

ISSUED: October 3, 2003

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1100

In The Matter Of The Investigation To)
Determine, Pursuant To Order Of The)
Federal Communications Commission,)
Whether Impairment Exists In Particular)
Markets If Local Circuit Switching For)
Mass Market Customers Is No Longer)
Available As An Unbundled Network)
Element.)

FIRST PREHEARING
CONFERENCE REPORT

On October 1, 2003, the first prehearing conference was held in this matter. The following matters were addressed:

Petitions to Intervene. The petitions to intervene filed by Eschelon Telecom, Inc, Qwest Corporation, and AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Oregon (collectively, AT&T) are granted. The Citizens Utility Board also filed a Notice of Intervention pursuant to ORS 774.180.

Any person desiring to participate as a party in this docket should file a petition to intervene by October 13, 2003.

Verizon Northwest, Inc. At the conference, Verizon Northwest Inc. (Verizon) stated that it does not intend to challenge the FCC's national finding that requesting carriers are impaired without access to unbundled local switching when serving mass market customers within Oregon.

Modifications to the Protective Order. A standard protective order has been entered in this docket. See Order No. 03-563, entered September 18, 2003. The conference participants agreed to discuss modifying the standard protective order to include additional protection for especially sensitive confidential information. The proposed changes will be submitted to the ALJs by October 13, 2003.

Issues List. The procedural schedule requires the parties to file an Issues List on October 13, 2003. The Issues List must include all of the issues the Federal Communications Commission (FCC) requires the States to consider in conducting their impairment analyses. The parties should review the FCC's Triennial Review Order (TRO) to ensure that all necessary issues are on the Issues List.

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The ALJs expect the parties to work together to develop the Issues List. If the parties disagree about which issues should be included on the List, those issues should be specified in the October 13 filing. A telephone conference will be held on October 15, 2003, to discuss any disputes. If the parties agree upon the Issues List, the telephone conference will be cancelled.

Discovery. In order to expedite the discovery process, reduce the burden on parties, and minimize the potential for disputes, the ALJs will issue bench requests for information in this docket. Parties will submit their proposed questions to the Commission Staff, who will then prepare a market survey that will be sent to a designated list of telecommunications carriers authorized to provide service in Oregon. The parties will also provide Staff with proposals on how the carrier data should be summarized.

Any disagreements regarding the discovery process should be brought to the attention of the ALJs as soon as possible.

Market Definitions. The FCC's TRO requires that State Commissions must perform a "granular" analysis of each identifiable mass market in order to determine if competitive telecommunications carriers are impaired without access to unbundled local circuit switching. For each market, the State Commission must determine if designated "triggers" are satisfied. If the triggers are not met, the State Commission must then conduct an "operational and economic" analysis for each market.

Before a State Commission can apply the triggers or perform the operational and economic analysis, it "must first define the markets in which it will evaluate impairment by determining the relevant geographic area to include in each market." This process requires the State Commission to take into consideration a variety of factors. See TRO @ ¶495-497.

The procedural schedule calls for the parties to submit briefs on January 8, 2004, containing their proposals for defining the markets. A telephone conference will be held on January 13, 2004, to allow the ALJs to ask clarifying questions regarding the market proposals submitted by the parties. On January 22, 2004, the ALJs will issue a ruling defining the markets that will be examined in this investigation.

Qwest's February 3, 2004 Filing. On February 3, 2004, Qwest will submit a filing specifying any markets in Oregon where it believes that the FCC's national finding of impairment should be overturned. For each market where Qwest alleges that there is no impairment to competitive carriers, the company shall indicate whether its position is based upon the application of the FCC's triggers or upon an operational and economic analysis. For any markets where Qwest concedes that impairment exists, Qwest will indicate whether it believes that impairment in that market can be eliminated by "rolling access" to unbundled switching for a period of 90 days or more. See TRO @ ¶¶521-524. Finally, Qwest will propose the appropriate cross-over point between mass market customers and enterprise customers; that is, the point where it makes economic sense for a multi-line customer to be served by a DS1 loop. See TRO @ ¶ 497.

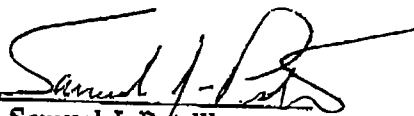
Procedural Schedule. The conference participants agreed to the following procedural schedule in this docket:

October 13, 2003	Parties file proposed Issues List. Petitions to Intervene due.
October 15, 2003	Telephone conference to consider any disputes regarding the Issues List. (Tentative)
October 17, 2003	Parties file proposed survey questions and proposals for summarizing answers.
October 31, 2003	ALJs issue market survey to telecommunications carriers as a bench request.
November 28, 2003	Market survey responses due.
December 29, 2003	ALJs release summary of survey responses.
January 8, 2004	Parties submit briefs proposing the markets that should be established.
January 15, 2004	Telephone conference to discuss briefs regarding proposed market definitions.
January 22, 2004	ALJs issue Ruling defining the markets to be evaluated in this investigation.
February 3, 2004	Qwest Corporation submits filing specifying the particular markets where it contends that no impairment exists and other required data.
February 27, 2004	All parties file direct testimony.
March 15, 2004	All parties file reply testimony.
March 29-April 2, 2004	Hearing.
April 30, 2004	Parties file simultaneous briefs.
July 2, 2004	Commission issues final order.

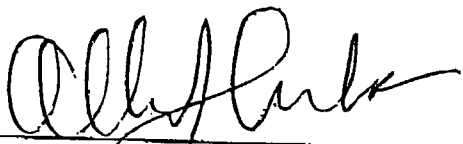
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Any questions regarding the procedures in this investigation may be directed to the Administrative Hearings Division, at (503) 378-2849.

Dated at Salem, Oregon this 3rd day of October, 2003.



Samuel J. Petrillo
Administrative Law Judge



Allan J. Arlow
Administrative Law Judge

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