

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

)	
In the Matter of the Implementation of	)	DOCKET NO. UT-033025
the Federal Communications)	
Commission’s Triennial Review Order	)	ORDER NO. 02
)	
	)	PREHEARING CONFERENCE
	)	ORDER
.....)	
)	
In the Matter of the Petition of	)	DOCKET NO. UT-033044
)	
QWEST CORPORATION	)	ORDER NO. 01
)	
To Initiate a Mass-Market Switching	)	PREHEARING CONFERENCE
and Dedicated Transport Case	)	ORDER; NOTICE OF BATCH
Pursuant to the Triennial Review	)	HOT CUT WORKSHOP;
Order	)	(November 12 (a.m.), 13, 14, 2003)
	)	NOTICE OF PREHEARING
	)	CONFERENCE
	)	(February 24, 2004)
.....)	

- 1 **Nature of the Proceeding:** Docket No. UT-033025 is a proceeding initiated by the Washington Utilities and Transportation Commission (Commission) to assist the Commission in implementing certain provisions of the Federal Communications Commission’s (FCC) Triennial Review Order. Docket No. UT-033044 concerns a petition filed by Qwest Corporation (Qwest) seeking review of the FCC’s findings in the Triennial Review Order concerning impairment without unbundled access to mass-market switching and dedicated transport.

- 2 **Prehearing Conference:** The Commission convened a prehearing conference in this docket at Olympia, Washington on October 13, 2003, before Administrative Law Judge (ALJ) Ann E. Rendahl. The purpose of the prehearing conference was to address issues concerning the form of a protective order and the form and

timing of discovery in any proceeding held as a result of the Triennial Review Order. In addition, the prehearing conference was held to identify the persons interested in participating in any proceedings initiated by petition(s) filed on October 10, 2003, take appearances of the parties, consider petitions for intervention, to establish a procedural and evidentiary schedule for the proceeding, and address any other procedural matters.

- 3 **Appearances.** Rebecca DeCook, attorney, Denver, CO, represents AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services, d/b/a/ TCG Seattle and TCG Oregon (AT&T). Brooks E. Harlow and David L. Rice, attorneys, Seattle, WA, and Karen S. Frame, Attorney, Denver, CO, represent Covad Communications Company (Covad). Stephen S. Melnikoff, attorney, Arlington, VA, represents the Department of Defense and all other Federal Executive Agencies (DOD/FEA). Gregory J. Kopta, attorney, Seattle, WA, and J. Jeffrey Oxley and Dennis J. Ahlers, attorneys, Minneapolis, MN, represent Eschelon Telecom, Inc (Eschelon). Gregory J. Kopta, attorney, Seattle, WA, represents Advanced TelCom Group, Inc. (ATG), Global Crossing Local Services, Inc. (Global Crossing), Integra TelCom, Inc. (Integra), McLeod Local Services, Inc. (McLeod), PacWest Telecomm, Inc. (PacWest), Time Warner Telecom of Washington, LLP (Time Warner), and XO Communications, Inc. (XO). Lisa Rackner, attorney, Portland, OR, and Michel Singer Nelson, attorney, Denver, CO, represents WorldCom, Inc, d/b/a MCI, Inc. (MCI). Brooks E. Harlow and David L. Rice, attorneys, Seattle, WA, represent the Northwest Competitive Communications Coalition (NWCCC). Lisa A. Anderl and Adam L. Sherr, attorneys, Seattle, WA, and Chuck Steese, attorney, Denver CO, represent Qwest Corporation. William E. Hendricks III, attorney Hood River, OR, represents Sprint Corporation (Sprint). Timothy J. O'Connell, attorney, Seattle, WA, represents Verizon Northwest Inc. (Verizon). Arthur A. Butler, attorney, Seattle, WA, and Lisa Rackner, attorney, Portland, OR, represent WeBTEC. Jonathan Thompson, Assistant Attorney General, Olympia, WA represents Commission Staff. Simon J. ffitich, Assistant Attorney General, Seattle, WA, represents Public Counsel. Revised contact information for the parties' representatives for Docket No. UT-033025 is attached as Appendix A1 to this order, and contact information for the parties' representatives for Docket No. UT-033044 is attached as Appendix A2.

