

SOUTH DAKOTA TRRO PROCEDURES

I. INTRODUCTION

The following procedures for South Dakota are excerpted directly from the multi-state settlement agreement reached between Qwest (now CenturyLink) and a consortium of CLECs, which establishes a framework for determining the impairment status of wire centers, and for expedited proceedings to establish non-impaired wire centers.

II. DEFINITIONS

“Effective Date of Non-Impairment Designation” is the date on which the non-impairment designation begins as determined pursuant to Section IV (F) for non-impairment designations identified in a Commission-Approved Wire Center List.

“Filing Date” is the date on which CenturyLink submits its non-impairment or tier designation filing, with supporting data, as described in Section IV, to the Commission for review and provides the Commission and CLECs that, as of that date, have signed the applicable protective order/agreement (or are subject to a standing protective order). If CenturyLink provides the data to the Commission and Joint CLECs on different dates, the Filing Date shall be the later of the two dates.

“Non-Impaired Facilities” are those network elements identified in an applicable FCC order as no longer available as unbundled network elements (“UNEs”) under 47 U.S.C. § 251(c)(3) based on non-impairment or tier designations and that have been reviewed and approved by a Commission using the process and methodology set forth in Section IV of this Document.

“Non-Impaired Wire Center” is a Wire Center that the Commission finds meets the loop thresholds identified in CFR 47 §51.319(a)(4)(i) for DS1 Loops, or the loop thresholds identified in CFR 47 §51.319(a)(5)(i) for DS3 Loops, or the Tier 1 or Tier 2 Wire Centers designations as defined in §51.319(e)(3) and that is identified on a Commission-Approved Wire Center List.

“Wire Center” a Wire Center is the location of a CenturyLink local switching facility containing one or more Central Offices as defined in the Appendix to part 36 of chapter 1 of Title 47 of the Code of Federal Regulations. The Wire Center boundaries define the area in which all customers served by a given Wire Center are located.

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III. METHODOLOGY

Non-Impaired Facilities, non-impairment or tier designations will be determined using the following methodology:

A. Business Lines – Business lines shall be counted as follows:

1. CenturyLink retail business lines shall be determined using the most recently unadjusted ARMIS data. For purposes of future non-impairment designations, CenturyLink shall follow FCC ARMIS instructions and will record and count retail business lines in precisely the same manner as business access line data is tracked and recorded in the Wire Center level data CenturyLink uses to develop its statewide ARMIS 43-08, without making any inter-wire center adjustments to this data and without including the same lines in more than one of the categories listed in paragraphs (2) – (4) of this Section III(A).
2. UNE loops connected to a Wire Center where DS1 & DS3 unbundled loops and DS1 & DS3 Enhanced Extended Loops (“EEL”) are provided to CLECs shall be counted at full capacity (i.e., DS1s will be counted as 24 business lines and DS3s will counted as 672 business lines).
3. Only Business UNE-P lines will be counted for the Commission-Approved Wire Center List. Business UNE-P lines shall be derived by subtracting the count of listings associated with residential UNE-P from the total number of UNE-P lines.
4. Qwest Platform Plus (“QPP”), Qwest Local Services Platform (“QLSP”), and other similar platform product offerings shall be calculated using actual business line counts for these services.

B. Collocation

1. A fiber-based collocator is defined as any carrier, unaffiliated with the incumbent LEC (CenturyLink), that maintains a collocation arrangement in an incumbent LEC (CenturyLink) Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that:
 - a. terminates at a collocation arrangement within the Wire Center;

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- b. leaves the incumbent LEC's (CenturyLink's) Wire Center premises; and
 - c. is owned by a party other than the incumbent LEC (CenturyLink) or any affiliate of the incumbent LEC (CenturyLink), except as set forth in this definition. Dark fiber obtained from an incumbent LEC (CenturyLink) on an indefeasible right of use basis shall be treated as non-incumbent LEC (non-CenturyLink) fiber-optic cable. Two or more affiliated fiber-based collocators in a single Wire Center shall collectively be counted as a single fiber-based collocator. For the purposes of this definition, "affiliate" is defined by 47 U.S.C. §153(1) and any relevant interpretation in that title.
2. Before classifying a carrier as a fiber-based collocator in a CenturyLink filing request pursuant to Section IV for Commission approval of a non-impaired designation, CenturyLink will:
 - a. Confirm that the carrier meets the criteria contained in the definition of fiber-based collocator in 47 C.F.R. § 51.5 (as reflected in paragraph B(1) and subparts above);
 - b. Conduct a field visit to verify and document the above (2.a.) criteria; and
 - c. Validate the criteria against the most recent order and/or billing data.
3. Express fiber will be counted as a functional fiber facility for purposes of identifying a fiber-based collocator, if it meets the definition of fiber-based collocator in 47 C.F.R. §51.5 (as reflected in paragraph B(1) and subparts above). The Joint CLECs agree not to raise the lack of CenturyLink-provided power when there is traffic over the express fiber as the sole basis to dispute whether express fiber can be counted as a functional fiber facility for purposes of identifying a fiber-based collocator. For the purpose of this document, "express fiber" means a CLEC-owned fiber placed to the collocation by CenturyLink that terminates at CLEC-owned equipment in a collocation and draws power from a remote location.

