

LEADING COMPETITIVE TELECOM COMPANIES CHARGE QWEST FAILS TO PROVE SUCCESSFUL FACILITIES-BASED COMPETITION IN FOUR WESTERN MARKETS

Qwest's Forbearance Bid Flawed by Inflated Data on Residential Competition and Total Omission of Data on All Other Product Market Segments

Competitors Stress Importance of Assessing Successful Competition in All Product Markets: Residential, Small Business, Broadband and Enterprise

WASHINGTON, D.C., APRIL 24, 2008 – Leading competitive telecommunications companies including XO Communications, Cavalier Telephone, Covad Communications and NuVox today filed a letter with the Federal Communications Commission (FCC) charging that Qwest's competitive market share analysis supporting a bid for regulatory forbearance in four Western cities is deeply flawed by incorrect and misleading data on competition levels in the residential market – and by the omission of any data whatsoever on the state of competition in the equally critical small business, broadband or enterprise arenas.

Qwest is seeking regulatory forbearance from pro-competitive pricing rules for wholesale local loop and transport facilities in four cities: Denver, Minneapolis, Phoenix and Seattle. In market analysis provided in today's letter to the Commission, the competitive telecom companies show that Qwest has not met the test of proving "successful facilities-based competition" for any market segment in the four cities – an essential prerequisite for a grant of forbearance.

Competitive telecom companies stressed that Qwest's data blunders and overt omission of any data on entire market segments underscore the need for exhaustive examination by the Commission of exact competition levels in every market segment in cities where the Baby Bell seeks exemption of pro-competitive pricing rules of the Telecom Act.

Heather B. Gold, senior vice president of external affairs at XO Communications, said, "The Commission cannot rely on Qwest's data in this proceeding. Qwest fails to prove successful facilities-based competition in any segment in any city. The reason for Qwest's errors and omissions is quite clear: They have no case because the level of facilities-based competition is very low in all four cities."

Qwest's Inaccurate and Missing Mass Market Data

Qwest's mass market analysis entirely omits review of competition levels in the small business arena, and its residential analysis contains numerous shortcomings, including:

- **Qwest impermissibly includes non facilities-based lines in its competitive analysis.** Qwest's line count often includes competitors' services that rely on Qwest's own loops and transport. These are not permissible within the Commission's framework.
- **Qwest's estimates of carriers' line counts cannot substitute for actual line count data.** Qwest's line counts are drawn from white pages directory listings and are, by its own

admission, only “estimates of CLEC and cable telephony facilities-based lines.” Qwest, in fact, urges the Commission to rely on competitors’ own analysis as being more reliable.

- Qwest misinterprets the Commission’s discussion of cut-the-cord wireless lines in the Verizon 6-MSA Order. Qwest includes so-called “wireless substitution” in its line counts of competitors’ facilities. Wireless services should be completely excluded from the Commission’s competitive analysis. The Commission did not make a sweeping ruling that wireless service is *always* a substitute for wireline local telephone service in every product market. Further, recent research by Economists Incorporated shows that residential wireless services are not a substitute for wireline service, at all, and even if they are substitutes in the narrow residential voice market, research by Gillan Associates shows that Qwest improperly calculates the level of cut-the-cord lines.

Broadband Market Overlooked

The competitive telecom companies argued that consideration of successful competition in the mass and enterprise markets is not sufficient, and that the Commission also must consider the state of competition in another key segment – broadband. In the same way that it omitted analysis of competition in the small business market, Qwest similarly had not addressed competition levels in the broadband segment.

Angela Simpson, director of government affairs for Covad Communications, said, “Qwest has overlooked any examination of competition levels in the broadband marketplace. Given the growing importance of broadband, it is essential that the Commission review the state of competition in this vital marketplace.”

New GeoResults Data Show Low Competition Levels in Enterprise Markets

In previous forbearance proceedings, assessment of competition levels in the enterprise market has been incomplete, relying on estimates of qualitative measures such as fiber network deployments that do not prove the existence of actual, successful facilities-based competition.

A new study by GeoResults Inc. provides the first comprehensive analysis of enterprise competition in the four markets where Qwest seeks forbearance. The study shows that competition levels in the enterprise market fall far short of the threshold established by the Commission.

The GeoResults study reviews: (1) percentage of commercial buildings served by facilities-based competitors; (2) the percentage of competitive facilities in any wire center; (3) the number of wire centers in each MSA in which competitors have no facilities; and, (4) “addressable demand” share for competitors in each MSA – the percentage of total market demand that competitors have the ability to serve in each wire center. Among the key findings:

- The percentage of commercial buildings served by facilities-based competitors is no higher than 0.26% in any of the four Qwest markets.

- The highest percentage of commercial buildings served by facilities-based competitive providers in any wire center is 3.62%.
- The number of wire centers with no buildings served by competitors range from 43% in Denver and Seattle, to 51% in Phoenix and 60% in Minneapolis/St. Paul.
- Refuting incumbents' claims that CLECs have a significant presence in the enterprise market with high-capacity facilities, CLEC "addressable demand" share is, in fact, small. In none of the four markets does it exceed 12.43%.

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