

Qwest

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*Via E-Mail and
Overnight Mail*

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-033044 - Triennial Review
Request for Delay

Dear Ms. Washburn:

Qwest hereby requests a 60-day delay in the schedule for this proceeding, and a temporary stay of discovery. This request was discussed today at the prehearing conference, and Qwest is now submitting its request in writing.

As the Commission is aware, the Federal Communications Commission's ("FCC") Triennial Review Order ("TRO") is on appeal to the D. C. Circuit Court of Appeals. At issue in the appeal, among other issues, is the question of whether the FCC has jurisdiction under the Telecommunications Act of 1996 to delegate to the states the responsibility of conducting the impairment analysis which is at the core of this docket. Oral argument was held on January 28, 2004. Although impressions of observers to the oral argument are not conclusive, reports from several observers indicate that the Court expressed concern over whether the FCC had the authority to delegate impairment determinations for mass market switching to the state commissions. It is likely that the Court decision will have a significant impact on this proceeding, which could require this proceeding to be abandoned, appreciably altered, or restarted.

At issue for this Commission is the extraordinary amount of time and effort that will be expended by all parties to this proceeding leading up to and including the currently scheduled March hearings. Thousands of pages of testimony and exhibits have been filed by 29 witnesses, and cross examination will likely exceed the allotted two week hearing schedule. With the likely possibility that the proceedings could be abandoned or altered by the Court, Qwest believes that a significant expenditure of resources can be stemmed by simply delaying the docket.

The D.C. Circuit Court issued an expedited schedule for briefing leading up to the January 28, 2004 oral argument; thus, it is reasonable to expect a decision on the appeal in the near future. Therefore, in order to avoid the unnecessary expenditure of considerable time and resources by the Commission and all parties, Qwest requests that the Commission temporarily stay discovery (both responses and new requests) in this case until April 12, 2004 and suspend the TRO and BHC procedural schedules, for approximately two months. This interval will allow time for the Commission to take into consideration any decision issued during that time by the D.C. Circuit Court in the appeal of the TRO. Qwest requests that the Commission amend the procedural schedule in this dockets follows:

April 12, 2004:	Discovery resumes
May 7, 2004:	File BHC Rebuttal Testimony and TRO Rebuttal Testimony
June 7 – 11 and June 28 – July 2, 2004:	Hearings

For the Commission's additional information, Qwest states that other parties have filed similar requests for delay in Colorado and Nebraska, and that the New Mexico Commission is considering delay on its own motion. No decision has been made in any of those states as of this time.

Finally, Qwest notes that no party opposed this delay at the prehearing conference and that no party will be prejudiced by this delay, as any delay in determination of the issues in this matter simply means that the status quo, including provision of UNE-P, remains in place during the interim. Qwest further commits that it will not claim a "failure to act" under paragraph 527 of the TRO in connection with the delay sought herein.

Sincerely,



Lisa A. Anderl

LAA/llw
Enclosures

cc: Service List (via e-mail and U.S. Mail)