

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

AT&T CORP., AND AT&T	)	DOCKET NO. UT-041394
COMMUNICATIONS OF THE	)	
PACIFIC NORTHWEST, INC.,	)	ORDER NO. 01
	)	
Complainants	)	
	)	PREHEARING CONFERENCE
v.	)	ORDER; ORDER SETTING
	)	SCHEDULE
QWEST CORPORATION,	)	<b>(Set for hearing on motions, if</b>
	)	<b>any, to be held December 3, 2004)</b>
Respondent.	)	<b>(Set for oral argument to be held</b>
.....	)	<b>Tuesday, February 15, 2005)</b>
.	)	

- 1 **Proceeding:** Docket No. UT-041394 is a complaint by AT&T Corp. and AT&T Communications of the Pacific Northwest, Inc. (collectively hereafter referred to as "AT&T") against Qwest Corporation, alleging violations of law in transactions involving the lease of Qwest conduit space to AT&T.
  
- 2 **Conference:** The Commission convened a prehearing conference in this docket at Olympia, Washington on October 14, 2004, before Administrative Law Judge C. Robert Wallis.
  
- 3 **Appearances.** Complainants are represented by Gregory Kopta, attorney, Seattle, Washington, and Scott Thompson, attorney, Washington, D. C. Respondent Qwest is represented by Lisa Anderl and Adam Sherr, attorneys, Seattle, Washington. Commission Staff is represented by Sally Johnston, assistant attorney general, Olympia. Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

- 4 **Petitions for Intervention.** No party sought intervention in this matter.
- 5 **Protective order.** The parties asked the Commission to enter a protective order in this docket pursuant to RCW 34.05,446 and RCW 80.04.095, to protect the confidentiality of proprietary information. The request was granted, and a protective order will be entered.
- 6 **Discovery.** Parties desire to engage in discovery of information relevant to the proceeding. The proceeding qualifies under WAC 480-07-400 - 425 as a proceeding in which inquiries may be made to the extent provided in the rule. The discovery rule is invoked.
- 7 **Schedule.** The complainant and the respondent agreed on a proposed schedule, which was acceptable to Commission Staff. It involves the possibility of motions to compel discovery, and anticipates resolution of the matter on a paper record with oral argument to the Commissioners or to the ALJ. The proposed schedule is adopted, subject to the qualifications indicated. No further notice will be served to the parties for any of the following dates.

<u>Deadline for/event</u>	<u>Date</u>
Last day to present discovery requests <sup>1</sup>	October 28, 2004
Discovery responses	November 11, 2004
Motions to compel (if any)	November 19, 2004
Answers to motions to compel <sup>2</sup>	December 1, 2004
Hearing on motions to compel	December 3, 2004

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<sup>1</sup> This is a deadline for first-round discovery. Subsequent discovery requests should be limited to follow-up inquiries based upon answers to first-round requests. Parties agreed to exchange data requests and answers electronically.

<sup>2</sup> Commission Staff may answer motions and participate in argument on any discovery disputes.

Submission of compelled responses	December 21, 2004
Follow-up and compelled responses	December 31, 2004
Submission of agreed facts or evidence relied on <sup>3</sup>	January 12, 2005
Cross motions for summary determination Or briefs supporting proposed result	January 24, 2005
Answers to cross-motions/briefs <sup>4</sup>	February 7, 2005
Oral argument	February 15, 2005

- 8 **Notice of Oral Argument. All parties please take notice** That the Commission will convene oral argument in Room 206 of the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington, **on Tuesday, February 15, 2005, at 9:30 a.m.**
- 9 **Status of the proposed process.** The parties agreed that the matter be heard without an evidentiary hearing to produce a factual record, but did not agree that they would present an agreed statement of facts. This poses a concern for the Commission, as summary determination anticipates that the parties either agree on underlying facts, or the motion is predicated on a position that no underlying facts will support the proposed result. Parties must identify any facts essential to the ruling they desire, and any such facts that are not agreed must be identified and supported through documentation. To the extent that it must determine relevant facts, the Commission will be hearing the matter on a written record and not making summary determination. That would not alter the desired process, except for the need to provide a record that supports a Commission decision.
- 10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus twelve (12) copies of all

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<sup>3</sup> This is not a requested date. Please see the explanation, below.

<sup>4</sup> Commission Staff may answer the motions whether or not it filed a motion.

pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

- 11 All filings must be mailed to the Commission Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or delivered by hand to the Commission Executive Secretary at the Commission's Records Center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 12 An electronic copy of all filings must be provided by e-mail delivery to <[records@wutc.wa.gov](mailto:records@wutc.wa.gov)>. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to organize and identify electronic files as specified in WAC 480-07-140(5).
- 13 **ELECTRONIC FILING.** Parties may only file documents electronically with the Commission in this proceeding with the permission of the administrative law judge. Under WAC 480-07-145(6), electronic filing of documents provides a one-day extension of the paper-filing requirement. If, at any time during this proceeding, parties are authorized to file documents with the Commission electronically under WAC 480-07-145(6), Parties must submit the

document to [records@wutc.wa.gov](mailto:records@wutc.wa.gov), and file an original, plus twelve (12) copies, of the document with the Commission by the following business day.

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**Alternate dispute resolution.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1142.

Dated at Olympia, Washington, and effective this 18th day of November, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS  
Administrative Law Judge

**NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

**APPENDIX A**

**PARTIES' REPRESENTATIVES  
DOCKET NO. UT-041394**

<b>PARTY</b>	<b>REPRESENTATIVE AND ADDRESS</b>	<b>PHONE NUMBER</b>	<b>FAX NUMBER</b>	<b>E-MAIL ADDRESS</b>
AT&T Communications of the Northwest	GREGORY J. KOPTA Davis Wright Tremaine, LLP 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688	206-622-3150	206-628-7699	gregkopta@dwt.com
	T. SCOTT THOMPSON Cole, Raywid & Braverman, LLP 1919 Pennsylvania Ave. NW Suite 200 Washington, DC 20006	202-659-9750	202-452-0067	
Qwest Corporation	LISA ANDERL Qwest Corporation 1600 – 7th Avenue, Room 3206 Seattle, WA 98191	206-345-1574	206-343-4040	Lisa.Anderl@qwest.com
Commission Staff	GREG TRAUTMAN Assistant Attorney General 1400 S. Evergreen Park Drive SW PO Box 40128 Olympia, WA 98504	360-664 1187	360-586-5522	<a href="mailto:gtrautma@wutc.wa.gov">gtrautma@wutc.wa.gov</a>

**APPENDIX B**  
**PROCEDURAL SCHEDULE**  
**DOCKET NO. UT-041394**

EVENT	DATE	INTERVAL
Last day to present discovery requests	October 28, 2004	
Discovery responses	November 11, 2004	
Motions to compel (if any)	November 19, 2004	
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