

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

ADVANCED TELECOM, INC. d/b/a)	DOCKET UT-111254
INTEGRA; ELECTRIC)	
LIGHTWAVE, LLC d/b/a INTEGRA;)	
ESCHELON TELECOM OF)	ORDER 01
WASHINGTON, INC d/b/a INTEGRA)	
TELECOM; OREGON TELECOM)	
INC. d/b/a WASHINGTON)	
TELECOM d/b/a INTEGRA;)	
UNICOM f/k/a UNITED)	
COMMUNICATIONS, INC. d/b/a)	
INTEGRA; MCLEODUSA)	PREHEARING CONFERENCE
TELECOMMUNICATIONS)	ORDER
SERVICES L.L.C. d/b/a PAETEC)	(Evidentiary Hearing set for
BUSINESS SERVICES; AND TW)	January 18-20, 2012)
TELECOM OF WASHINGTON LLC,)	
)	
Complainants,)	
)	
v.)	
)	
QWEST CORPORATION AND)	
CENTURYLINK, INC.,)	
)	
Respondents.)	
)	
.....)	

1 NATURE OF PROCEEDING: On July 12, 2011, Advanced Telecom, Inc. d/b/a Integra; Electric Lightwave, LLC d/b/a Integra; Eschelon Telecom of Washington, Inc d/b/a Integra Telecom; Oregon Telecom Inc. d/b/a Washington Telecom d/b/a Integra; Unicom f/k/a United Communications, Inc. d/b/a Integra¹; McLeodUSA Telecommunications Services L.L.C. d/b/a PAETEC Business Services (PAETEC);

¹ These companies are collectively referred to as Integra.

and tw telecom of washington llc (tw telecom)² filed with the Washington Utilities and Transportation Commission (Commission) a complaint against Qwest Corporation and CenturyLink, Inc. (collectively, Qwest/CenturyLink). The Joint CLECs allege that Qwest/CenturyLink have violated Order 14³ in Docket UT-100820 and the terms of various settlement agreements approved in that docket regarding operational support systems used for maintenance and repair.

2 On August 4, 2011, the Commission entered a Notice of Prehearing Conference appointing Administrative Law Judge Marguerite E. Friedlander as presiding officer in this proceeding.

3 **CONFERENCE.** The Commission convened a prehearing conference in this matter, as scheduled, at Olympia, Washington, on August 25, 2011, before Judge Friedlander.

4 **PARTY REPRESENTATIVES:** Gregory R. Merz, Gray, Plant, Mooty, Mooty & Bennett, P.A., Minneapolis, Minnesota, represents Integra and PAETEC. Lauren P. Giles, Davis Wright Tremaine LLP, Seattle, Washington, represents tw telecom. Lisa Anderl, in-house counsel, Seattle, Washington, represents Qwest/CenturyLink. Arthur A. Butler, Ater Wynne LLP, Seattle, Washington, represents Cbeyond Communications LLC (Cbeyond). Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).⁴ A complete list of party representatives, along with their contact information, is attached to this Order as Appendix A.

² Integra, PAETEC, and tw telecom are collectively referred to as Joint CLECs.

³ *In the Matter of the Joint Application of Qwest Communications International Inc. and CenturyTel, Inc. for Approval of Indirect Transfer of Control of Qwest Corporation, Qwest Communications Company LLC, and Qwest LD Corp.*, Docket UT-100820, Order 14 (March 14, 2011).

⁴ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

5 **PETITION FOR INTERVENTION.** On August 19, 2011, Cbeyond filed a petition to intervene. Cbeyond has demonstrated a substantial interest in this proceeding and has pledged that its intervention will not broaden the issues or delay the proceeding. In addition, the petition was unopposed. Therefore, the petition to intervene by Cbeyond is granted.

6 **PROTECTIVE ORDER.** The parties ask that the Commission enter a standard protective order in this docket under RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 480-07-423 to protect the confidentiality of proprietary information. The request was granted and a protective order will be entered.