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4. Before filing a request pursuant to Section IV for Commission approval of a non-impairment designation, CenturyLink will send a letter by certified U.S. mail, return receipt requested, to CLECs identified by CenturyLink as fiber-based collocators, using the contacts identified by each such CLEC for interconnection agreement notices, and inform them that they will be counted by CenturyLink as fiber-based collocators in CenturyLink's filing. The CLEC will have a reasonable opportunity (which CenturyLink will identify in its letter but which will be no less than ten (10) business days from the CLEC's confirmed receipt of CenturyLink's letter) to provide feedback to this information before CenturyLink files its request. In the absence of a response by the CenturyLink-identified collocators, CenturyLink may rely on the CenturyLink-identified collocators in its filing. No party shall use the absence of a response from a CLEC collocator as the sole basis for its position.

IV. CENTURYLINK FILINGS TO REQUEST COMMISSION APPROVAL OF NON-IMPAIRMENT DESIGNATIONS AND ADDITIONS TO THE COMMISSION-APPROVED WIRE CENTER LIST

- A. CenturyLink may file a request(s) with the Commission to obtain additional Non-Impaired Wire Centers as data supporting such designations become available, subject to the following conditions:
 1. CenturyLink may request addition of Non-Impaired Wire Centers to the Commission-Approved Wire Center List at any time based solely the number of fiber-based collocators.
 2. CenturyLink may request addition of Non-Impaired Wire Centers based in whole or part upon line counts at any time up to July 1 of each year, based on prior year line count data.
- B. When requesting additional non-impairment designations, CenturyLink will use the methodology set forth in Section III above, and will use the most recent data available at the time CenturyLink submits its proposed non-impairment designations for Commission review. For business line counts, CenturyLink will use and submit the most recent filed ARMIS (as reported) data available at the time of submission of its request to the Commission.

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- C. CenturyLink will file this data pursuant to the protective order issued by the Commission to govern the handling of confidential information during these proceedings. CenturyLink is not required to submit a request for a new protective order, and CLECs that have signed the protective order are not required to re-sign it for each new CenturyLink request. This Commission may modify a standing protective order using its standard processes and procedures after CenturyLink has made its filing.

- D. In order to provide all interested parties adequate notice of the scope of the requested protective order and the anticipated Wire Center update proceeding, CenturyLink will provide CLECs, including at least the contacts identified by each such carrier for interconnection agreement notices, via its email notification channels, with at least five (5) business days notice prior to filing proposed non-impairment or tier designations for Commission review.

- E. CenturyLink will file supporting data (as outlined below) with the Commission when filing its request to obtain additional non-impairment designations. CenturyLink will also provide a copy of the supporting data pursuant to the terms of the applicable protective order to CLECs that have signed the applicable protective agreement (or are subject to a standing protective order).
 - 1. If CenturyLink relies upon Fiber-Based Collocators for its proposed Non-Impairment Designation, the supporting data will include at least the following information:
 - a. The name of each fiber-based collocator.
 - b. The applicable CenturyLink Ready for Service date.
 - c. The results of any field verification that CenturyLink undertook to verify the fiber-based collocation, including the field technicians' notes which includes: (1) the Wire Center and state; (2) collocator name; (3) collocation type; (4) fiber type; (5) validation of fiber termination at the fiber-based collocation; (6) validation that fiber exits a Wire Center premises; (7) visual power verification; (8) power verification at Battery Distribution Fuse Bay/Board ("BDFB,") if possible; (9) additional comments from field personnel.

