Printing, Inc. at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

/s/ Joan O'Donnell

September 21, 2009

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