

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

In the Matter of the Petition for)	
Arbitration of an Interconnection)	DOCKET UT-083055
Agreement Between)	ORDER 04
)	
COMCAST PHONE OF)	ORDER GRANTING MOTION
WASHINGTON, LLC)	TO EXTEND SCHEDULE;
)	
and)	
)	NOTICE OF RESCHEDULED
LEWIS RIVER TELEPHONE)	HEARING
COMPANY, D/B/A TDS TELECOM)	(Beginning Tuesday,
)	March 10, 2009, 9:30 a.m.)
Pursuant to 47 U.S.C. Section 252(b))	
)	
.....)	

- 1 **NATURE OF PROCEEDING.** Docket UT-083055 involves a petition by Comcast Phone of Washington, LLC (Comcast) for arbitration of an interconnection agreement filed with Lewis River Telephone Company, d/b/a TDS Telecom (TDS) pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996.

- 2 **APPEARANCES.** Gregory J. Kopta, Davis Wright Tremaine LLP, Seattle, Washington, and Michael C. Sloan, Davis Wright Tremaine LLP, Washington, D.C. represent Comcast. Richard Finnigan, Attorney, Olympia, Washington, represents TDS.

- 3 **PROCEDURAL HISTORY:** Comcast filed its petition for arbitration with TDS on November 3, 2008. On November 17, 2008, the Commission entered Order 01, appointing an arbitrator and scheduling a prehearing conference.

- 4 The Commission held a prehearing conference in this matter on December 1, 2008, in Olympia, Washington, before Arbitrator and Administrative Law Judge Ann E. Rendahl. On December 3, 2008, Judge Rendahl entered Order 02, a prehearing conference order establishing a procedural schedule, and Order 03, a protective order.

- 5 On December 10, 2008, the Commission held a discovery conference to resolve discovery disputes between the parties. Judge Rendahl resolved the discovery disputes during the conference, making an oral decision on the record.
- 6 On Tuesday, December 16, 2008, counsel for TDS contacted the Arbitrator, advising her of the parties' intent to seek an extension of the procedural schedule.
- 7 On Thursday, December 18, 2008, the parties filed a joint motion to extend the procedural schedule (Joint Motion) in this matter. The parties assert that they are engaged in discovery with the goal of developing a set of agreed facts, but cannot do so under the current schedule. In order to effectively work towards that goal, the parties request that all dates on the current schedule adopted in Order 02 in this proceeding be extended by 30 days. The parties have adjusted some dates to accommodate weekends. The parties request the following changes to the current procedural schedule:

Notice by Parties of whether hearing is necessary	<u>Tuesday, January 20, 2009</u>
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If hearing is necessary:

Simultaneous Initial Testimony	<u>Thursday, February 5, 2009</u>
Simultaneous Response Testimony	<u>Monday, February 23, 2009</u>
Parties file Cross-examination Exhibits, estimates of cross Examination, order of witnesses	<u>Friday, March 6, 2009, by Noon</u>
Evidentiary Hearing	<u>Tuesday, March 10 to Wednesday, March 11, 2009</u>
Simultaneous Initial Briefs	<u>Monday, March 30, 2009</u>
Arbitrator's Decision	<u>Monday, May 11, 2009</u>

If no hearing is necessary:

Simultaneous Cross-Motions For Summary Determination	<u>Monday, March 2, 2009</u>
Simultaneous Answers to Motions	<u>Monday, March 23, 2009</u>
Arbitrator's Decision	<u>Monday, May 11, 2009</u>

8 The parties recognize that granting the Joint Motion would require an extension of the statutory date for the Commission's decision. To that end, Comcast states in the Motion that it waives the prior date of March 20, 2009, for an arbitrator's decision and accepts the new proposed decision date of May 11, 2009.

9 Under the Commission's procedural rules, the Commission may grant timely requests for extensions of time to which all parties agree unless inconsistent with the public interest or the Commission's administrative needs. Parties must make oral requests at least two business days prior to the deadline, while written motions must be filed five business days prior to the deadline. WAC 480-07-385(3)(a), (b). The Commission may consider late filed requests if the requester demonstrates good cause that prevented a timely request.

10 As the oral request was made on December 16, and the written Joint Motion followed the oral request, the parties request is considered timely filed. Further, the parties request to extend the schedule is consistent with the public interest and the Commission's administrative needs: The Commission supports the parties' efforts to resolve factual issues through discovery rather than hearing. Working to resolve factual issues may reduce the time and resources the parties and the Commission might expend in this proceeding.

11 **The parties' Joint Motion for an extension of the procedural schedule in this proceeding is granted, as proposed by the parties and set forth in Revised Appendix B to this Order.** The Arbitrator regrets the later entry of this Order due to the recent inclement weather in Western Washington.

12 **NOTICE OF REVISED PROCEDURAL SCHEDULE.** The Commission adopts the parties' proposed revisions to the procedural schedule in this docket. The revisions are attached to this Order as Revised Appendix B.

13 **NOTICE OF RESCHEDULED HEARING.** The Commission reschedules the hearing on the merits in this matter, from **Wednesday, February 4, 2009, at 9:30 a.m., to commence on Tuesday, March 10, 2009 in Room 206 of the Commission's headquarters, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The hearing will continue in the same location on **Wednesday, March 11, 2009, as necessary.**

14 **REVISED DOCUMENT PREPARATION AND FILING REQUIREMENTS.**

To ensure sufficient copies for Commission staff, parties must file an original plus **four (4)** copies of all pleadings, motions, briefs, and other prefiled materials, rather than the three (3) copies identified in Order 02. All other format and filing requirements remain the same as those identified in Order 02.

15 **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 December 26, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

REVISED APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-083055

EVENT	PRIOR DATE	NEW DATE
Notice by Parties of whether hearing is necessary	Thursday, December 18, 2008	<u>Tuesday, January 20, 2009</u>
If hearing is necessary:		
Simultaneous Initial Testimony	Monday, January 5, 2009	<u>Thursday, February 5, 2009</u>
Simultaneous Response Testimony	Friday, January 23, 2009	<u>Monday, February 23, 2009</u>
Deadline for filing cross-examination exhibits, estimates of cross-examination, order of witnesses	Monday, February 2, 2009, by Noon	<u>Friday, March 6, 2009, by Noon</u>
Evidentiary Hearing	Wednesday, February 4, 2009, to Thursday, February 5, 2009	<u>Tuesday, March 10, 2009 to Wednesday, March 11, 2009</u>
Simultaneous Initial Briefs	Friday, February 27, 2009	<u>Monday, March 30, 2009</u>
Arbitrator's Decision	Friday, March 20, 2009	<u>Monday, May 11, 2009</u>
If no hearing is necessary:		
Simultaneous Cross-Motions for Summary Determination	Friday, January 30, 2009	<u>Monday, March 2, 2009</u>
Simultaneous Answers to Motions	Friday, February 20, 2009	<u>Monday, March 23, 2009</u>
Arbitrator's Decision	Friday, March 20, 2009	<u>Monday, May 11, 2009</u>