

## DORA PUC & OCC POINTS IN OPPOSITION

**SB 09-253**     *CONCERNING THE RECOVERY OF COSTS FOR THE RELOCATION OF CERTAIN UTILITY INFRASTRUCTURE RELOCATED AT THE REQUEST OF A COLORADO GOVERNMENTAL ENTITY THROUGH AMENDMENTS TO C.R.S. § 40-3-115.*

### Existing Regulatory Flexibility

- Large Telco carriers such as Qwest have successfully lobbied for and been granted significantly lighter product pricing regulation to be able to better “compete” in the marketplace. They are no longer “rate of return” regulated.
- Despite such pricing flexibility, Qwest continues to seek expanded legislative protection and guaranteed cost recovery including cost recovery for relocation of facilities that support services that are no longer regulated.
- Qwest wants to be treated like a fully-regulated utility for relocation cost recovery but its profit is not regulated by the Public Utilities Commission.
- Qwest’s largest competitors, such as Comcast and wireless providers, do not get facility relocation cost recovery under C.R.S. § 40-3-115.

### Lack of Consumer and Public Interest Protection

- SB09-253 spreads the cost of utility relocation for FasTracks and other metropolitan projects to retail phone customers throughout the state.
  - Example: Qwest customers in Cortez, Walsenburg, Montrose, Julesberg, Pueblo, Steamboat Springs and elsewhere would end up paying for FasTracks-caused costs in the Denver metro area.
- SB09-253 significantly expands the allowable cost recovery categories over a much shorter period of time (1 year) thereby greatly increasing the amount of utility relocation costs passed on to retail phone customers.
  - Example: Under current law Qwest applied for over \$10 million in cost recovery in 2005 for T-REX & the Denver Convention Center. FasTracks alone is expected to be significantly more dollars and inclusive of more costs if this bill passes.
- Amendments in the Senate Business, Labor & Technology Committee do not adequately mitigate this significant expansion in cost recovery.

### Repeated “Bites at the Apple” (See history detail on next page)

- SB03-238 which passed in 2003 already provides for sufficient facilities relocation cost recovery.
- This bill is substantially similar to the amended HB 05-1207 which Gov. Owens **vetoed** at the urging of both the PUC and the Office of Consumer Counsel as being anti-consumer and in conflict with Colorado statutes.
- SB07-205 which passed in 2007 removed overlapping cost recovery provisions yet still allows for negotiation for utility relocation caused by transportation expansion and for funding utility relocations as specified in easements, franchises, or other property interests etc.

### Legal Conflicts

- Creates ambiguity over what retail “access lines” include and if the company can and will pass costs on to the less competitive stand-alone customers versus the competitive packaged, bundled, and/or deregulated customers.
- Bill is likely to result in litigation upon a telephone company’s first use of it because:
  - The bill is in direct conflict with State Law (e.g. cross subsidization)
  - Bill is in conflict with Federal Law (double recovery of Interstate costs)
- Bill changes the existing statute from cost recovery for utility relocation to cost recovery for utility replacement; a significant difference.



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## Qwest showing gains in broadband services

By Steve Raabe  
The Denver Post

Posted: 04/30/2009 12:30:00 AM MDT

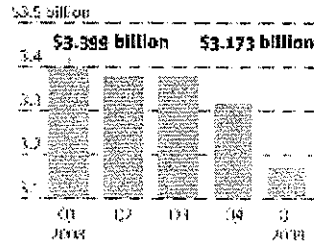
### Ups and downs for Qwest

Qwest's net income rose 37 percent in the first quarter compared with the same period last year. Operating revenue dropped 7 percent, in part because of Qwest's departure from the wireless market.