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- d. A copy of the letter sent by CenturyLink to collocator(s) identified by CenturyLink as fiber-based collocator(s) requesting validation of status as a fiber-based collocator and ownership/responsibility.
 - e. Copies of any responses to the letter noted in 1(d) above, including an indication of whether the collocator has affirmatively identified (or disputed) itself as a fiber-based collocator; and
 - f. All written correspondence between CenturyLink and the collocator(s) identified by CenturyLink as fiber-based collocator(s) regarding the validation of the fiber-based collocation.
2. If CenturyLink relies upon Switched Business Line Count data for its proposed Non-Impairment Designation, the supporting data will include at least the following information:
- a. The latest available ARMIS 43-08 line counts, using the methodology described in Section V(A) of this Agreement and used to create official ARMIS data.
 - b. Total wholesale UNE loops shown at the aggregated level for the Wire Center(s) at issue, and by capacity (voice grade, DS1, DS3). This information will also be provided on a disaggregated basis for all CLECs with the CLEC names masked. CenturyLink will provide to CLEC the masking code information necessary for CLEC to identify its own line count data. CenturyLink calculations to derive 64-kbps equivalents for high capacity (e.g., DS1 and DS3) loops will also be provided.
 - c. CLEC line counts based upon QPP or CenturyLink Local Services Platform (or similar platform product) will be provided on a disaggregated basis for all CLECs with CLEC names masked. CenturyLink will provide to CLEC the masking code information necessary for CLEC to identify its own line count data.
- F. Once CenturyLink submits its new non-impairment or tier designation filing to request Commission approval, including all of the information identified in Section IV(E) above:

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1. A CLEC or any other party will have 30 days from the Filing Date to raise objections to CenturyLink's request with the Commission.

2. If no objections are filed with the Commission, the Effective Date of the Non-Impairment Designation will be thirty (30) days after the Filing Date, unless the Commission orders otherwise ("Effective Date for Undisputed Designations"). The Parties agree that they will request that the Commission not alter the Effective Date for Undisputed Designations without good cause. If no objections are filed with the Commission, the Joint CLECs agree that they will not order Non-Impaired Facilities in the Wire Center(s) identified on the applicable Commission-Approved Wire Center List as of fifteen (15) days from the Effective Date of the Non-Impairment Designation.
 - a. In the event no objections to CenturyLink filing are filed with the Commission, the Parties agree that they will, within thirty (30) days of the Effective Date of the Non-Impairment Designations, jointly request an expedited order designating as non-impaired the facilities identified in the CenturyLink filing, if no order has been received.

 - b. To facilitate the expedited order described in the previous paragraph, the Parties further agree that they will, within thirty (30) days of the Effective Date of Non-Impairment Designations, include a mutually agreed to proposed order designating as non-impaired the facilities identified by CenturyLink in its filing on the Filing Date as an attachment to the joint request for an expedited order, if no order has been received.

3. If a CLEC or any other party disputes CenturyLink's proposed non-impairment designations, the Parties agree to ask the Commission to use its best efforts to resolve such dispute within 60 days of the date of the objection.
 - a. In the event no objections are filed with respect to some but not all of the non-impairment designations identified by CenturyLink in a request on the Filing Date, the Parties agree that they will jointly request an expedited order approving the undisputed designations identified in the CenturyLink filing on the Filing Date, using the process noted in paragraphs 2(a) and 2(b) above.

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4. If a CLEC or any other party disputes CenturyLink's proposed non-impairment designation but CenturyLink prevails and the Wire Center is added to the Commission-Approved Wire Center List, the Joint CLECs agree they will not order Non-Impaired Facilities in (for loops) and between (for transport) Wire Centers identified on the applicable Commission-Approved Wire Center List as of fifteen (15) days after the effective date of the Commission order adding it to the Commission-Approved Wire Center List.
5. If a CLEC or any other party disputes CenturyLink's proposed non-impairment designation and prevails, and it is not added to the Commission-Approved Wire Center List, DS1 and DS3 UNE loop or high capacity transport UNE facilities in (for loops) and between (for transport) such Wire Centers will continue to be treated as UNEs until those facilities are added to a Commission-Approved Wire Center List in a future filing.

G. Length of Transition Period for Additional Non-Impairment Designations.

1. When the Commission approves additional DS1 and DS3 UNE loop or high capacity transport UNE non-impairment designations as described in this Section VI, CLEC will have ninety (90) days from the effective date of the order in which the Commission approves the addition to the Commission-approved Wire Center List to transition the applicable Non-Impaired Facilities to an alternative service pursuant to the terms of the applicable interconnection agreement.
2. When the Commission approves additional Dark Fiber transport non-impairment Designations as described in this Section IV, CLEC will have one-hundred and eighty (180) days from the effective date of the order in which the Commission approves the addition to the Commission-approved Wire Center List to transition the applicable Non-Impaired Facilities, pursuant to the terms of the applicable interconnection agreement to an alternative service. CenturyLink and CLEC will work together to identify those circuits impacted by such a change.

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H. Rate During Transition Period for Additional Non-Impairment Designations

During the Transition Periods identified in Section IV (G), facilities subject to the transition will be provided at a rate equal to 115% of the UNE rates applicable as of the applicable effective date. The 115% transitional rate for additional Non-Impaired Facilities will be applied to CLEC bills as a manual adjustment on the following bill cycle. The bill adjustment will be applied to each account based on the Billing Telephone Number (BTN) and/or Circuit (CKT) per Billing Account Number (BAN) with an effective bill date as of the applicable effective date.