

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

In the Matter of the Petition for	)	
Arbitration of an Interconnection	)	DOCKET UT-083041
Agreement Between	)	
	)	ORDER 08
CHARTER FIBERLINK WA-CCVII,	)	
LLC,	)	ORDER GRANTING REQUEST
	)	TO MODIFY PROCEDURAL
	)	SCHEDULE
with	)	
	)	<b>(Petitions for Review now due,</b>
QWEST CORPORATION	)	<b>Wednesday, May 6, 2009)</b>
	)	<b>(Replies to Petitions for Review</b>
pursuant to 47 U.S.C. Section 252(b).	)	<b>now due, Monday, May 18, 2009.)</b>
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**MEMORANDUM**

- 1 **NATURE OF PROCEEDING.** On August 8, 2008, Charter Fiberlink WA-CCVII, LLC (Charter) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting arbitration with Qwest Corporation (Qwest). The petition was filed pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56 (1996).
- 2 **APPEARANCES.** Gregory J. Kopta, Davis Wright Tremaine LLP, Seattle, Washington, represents Charter. Lisa Anderl, attorney, Seattle, Washington, represents Qwest.
- 3 **PROCEDURAL HISTORY.** On August 15, 2008, the Commission issued Order 01, designating as Arbitrator Administrative Law Judge Marguerite E. Friedlander (Arbitrator) in this proceeding. On September 2, 2008, Qwest filed its Answer to Charter’s Petition for Arbitration.
- 4 On December 16-17, 2008, the Commission convened a hearing in this matter. Charter and Qwest filed their respective post-hearing opening briefs on January 29, 2009, and post-hearing reply briefs and a joint issues matrix on February 17, 2009.

5 On March 30, 2009, the Arbitrator issued Order 07, the Arbitrator's Report and Decision (Arbitrator's Report), resolving the 14 disputed issues. The Arbitrator's Report directed the parties to file any petitions for Commission review of the Arbitrator's Report by April 29, 2009, and any replies to the petitions for review by May 11, 2009. The Arbitrator's Report also instructed the parties to file a complete copy of the signed interconnection agreement, subject to any pending petitions for review, by May 11, 2009.

6 **REQUEST TO MODIFY PROCEDURAL SCHEDULE.** On April 27, 2009, the parties filed a request to extend the deadlines for the filing of petitions for review and replies to the petitions for review by one week. The parties also request that, instead of the May 11, 2009, deadline for filing a signed interconnection agreement, the parties be allowed to file a single compliance interconnection agreement within 30 days after the Commission's final order or order on reconsideration, if applicable.<sup>1</sup>

7 Under WAC 480-07-385(2), the Commission will grant a continuance if the requesting party demonstrates good cause for the continuance and the continuance will not prejudice any party or the Commission. The parties' request narrowly extends the deadline for filing petitions for review and replies to petitions for review by one week from the original schedule. Further, the parties' request does not alter or hinder the scheduled oral arguments in support of the petitions for review, which are set for June 16, 2009. Given that both parties are in agreement on the extension and the lack of impact on the rest of the schedule, the request should be granted.

8 With regard to the parties' request for the Commission to waive the requirement<sup>2</sup> that they file a complete, signed copy of their interconnection agreement and a request for approval of the interconnection agreement at the time that replies to the petitions for review are due, the parties have instead proposed to only file the completed interconnection agreement within 30 days after the Commission's final order, or order

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<sup>1</sup>The parties alerted the Arbitrator that a request to amend the procedural schedule would be forthcoming on April 24, 2009. At that time, the parties also verbally requested clarification of the reference in paragraph 138 to an exception contained in paragraph 129. The parties indicated that the reference appeared to refer instead to an exception contained in paragraph 137. The Arbitrator has examined the Report and confirms that the reference in paragraph 138 should refer instead to paragraph 137, not paragraph 129.

<sup>2</sup>WAC 480-07-640(2)(a)(iii).

on reconsideration, if applicable. The Commission understands the parties' desire to conserve energy and resources by filing a single, signed interconnection agreement after the case has been fully litigated on reconsideration. However, the Commission has found it most helpful in the past to at least have- the parties' proposed language available when considering the parties' arguments on review. As a result, the Commission grants the parties' request to waive the filing requirement in WAC 480-07-640(2)(a)(iii), under the condition that the parties instead file an updated joint issues matrix of all disputed issues at the time replies to the petition for review are due. The parties will still be required to file a complete and signed interconnection agreement within 30 days after the Commission's final order or order on reconsideration. Further, the parties are instructed to file an original and six (6) copies of any documents they wish to file with the Commission.

- 9 The Commission finds and concludes that it should grant the relief requested and amend the procedural schedule subject to the condition in paragraph 8 above.

**ORDER**

- 10 THE COMMISSION ORDERS that the joint request by Charter Fiberlink WA-CCVII, LLC and Qwest Corporation to extend the deadlines for filing petitions for review, replies to petitions for review, and a signed, complete interconnection agreement, is granted subject to the condition contained in paragraph 8 above.

Dated at Olympia, Washington, and effective April 28, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER  
Administrative Law Judge