- 4 **Petitions for Intervention.** During the conference, counsel for ATG, Eschelon, Global Crossing, Integra, McLeod, PacWest, Time Warner, and XO made an oral petition for the companies to intervene in the proceeding. Qwest responded that it did not object to the intervention of those companies, and stipulated to the intervention of all parties appearing at the prehearing conference in person or via the teleconference bridge line. Verizon stated its intention to remain an interested party, not a formal party to the proceeding.
- 5 **Protective Order.** The parties asked the Commission to enter a protective order in Docket No. UT-003044 pursuant to RCW 34.05.446 and RCW 80.04.095 to protect the confidentiality of proprietary information. The parties' request was granted.
- 6 Prior to the conference, Qwest, AT&T, and MCI circulated a proposed protective order, requesting its use in this proceeding. The ALJ distributed hard copies and electronic copies of a draft protective order modifying the Commission's standard protective order to include portions of Qwest, AT&T, and MCI's proposed order. During the conference, the ALJ asked parties to file any comments concerning that draft order by the close of business Wednesday, October 15, 2003. A protective order will be entered after considering the parties' comments.
- 7 **Discovery.** The parties desire to engage in discovery of information in Docket No. UT-033044. The proceeding qualifies under WAC 480-09-480 as a proceeding in which inquiries may be made to the extent provided in the rule. The discovery rule is invoked.
- 8 In comments filed with the Commission, Qwest and AT&T proposed questions to be propounded on all CLECs and ILECs in the state, requesting that the Commission issue the questions to all parties and non-parties as bench requests. The Triennial Review Order requires that state commissions conduct a fact-based impairment analysis concerning mass-market switching and dedicated transport. In order to allow the parties to efficiently and expeditiously gather the data necessary to develop testimony and evidence before this Commission, the

Commission will by separate notice issue a set of bench requests to parties and non-party competitive local exchange companies (CLECs) by October 21, 2003. Responses to bench requests relating to the issue of a batch hot cut migration process must be filed with the Commission by November 3, 2003, and responses to all remaining bench requests must be filed with the Commission by November 17, 2003.

- 9 Parties may submit data requests to other parties pursuant to WAC 480-09-480, except that responses to data requests must be served on the requesting party within 14 business days after the request was received. Objections to data requests must be presented to the requesting party no later than 10 business days after the request was received.
- 10 **Issues.** The parties discussed the primary issues that they believe to be involved in Docket No. UT-003044. The issues to be addressed in the mass-market switching portion of the proceeding include (1) the definition of the geographic market upon which the Commission will determine impairment, (2) the number of DS0 lines serving a customer that represents existence of an enterprise market rather than a mass-market, (3) the self-deployment and wholesale trigger analysis, including the potential deployment analysis, and (4) development and approval of a batch hot cut migration process for the incumbent local exchange company (ILEC). The issues to be addressed in the dedicated transport portion of the proceeding include the self-deployment and wholesale trigger analysis, as well as the potential deployment analysis. Qwest has indicated, however, that it may not pursue a potential deployment analysis for transport before this Commission.
- 11 **Scope of Pre-Filed Testimony and Exhibits.** The parties agreed to address in the first round of pre-filed testimony and exhibits the issues of market definition, the DS0 cut-off level, and the trigger analyses and potential deployment analyses for mass-market switching and transport. Qwest must file its primary case in the first round, while other parties may elect to present evidence in response to Qwest's primary case on trigger and potential deployment analyses in the second filing round. All parties filing testimony and exhibits must address the issues of market definition and the DS0 cut off level in the first round. **To the extent that**

a party presents evidence in the second round that requires rebuttal testimony and exhibits, the party requesting the opportunity to file rebuttal testimony must file a motion with the Commission by the close of business on February 10, 2004, demonstrating good cause for filing a third round of testimony and exhibits.

