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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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September 30, 2008

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AND CHIEF COUNSEL

Ms. Shirley Bloomfield
Senior Vice President, Federal Relations
Qwest Communications
607 14th St., N.W., Suite 950
Washington, D.C. 20005

Dear Ms. Bloomfield:

On July 22, 2008, the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce held a hearing on a variety of telecommunications policy matters. Qwest's experience and expertise concerning many of these issues would help educate and inform the Members of the Subcommittee. As such, please respond to the following questions no later than three weeks from the date of this letter. Should you have any questions, please contact me or Amy Levine with the Committee staff at (202) 226-2424.

Forbearance

Subcommittee Chairman Markey and I introduced H.R. 3914, the Protecting Consumers through Proper Forbearance Procedures Act, which would remove language from Section 10 of the Communications Act providing that any forbearance petition not acted on by the Federal Communications Commission (Commission) by a date certain is "deemed granted."

- Are you aware of any provisions in Title II of the Communications Act that include a statutory deadline for Commission action?
- Have you ever been party to any proceeding at the Commission where such a statutory deadline was implicated?
- In those cases, did the Commission act in accordance with the statutory deadline?
- If not, did you seek any remedy in an effort to force the Commission to comply with the statutory deadline? What was the outcome?

- The “deemed granted” language in Section 10 of the Communications Act perverts the forbearance process and does not serve best interests of consumers. If the deemed granted language were removed from Section 10, could companies still seek regulatory relief under Section 10? If the deemed granted language were removed, would the Commission still be operating under a statutory deadline to act on forbearance petitions?
- From November 2008 well into 2009, it is highly likely that the Commission will operate with only four Commissioners. Does Qwest have any forbearance petitions pending at the Commission that could come due during that time?
- When the Commission was operating with only four Commissioners in 2006, a Verizon forbearance petition was deemed granted without a written order because a majority of Commissioners could not agree to grant or deny the petition. On appeal, the U.S. Court of Appeals for the D.C. Circuit affirmed that the petition was deemed granted by operation of law and that no written order spelling out the scope of the relief granted was required. If the Commission is again operating with only four Commissioners, do you think it is appropriate for the Commission to allow a petition to be deemed granted without an accompanying written order? Please explain. Do you think it is appropriate for the Commission to allow a petition to be deemed granted without a vote? Please explain.
- What steps can the Commission take to ensure that no other petitions are permitted to be deemed granted with no accompanying written order that clearly sets forth the scope of the relief granted?
- In Congress, if a vote on a bill results in a tie, the bill is rejected. Should the Commission adopt the same rule for forbearance petitions? If not, please explain how allowing a forbearance petition to be deemed granted in the event of a tie promotes the public interest.

Retention Marketing

In its June 2008 Order, in *In re Bright House Networks LLC, et al.*, the Commission concluded that Verizon’s practice of engaging in retention marketing to consumers who elected to switch to a cable provider’s voice-over-Internet protocol service during the four-day intramodal porting interval violated Section 222 of the Communications Act.

- Does Qwest engage in retention marketing to consumers who have elected to change voice service providers during the porting interval?
- Do you believe that the Committee should consider revising Section 222 or other provisions of the Communications Act concerning consumer privacy and retention marketing practices? If so, how?

Fiber Deployment

A *Communications Daily* article from July 15, 2008, suggested that Verizon does not intend to maintain the copper infrastructure in neighborhoods where it deploys fiber to the home. While the Committee wants to encourage the rollout of high-speed broadband services, including via fiber to the home, failing to maintain the copper infrastructure raises questions about what would happen to consumers who want to terminate fiber-based service and return to the older copper network.

- What is Qwest's current policy with regard to copper lines when Qwest installs fiber at or near a home? If Qwest is not currently installing fiber at or near consumers' homes, but intends to do so in the future, please fully explain what Qwest's policy with regard to copper lines will be in such circumstances.

Pole Attachments

In *Implementation of Section 224 of the Communications Act, Amendment of the Commission's Rules and Policies Governing Pole Attachments*, WC Docket 07-245, the Commission is considering potential reforms to the pole attachment regime, including standardizing the rates that telecommunications carriers, cable providers, and others pay to attach components, including components used to provide broadband service, to utility poles.

- Should the Commission set a uniform rate for pole attachments? If so, what rate formula should the Commission use to arrive at that rate? Should the Commission take steps to shorten so-called "make ready" periods, or the time it takes a pole owner to prepare a pole so that a competitor can attach fiber or other equipment? Please explain your answer.

Telephone Number Porting

In *Local Number Portability Porting Interval and Validation Requirements*, CC Docket 95-116, the Commission is considering potential reforms to the so-called "porting interval" for switching a customer's phone number from a wireline service to a wireless service. The current industry standard for porting a customer's number from one wireless carrier to another is about four hours, while the current industry standard for intramodal ports is about four business days. Many have suggested that the Commission should establish a 48-hour porting interval for intramodal ports.

- Can Qwest complete an intramodal port in approximately 48 hours?
- Do you think that consumers would be well-served if the Commission established a two-day porting interval for the three largest incumbent phone companies?

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- At the Subcommittee hearing on July 22, 2008, Jonathan Banks of USTelecom testified that several of USTelecom's members routinely receive port requests from competitors that are longer than the standard four-day porting interval. Is that true for Qwest? What percent of the intramodal port requests received by Qwest fall within the four-business day standard?

Sincerely,



JOHN D. DINGELL
CHAIRMAN

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable Edward J. Markey, Chairman
Subcommittee on Telecommunications and the Internet

The Honorable Cliff Stearns, Ranking Member
Subcommittee on Telecommunications and the Internet