Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Petition of Qwest Corporation for Forbearance	)	WC Docket No. 07-97
Pursuant to 47 U.S.C. § 160(c) in the Minneapolis/	)	
St. Paul Metropolitan Statistical Area	)	

Reply Comments of the
Minnesota Public Utilities Commission

October 21, 2009
St. Paul, Minnesota

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On April 27, 2007, Qwest Corporation ("Qwest"), in the above-captioned proceeding, filed a Petition pursuant to 47 U.S.C. § 160(c), requesting that the Federal Communications Commission ("Commission") forbear from applying a broad range of federal regulations that currently apply to its interstate service offerings in the Minneapolis/St. Paul Metropolitan Statistical Area ("MSP MSA"). On July 25, 2008, the Commission denied Qwest's Petition in entirety. Qwest appealed that decision to the D.C. Circuit Court. That Court subsequently remanded the decision to the Commission upon the Commission's request. The Minnesota Public Utilities Commission ("MNPUC") respectfully submits these Reply Comments in response to the Commission's pleading cycle established on August 20, 2009.[1]

In reviewing the Comments filed pursuant to the pleading cycle, views as to the appropriate role of an analysis of potential competition are prominent. The MNPUC believes that any discussion of actual and potential competition must recognize that, for most of the customers in the MSP MSA, Qwest's last-mile facilities, priced at their Total Element Long Run

[1] *Public Notice DA-09-1835*, WC Docket 07-97.

Incremental Cost ("TELRIC"), represent the source of **both** actual **and** potential competition. Absent the availability of such facilities both actual competition and potential competition are reduced.

Evidence presented before the MNPUC indicates that for commercial businesses within the MSP MSA, the Competitive Local Exchange Carriers ("CLECs"), by purchasing Qwest's wholesale facilities, provide the only alternative to Qwest's retail services.[2] Self-provision of such facilities by CLECs is uneconomic for all but the largest business customers. Given the front-end cost of constructing facilities, the CLECs require a large volume of assured traffic to make construction a feasible alternative to purchasing Qwest's wholesale facilities.[3] Furthermore, there is effectively no intermodal competition for most business customers in the MSP MSA. Cable and wireless providers are not an option for business customers.[4] As such, for this customer segment of the MSP MSA the only significant competition to Qwest must rely on Qwest's wholesale facilities. Actual and potential competition are not independent; they both derive from the same source: Qwest's last-mile facilities.

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[2] The most compelling data in the MNPUC record were provided by the CLEC Coalition (a group of 8 CLECs providing service in Minnesota). The Coalition provided data obtained from GeoResults, a third-party vendor of telecommunication network data. These data indicate that the proportion of commercial businesses within the MSP MSA that are connected to CLEC-owned loops is less than 3 percent, and the number of commercial buildings connected to "lit" CLEC-owned fiber loops is only 0.3 percent. [See MNPUC's *Exparte Comments* filed with the Commission in WC Docket 07-97, February 8, 2008.]

[3] For instance, XO Communications reported that constructing interoffice transport does not make economic sense until the company has accumulated at least 9 to 12 DS3s of traffic on a relevant route. [Ibid.]

[4] Wireless and cable options are effectively nonexistent for business customers. GeoResults data indicate that cable deployment to business is almost nonexistent in the MSP MSA. Integra, McLeodUSA and Popp.com reported that, in total in 2006 and a portion of 2007, they have lost only 0.14 percent of their customers to cable providers and 0.10 percent to wireless providers. [Ibid.]

The competitive landscape in the residential sector is only slightly less critical. Comcast has announced that it is withdrawing its basic residential service offering in Minnesota, thus leaving the CLEC community as the single option to Qwest for a subgroup of customers. In the absence of the CLEC option, and for those customers seeking more advanced services, the industry offers a Qwest/Comcast duopoly, generating little confidence that competitive forces will be robust and lasting.[5]

The MNPUC believes that Qwest's wholesale facilities, priced at TELRIC rates, represent the main source of both actual and potential competition in the MSP MSA. The MNPUC continues to strongly recommend that Qwest's Petition be denied in entirety.

Respectfully submitted this 21st day of October, 2009

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[5] Note, too, that 27 percent of residential lines in the MSP MSA served by CLECs relied upon Qwest's facilities. [Ibid.]