- 12 **Batch Hot Cut Migration Issue.** The parties reported that a regional batch hot cut migration workshop has not yet been developed. In the event that a regional workshop is not established, the parties agreed to meet in a workshop held by the Commission to begin discussion concerning a batch hot cut migration process. The workshop, to be held on Wednesday morning, November 12, 2003, and all day on Thursday and Friday, November 13 and 14, 2003, will be led by ALJ Rendahl and will be transcribed. In order for the parties to gather sufficient information to discuss the issues in the workshop, responses to bench requests concerning batch hot cut issues must be filed with the Commission no later than November 3, 2003. In addition, **parties must file comments with the Commission by November 7, 2003, concerning the content and sufficiency of Qwest's current hot cut process and recommendations concerning a batch hot cut migration process.** Whether additional comments, workshops, or pre-filed testimony are necessary to resolve the batch hot cut migration issue will be determined at a later time.
- 13 **Notice of Workshop.** The Commission convenes a workshop in this matter to address the development of a batch hot cut migration process for Qwest pursuant to provisions of the Triennial Review Order. **The workshop will be held in Room 206 of the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington, from 9:30 until Noon on Wednesday November 12, 2003, and continuing on Thursday and Friday, November 13 and 14, 2003.** The workshop will recess for the afternoon of November 12, 2003, so that the Commission may hold its regular Open Public Meeting. An alternate room is available for use on Wednesday afternoon, but the conference bridge will not be available. Persons who cannot attend the workshop in person may participate via the Commission's teleconference bridge line **360-664-3846**. Persons desiring to participate via the bridge line must make advance reservations by calling Kippi Walker at

360-664-1139, no later than Tuesday, November 11, 2003.

14 **Hearing Schedule for Docket No. UT-033044.** The parties agreed upon the following schedule for the proceeding:

Bench Requests Issued	October 21, 2003
Responses to Batch Cut Bench Requests Due	November 3, 2003
Batch Cut Process Comments Due	November 7, 2003
Batch Cut Workshop (ALJ only)	November 12 (a.m.), 13, 14, 2003
Responses to Remaining Bench Requests Due	November 17, 2003
Round 1 Filing	December 19, 2003
Round 2 Filing	January 30, 2004
Motions Due Requesting Round 3 Filing	February 10, 2004
Round 3 Filing (for good cause)	February 20, 2004
Exhibit Lists, Exhibits, Cross-Exhibits, Witness Lists Due	February 23, 2004
Prehearing Conference	February 24, 2004 (9:30 a.m.)
Hearings	March 1-5, 15-19, 2004
Simultaneous Initial Briefs	April 15, 2004
Simultaneous Responsive Briefs	April 30, 2004

15 **Notice of Prehearing Conference.** The Commission convenes a prehearing conference in this matter to collect and mark exhibits and cross-examination exhibits, discuss time estimates for cross-examination, and address all other pending issues prior to the hearings scheduled to begin March 1, 2004. **The conference will be held in Room 206 of the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington, at 9:30 Tuesday, February 24, 2004.** Persons who cannot attend the workshop in person may participate via the Commission's teleconference bridge line **360-664-3846**. Persons desiring to participate via the bridge line must make advance reservations by calling Kippi Walker at 360-664-1139, no later than Monday, February 23, 2004.

