

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1299

In the Matter of)	
)	
QWEST CORPORATION)	ORDER
)	
Petition to Abandon Local Exchange)	
Services on the Beaver Creek Exchange.)	

DISPOSITION: MOTION TO AMEND ORDER NO. 07-161 DENIED

Procedural Background. On April 26, 2007, the Commission entered Order No. 07-161 (Order) in the above-captioned proceeding. The Order set forth the procedural history regarding the abandonment of service to Qwest Corporation (Qwest) customers in the Beaver Creek exchange and granted Qwest a brief extension of time until May 23, 2007, to discontinue service to the ten remaining customers. The Order noted that the brief extension was necessary in order to avoid abandoning service prior to receiving FCC approval to do so.

On May 1, 2007, Beaver Creek Cooperative Telephone Company (BCT) filed a Reply to Qwest’s Motion for a Brief Extension of Time. Due to the fact that the Order had already been issued, by Ruling of the Administrative Law Judge on May 1, 2007, BCT’s submission is treated as a Motion to Amend Order No. 07-161 (Motion).

Positions of the Parties. BCT notes that the Qwest customers in the Beaver Creek exchange have had their numbers ported to CLECs using Oregon City exchange numbers. BCT asserts that those CLECs do not wish to serve the Beaver Creek exchange and therefore these customers will have to go through yet another transition.¹ BCT asserts that these difficulties are of Qwest’s own making and that the Commission should therefore condition the extension upon “Qwest holding BCT harmless from all additional costs and lost revenues that have resulted from Qwest’s extension of time.”²

Qwest filed a Response to BCT’s Motion to Amend Order No. 07-161 (Response) on March 17, 2007. Qwest asserts that BCT does not cite to any authority for the proposition that the Commission can award BCT any damages or otherwise require Qwest to “‘hold BCT harmless’ from ‘all additional costs and lost revenues’ that may have allegedly resulted from the extension of time. Indeed, the Commission does not have any authority to award damages to BCT, whether for ‘costs’ or ‘lost revenues.’ For that reason alone, there is no basis for the Commission to grant BCT’s motion....”³ Qwest also states

¹ Motion, p. 2.

² *Id.*

³ Response, p. 2.

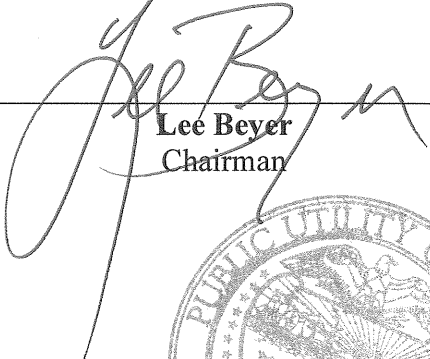
that, even if the Commission did have such authority, BCT failed to describe what the alleged costs or revenues might be and asserts that any damages would be highly speculative and any costs or lost revenues would *de minimis*, especially in light of the fact that as of the date of Qwest's Response, only two customers have yet to be disconnected and that they would, in any event, be disconnected by May 23, 2007.⁴

Discussion. The scope of the Commission's authority is set forth in various subsections of ORS Chapter 756, with its general powers enumerated in ORS 756.040. The Commission's ability to investigate neglect or violation of a telecommunications-related statute or regulation and to seek enforcement of the law or other remedy is set forth in ORS 756.160 and 756.180. ORS 756.185 provides that a person injured by a public utility who has violated ORS Chapters 756, 757 or 758 may bring an action seeking compensation for damages sustained because of such a violation. Nowhere in Chapter 756 is there a provision that empowers the Commission to condition any action, especially where no violation of statute or regulation is alleged and the Commission has approved such action, upon one Incumbent Local Exchange Carrier (ILEC) holding another ILEC harmless for damages or for lost revenues. BCT does not even attempt to cite and interpret any Oregon statute or regulation to provide the Commission with a basis for such action. We conclude as a matter of law that no authority for such Commission action exists. In the absence of such authority, speculation as to what such damages might be is a moot question.

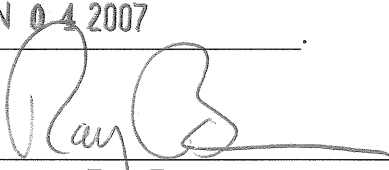
ORDER

The Motion to Amend Order No. 07-161 filed by Beaver Creek Cooperative Telephone Company is DENIED.

Made, entered, and effective JUN 04 2007



Lee Beyer
Chairman



Ray Baum
Commissioner



John Savage
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

⁴ *Id.*, pp. 2-3.