#### Net Income



#### Operating revenue



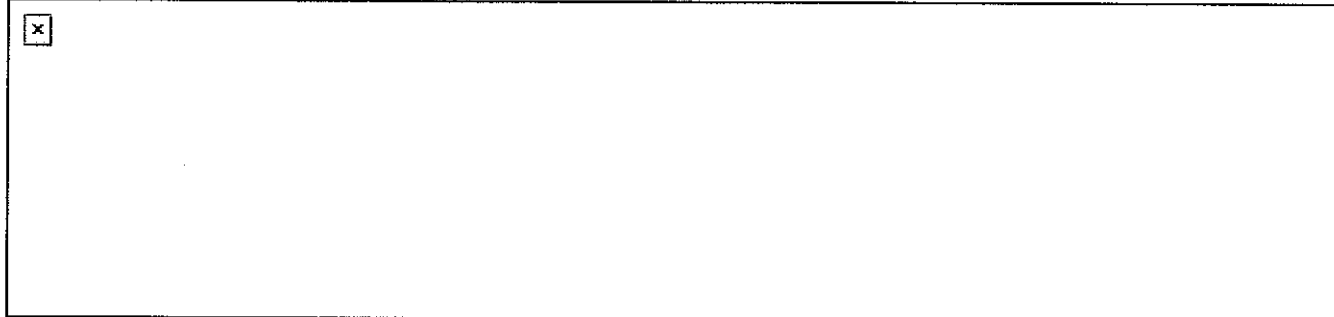
Source: Qwest Communications - The Denver Post

Qwest could be within striking distance of reversing a long string of quarterly sales declines, chief executive Ed Mueller said Wednesday.

Mueller said he was encouraged by a first-quarter earnings report showing stronger sales for high-speed Internet and video services even as landline phone customers continued to drop.

Broadband subscribers rose from 2.7 million to 2.9 million over the past year at the same time residential phone-line customers fell 12 percent, from 6.5 million to 5.8 million.

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"We are a broadband company," Mueller said. "I'm much more optimistic than maybe people might think I am" about reversing stagnant revenues.

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Qwest reported its ninth consecutive quarter of sales declines with first-quarter operating revenue of \$3.2 billion compared with \$3.4 billion in the same period last year.

Net income rose 37 percent to \$206 million from \$150 million in the first quarter of 2008, largely from cutting expenses in a series of layoffs.

Qwest has cut its workforce from about 36,000 to 33,000 over the past year. It has about 8,400 workers in Colorado.

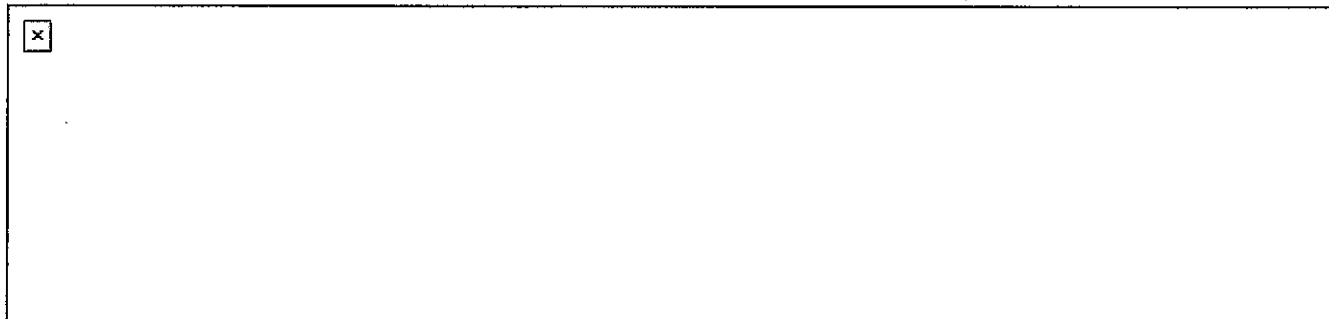
"We believe Qwest's aggressive approach to expense management is paying off, particularly as it faces mounting (economic) pressures across all its business," JP Morgan analyst Mike McCormack said in a report.


However, McCormack noted that growth rates slowed in Qwest's business-markets division compared with last year.

