

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

TEL WEST COMMUNICATIONS, LLC,)	DOCKET NO. UT-013097
)	
Petitioner,)	SIXTH SUPPLEMENTAL
)	ORDER; DENYING REQUEST TO
vs.)	SUBMIT ADDITIONAL
)	SUPPLEMENTAL ARGUMENTS;
QWEST CORPORATION, INC.,)	GRANTING REQUEST TO TOLL
)	TIME FOR FILING PETITION
Respondent.)	FOR INTERLOCUTORY REVIEW
)	
.....)	

1 **Background.** The Fifth Supplemental Order served on April 11, 2002, denied the motion of Qwest Corporation, Inc. (“Qwest”) to suspend proceedings and narrow the issues in this case. Tel West Communications, LLP’s (“Tel West”) complaint states three separate causes of action for “Provisioning Parity” to be addressed at hearing. Provisioning Parity encompasses Tel West’s claims that Qwest does not provision telecommunications services to Tel West in a substantially equal time, manner, or quality.

2 Although Qwest’s motion was denied, the Fifth Supplemental Order also allows Qwest to file supplemental arguments and supporting evidence within 10 days of the Order to establish that the Commission intends to make a determination whether IMA GUI provides access to Qwest’s OSS in substantially the same manner as SONAR or IMA EDI in the SGAT/271 Proceeding. According to the Order, Qwest’s submission will be considered consistent with procedures stated in WAC 480-09-810.

Qwest’s Request to Submit Supplemental Arguments on an Additional Issue

3 On April 12, 2002, Qwest requested to submit supplemental arguments and supporting evidence in response to an additional issue addressed in the Fifth Supplemental Order. In the Fifth Supplemental Order, the presiding officer concluded that the issue regarding whether Qwest provides customer service in a non-discriminatory manner to Tel West is at the heart of a disputed factual issue between the parties, which will not be addressed in consolidated Dockets UT-003022 and UT-003040 (the “SGAT/271 Proceeding”). *Fifth Supplemental Order, at Para. 8-9.*

4 Tel West is not a party to the SGAT/271 Proceeding. Qwest suggests that the SGAT/271 Proceeding will address whether certain customer service practices are

non-discriminatory. Then Qwest proposes to demonstrate in this case that its customer service practices with regards to Tel West are consistent with those non-discriminatory standards.

5 As stated in the Fifth Supplemental Order, no information was made available that substantiated the contention that this issue is also being addressed in the SGAT/271 Proceeding. However, assuming *arguendo* that Qwest's contention is valid, the decision would remain the same. There are *many* issues being addressed in the SGAT/271 Proceeding, and there is no basis to conclude that this issue would be better addressed in that other proceeding than in this case. Furthermore, there is no basis to conclude that the Commission would reach this issue in the SGAT/271 Proceeding before it reaches the issue in this case.

6 Tel West is entitled to present its own evidence regarding the standard to be applied and Qwest's performance in this proceeding. Ultimately, this is a matter that is addressed to the broad discretion of the presiding officer pursuant to WAC 480-09-530. Qwest's request to submit additional supplemental arguments is denied.

Qwest's Request to Toll the Time to File Petition for Review

7 Qwest states that it intends to submit additional arguments and supporting evidence in accordance with Paragraph 14 of the Fifth Supplemental Order. Qwest seeks to preserve its right to petition for review of the other decisions in that Order, in addition to its right to file a petition to review future decisions regarding its supplemental submission.

8 A supplemental order will be entered subsequent to review of Qwest's submission of additional arguments and supporting evidence. The Commission has discretion to accept or decline review of interim or interlocutory orders in an adjudication pursuant to WAC 480-09-760. Both the Fifth Supplemental Order and the supplemental order to follow are interlocutory orders subject to review at the Commission's discretion.

9 Qwest states that it intends to proceed in accordance with the procedural schedule that also was established in the Fifth Supplemental Order while its supplemental submission is under review. Qwest requests, for purposes of administrative convenience, that its right to petition for review of the Fifth Supplemental Order be tolled so that all related issues could be addressed in the same petition subsequent to entry of an order regarding its supplemental submission.

10 Qwest's request causes no prejudice to Tel West, and it promotes administrative convenience for both the parties and the Commission. Therefore, Qwest's request is granted. Qwest's right to file a petition for review of the Fifth Supplemental Order is tolled, and will run concurrently with Qwest's right to petition for review of the

supplemental order to follow regarding the company's submission of additional arguments and supporting evidence as previously authorized.

Dated at Olympia, Washington and effective this 18th day of April, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

LAWRENCE J. BERG
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this document, pursuant to WAC 480-09-760. Absent such objections, this Order will control further proceedings in this matter, subject to Commission review.