- 16 **Service On Other Parties.** Pursuant to WAC 480-09-120(2)(b) parties must serve documents by delivering one copy to each other party via mail “properly addressed with first-class postage prepaid; commercial parcel delivery company properly tendered with fees prepaid, or by telefacsimile transmission, when originals are mailed simultaneously.” WAC 480-09-120(2)(d) provides that “any party may consent to receive service by electronic mail,” and provides that parties must file their consent with the Commission, in the form of a waiver of other types of service.” Such a waiver is only required if the party requests service solely via electronic mail.
- 17 Parties should serve documents on other parties via electronic mail, regardless of whether parties seek a waiver of other forms of service. The list of parties’ representatives and their e-mail addresses are listed in Appendices A1 and A2 to this order. Parties are encouraged to serve documents on other parties electronically as well as through the other methods identified in WAC 480-09-120(2)(d) if the other party has not sought a waiver of other forms of service.
- 18 **Filing requirements, document preparation, and process issues.** The requirements for filing documents with the Commission are set forth in WAC 480-09-120. Parties making paper-only filings with the Commission must file an original and 15 copies of each document filed with the Commission, and are encouraged to submit documents in electronic form, pursuant to WAC 480-09-120(1)(b)(ii). Parties filing documents electronically with the Commission must do so by submitting the document to records@wutc.wa.gov. To ensure that electronic filing is complete pursuant to WAC 480-09-120(a), parties must file an original, plus six copies, of the document with the Commission by the following business day. Appendix B states relevant Commission rules and other directions for the preparation and submission of evidence and for other process in this docket. Parties will be expected to comply with these provisions.

**DOCKET NO. UT-033025
ORDER NO. 02**

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**DOCKET NO. UT-033044
ORDER NO. 01**

Dated at Olympia, Washington, and effective this ____ day of October, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
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 statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.

APPENDIX A1

<u>PARTIES REPRESENTATIVES</u>				
DOCKET NO. UT-033025				Updated 10/15/03
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APPENDIX A2

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DOCKET NO. UT-033044

Updated 10/14/03

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Appendix B

I. Requirements for ALL paper copies of testimony, exhibits, and briefs

The following requirements are restated from and clarify the Commission's rules relating to adjudications.

- A. All paper copies of briefs, prefiled testimony, and original text in exhibits must be
- On 8-1/2x11 paper, punched for insertion in a 3-ring binder,
 - Punched with OVERSIZED HOLES to allow easy handling.
 - Double-spaced
 - 12-point or larger text and footnotes, Times New Roman or equivalent serif font.
 - Minimum one-inch margins from all edges.

Other exhibit materials need not be double-spaced or 12-point type, but must be printed or copied for optimum legibility.

- B. All electronic and paper copies must be

- SEQUENTIALLY NUMBERED (all pages). **THIS INCLUDES EXHIBITS.** It is not reasonable to expect other counsel or the bench to keep track of where we are among several hundred (or sometimes even just several) unnumbered pages.
- DATED ON THE FIRST PAGE OF EACH ITEM and on the label of every diskette. If the item is a revision of a document previously submitted, it must be clearly labeled

(REVISED), with the same title, and with the date it is filed clearly shown. Electronic files must be designated R for revision, when applicable, with an ordinal number showing the revision number.

II. Identifying exhibit numbers; Exhibits on cross examination.

A. **Identifying exhibits.** It is essential to mark documents so you, opposing counsel, and the Commission can find them. We ask you to comply with this clarification of prior practice, based on recent experience:

- **Use the witness's initials and add an ordinal number for each exhibit.** Identify testimony with a T and confidential exhibits with a C. Example: Witness Jane Quintessentia Public. Her original testimony would be JQP-1T or JQP-1TC, her first attached exhibit would be JQP-2, etc. NEVER identify the attachments merely with a single ordinal number, as that will provide the maximum confusion to everyone, including your witness.

B. Prepare a list of your exhibits with their title and (JQP) designation in digital form and in a format specified by the Commission. Send it to the presiding officer before the appropriate prehearing conference. That will simplify identification and ease administrative burdens.

NOTE: Be prepared to submit all of your possible exhibits on cross examination several days prior to the hearing. We will attempt to schedule a prehearing conference to deal with the exhibits as close as possible to the hearing itself, but we have administrative needs that require prefiling.