Qwest officials Wednesday continued their policy of not commenting on widespread reports that the company is trying to sell its nationwide fiber-optic communications network, which could be valued at \$2 billion to \$3 billion.

Qwest shares rose 11 cents Wednesday, or 3.1 percent, to \$3.68. The stock has gained gained 1.1 percent this year.

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## Blake: Either way, public pays

January 19, 2005



Peter  
Blake

If you vote for expensive public projects, you might suddenly find yourself also paying for related costs that you didn't get to vote on and hadn't even contemplated.

Come to think of it, you may pay the latter costs even if you didn't get to vote on the former.

It's just one of those lessons you can learn from reading the little enclosures in your utility bill. They're usually read only by sickos who, like myself, choose to seek out more misery than they already have. We know we're not supposed to. If they wanted us to read them, they'd make the type readable.

Anyway, in the current bills from Qwest is a small flier which tells us that starting March 10, the Public Utilities Commission willing, those of us in the eight metro Denver counties using the 303/720 area codes will be billed an extra 22 cents a month per phone line for three years.

Why this surcharge? Because Qwest seeks to "recover its costs of government mandated relocation of network facilities due to the T-REX and Colorado Convention Center projects."

They had to move wires and poles and what-have-you, and they want their money back. Apparently the project builders weren't required to bear those costs themselves.

The convention center was approved only by Denver voters in 1999; the T-REX project is financed by the highway bonds approved by voters statewide that year, and by RTD bonds simultaneously approved by district voters.

Speaking of statewide, Qwest has left the PUC an option. It said the commission may determine to charge relocation costs to all customers in the state and not just the eight-county metro area. In that case the monthly charge per access line would be only 12 cents a month for three years.

Hey, don't we like that better here! Stick the citizens of the Western Slope for work done in Denver! When you can't share the wealth, share the debt, we say. It's not just their water we want, but their cash. Besides, a few of them may drive the new and improved Interstate 25 some day, and even attend a trade show at the convention center.

Right now the PUC staff is reviewing the application to make sure that all the charges claimed were actually incurred.

So is the PUC's Office of Consumer Counsel, which will intervene in the case. "At this point we don't think the numbers are correct, but we'll review them," said acting director Jim Greenwood.

The total amount claimed by Qwest is \$7,038,641.

Those who don't like the surcharge have until early February to file written protests or ask to intervene. The PUC has tentatively set the issue for its Feb. 16 meeting.

This type of cost recovery by the telephone company hasn't been historically available. It was authorized by a 2003 bill, S.B. 238, sponsored by former Sen. Ken Chlouber, R-Leadville, and Rep. Joe Stengel, R-Littleton, the new House minority leader.

The bill breezed through easily. It passed the Senate 30-2 and the House 58-7. The papers paid the issue no mind.

But the impact of this 3-year assessment is just the beginning. Wait until the recently approved FasTracks project gets going. That will tear up a lot more land than the convention center and T-REX. Who knows how many more millions of dollars Qwest will have to spend moving their facilities?

No, Qwest won't need new legislation to get approval for the recovery of FasTracks costs. The 2003 bill thoughtfully contemplated all future relocation costs imposed by public projects. Only the PUC could say no.

Qwest asked for the surcharge now because "the projects are close to completion and we knew exactly what our costs were," said spokesman Michael Dunne.

If Qwest had expensive relocation costs, one can assume Xcel Energy had even more: steam and natural gas pipes, power lines, transformers etc. But it hasn't filed for any special recovery costs - and wasn't authorized to by the 2003 legislation, which applied only to telecommunications companies.

It's a good thing, considering the problems Xcel customers already have with the spike in natural gas prices. But don't cry for Xcel. It will be able to recover its relocation costs when it files its next rate case in early 2006.

Oh, the same unreadable Qwest flier tells us that the Federal Universal Service Charge is also going up, as is the charge for non-coin calls made from pay phones. But you've had enough bad news for today.