

**BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING**

IN THE MATTER OF THE IMPLEMENTATION OF	)	
THE FEDERAL COMMUNICATIONS	)	DOCKET NO. 90002-TF-03-1
COMMISSION'S TRIENNIAL REVIEW ORDER	)	(RECORD NO. 8607)
ADOPTING NEW RULES FOR NETWORK	)	
UNBUNDLING OBLIGATIONS AS THEY RELATE	)	
TO ENTERPRISE MARKET CUSTOMERS	)	
(NINETY-DAY REVIEW PROCESS)	)	
	)	

**ORDER CLOSING DOCKET**  
**(Issued December 23, 2003)**

1. The Federal Communications Commission (FCC) issued on August 21, 2003, its order in the *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003). (The Triennial Review Order or TRO).

2. The FCC in the TRO set forth a national presumption that incumbent local exchange carriers (ILECs) would not be required to provide local circuit switching as an unbundled network element (UNE) to competitive local exchange carriers (CLECs) serving enterprise market customers using high-capacity loops (DS1 or higher). The FCC further found that special circumstances could create impairment if unbundled local circuit switching access was not available in particular markets to serve enterprise customers, and provided in the TRO a mechanism wherein the state commissions could rebut the national finding of non-impairment if the state commission found that specific markets warranted the continued provision of unbundled local circuit switching to CLECs serving enterprise market customers with high-capacity loops. State commissions seeking a waiver from the FCC would be required to conduct a detailed analysis of operational and economic issues and to file a waiver petition within 90 days of the effective date of the TRO. The FCC also delegated to the state commissions the authority to conduct ongoing reviews, to be completed within six months of the filing of a petition for such review. (47 C.F.R. § 51.319(d)(5)(ii)).

3. Based upon the provisions contained in the TRO, the Wyoming Public Service Commission (the Commission) issued on October 8, 2003, its Notice and Order Opening Docket and Request for Petitions and Comments, (Notice and Order) in this matter. In its Notice and Order, the Commission indicated that it did not plan to conduct its own 90-day proceeding to seek a waiver of the national presumption of non-impairment, but would consider conducting a 90-day proceeding upon the filing of a petition by an affected competitive local exchange carrier (CLEC) setting forth its basis to rebut the FCC's national presumption. Petitioning CLECs were also required, within their petition, to propose an initial procedural and hearing schedule that would provide for the completion of the proceeding within the prescribed 90-day period. The Notice and Order required interested parties to file with the Commission, on or before October 22, 2003, their respective petitions indicating their intent to present evidence challenging the national presumption of non-impairment. The Commission's Notice and Order was published on a statewide-basis and was served on all CLEC's certificated to operate in the state of Wyoming, and other interested Wyoming

certificated telecommunications providers. No petitions or comments were filed with the Commission either indicating an intent to challenge the presumption of non-impairment or requesting that the Commission conduct proceedings in this matter.

4. Based upon the fact that no persons or entities filed any comments or petitions seeking to challenge the FCC's national finding of non-impairment regarding the serving of DS1 enterprise market customers, the Commission finds and concludes that proceeding with an inquiry and public hearings regarding this matter is not necessary and therefore, this docket should be closed.

IT IS THEREFORE ORDERED THAT:

1. Pursuant to open meeting action taken on December 18, 2003, Docket No. 90002-TF-03-1 is hereby closed.

2. This Order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming this 23rd day of December 2003.

PUBLIC SERVICE COMMISSION OF WYOMING

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KRISTIN H. LEE, Deputy Chair

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STEVE FURTNEY, Commissioner

(SEAL)  
ATTEST:

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DAVID J. LUCERO, Assistant Secretary