7 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

8 **PROCEDURAL SCHEDULE.** During the prehearing conference, the parties were able to agree on a proposed procedural schedule.⁵ The proposal comports with the Commission's calendar and takes into consideration the Commission's December 2011 evidentiary hearing in Avista Corporation's general rate request, Dockets UE-110876 and UG-110877. The parties did request a shortening of the response time for data requests from the typical ten business days⁶ to seven business days. This deviation would only apply from September 15, 2011, to October 14, 2011. The Commission believes such a deviation from the discovery rules logically corresponds to the narrowing of issues that typically occurs during the course of the proceeding. Further, the request has been agreed to by all of the parties. The request to shorten the response time for data requests is granted. Likewise, the Commission adopts the parties' proposed procedural schedule. The procedural schedule is more fully set forth in Appendix B to this Order.

⁵ The parties did not provide for, but reserved their right to, a post-hearing briefing schedule. They recognize that RCW 80.04.110(3) requires that the Commission enter a final order within ten months of the filing date of the complaint, unless that deadline is extended for good cause. The parties agreed that the ten-month deadline should be waived if the post-hearing briefing schedule did not allow the Commission enough time to fulfill the requirements of the statute.

⁶ WAC 480-07-405(7)(b) provides for a ten business day response time.

- 9 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter beginning **January 18, 2012**, at 9:30 a.m., and continuing thereafter, as necessary, on **January 19 and 20, 2012**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **7 copies** of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and **1 copy** of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 11 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 12 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Electronic versions of all documents must be filed in accordance with WAC 480-07-140(6). Specifically, all documents must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format.
- 13 A copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

- 14 According to WAC 480-07-145(6), the parties may electronically submit documents to the Commission provided the electronic submission is received by 3:00 p.m. on the filing deadline and the Commission receives the original and required number of copies by 12:00 p.m. on the following business day. Parties must submit documents through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov, and file an original, plus 7 paper copies, of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to the administrative law judge at mfriedla@utc.wa.gov and to the parties to the proceeding.
- 15 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.
- 16 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective August 26, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A				
PARTIES' REPRESENTATIVES				
DOCKET UT-111254				
PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Integra and PAETEC	Gregory Merz Gray, Plant, Mooty, Mooty & Bennett, P.A. 500 IDS Center 80 South 8 th Street Minneapolis, MN 55402	612-632-3257	612-632-4257	Gregory.merz@gpmlaw.com
tw telecom	Lauren P. Giles Davis Wright Tremaine LLP 1201 3 rd Avenue, Suite 2200 Seattle, WA 98101-3045	206-757-8259	206-757-7700	Laurengiles@dwt.com
Qwest/CenturyLink	Lisa Anderl CenturyLink, Inc. 1600 7 th Avenue Suite 1506 Seattle, WA 98191	206-345-1574	206-343-4040	Lisa.anderl@centurylink.com
Cbeyond	Arthur A. Butler Ater Wynne LLP 601 Union Street Suite 1501 Seattle, WA 98101-3981	206-623-4711	206-467-8406	aab@aterwynne.com
Commission Staff	Jennifer Cameron- Rulkowski Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1186	360-586-5522	Jcameron@utc.wa.gov

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-111254**

<u>EVENT</u>	<u>DATE</u>
Technical Conference (parties only)	September 15, 2011 ⁷
Joint CLEC and Qwest/CenturyLink Direct Testimony and Exhibits	October 14, 2011
Settlement Conference (parties only)	October 26, 2011
Cbeyond Direct Testimony and Exhibits; Staff Direct/Responsive Testimony and Exhibits	November 10, 2011
Joint CLEC, Qwest/CenturyLink, and Cbeyond Responsive Testimony and Exhibits	December 9, 2011
Evidentiary Hearing	January 18-20, 2012
Simultaneous Post-Hearing Briefs	TBD ⁸

⁷ Data request responses will be due within seven business days, instead of the typical ten business days, from September 15, 2011, to October 14, 2011.

⁸ The parties have requested that the Commission leave open the possibility of post-hearing briefs.