

[Service Date June 19, 2002]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

TEL WEST COMMUNICATIONS, LLC,)	
)	DOCKET NO. UT-013097
)	
Petitioner,)	
)	EIGHTH SUPPLEMENTAL
vs.)	ORDER; SUSPENSION OF
)	PROCEEDINGS; NOTICE OF
QWEST CORPORATION,)	PREHEARING CONFERENCE
)	(July 9, 2002, at 9:30 a.m.)
Respondent.)	
)	
.....)	

INTERLOCUTORY REVIEW OF THE FIFTH SUPPLEMENTAL ORDER

Background

- 1 Qwest Corporation (“Qwest”), on March 22, 2002, filed a motion to suspend proceedings and narrow the issues to be adjudicated.¹ Qwest argued that proceedings are scheduled in consolidated Dockets UT-003022 and UT-003040 (the “SGAT/271 Proceeding”) contemporaneous with this case, pertaining to identical issues regarding Qwest’s provisioning performance and the efficacy and sufficiency of Qwest’s operation support systems (“OSS”). Tel West Communications, LLC (“Tel West”), argued in opposition to the motion.
- 2 The Fifth Supplemental Order served on April 11, 2002, denied Qwest Corporation’s (“Qwest”) motion to suspend proceedings. However, Qwest was allowed the opportunity to submit additional arguments and evidence regarding one disputed issue. The Sixth Supplemental Order served on April 18, 2002, tolled the time for the parties to file a petition for interlocutory review of all decisions until after an order was entered regarding the additional arguments filed by the parties.
- 3 On May 10, 2002, the Commission served to the parties Notice of Expedited Interlocutory Review and Opportunity to file petitions and answers. Qwest filed a petition for review and Tel West filed an answer on May 31 and June 5, 2002, respectively.

¹ Qwest later dropped its request that the issues be narrowed, but also stated that it may raise its request at a later date.

Discussion and Decision

- 4 Tel West's causes of action were bifurcated in order to manage this case as an expedited proceeding under WAC 480-09-530. Tel West's remaining claims are collectively referred to as Provisioning Parity. The Provisioning Parity part of this proceeding addresses three issues that arise under an interconnection agreement ("Current Agreement") requiring that "Qwest shall provide to [Tel West] Telecommunications Services for resale that are at least equal in quality and in substantially the same time and manner that Qwest provides these services to itself, its subsidiaries, its affiliates, other resellers, and Qwest's retail end users." Tel West's three Provisioning Parity claims are:
- Mediated access to Qwest's OSS via the IMA-GUI interface does not provide provisioning parity with Qwest's internal system, SONAR;
 - Qwest's external customer service center operations (Aegis) do not provide wholesale customer service in parity with Qwest's internal customer service centers; and
 - Qwest provisions local exchange service orders without the need of a service call (OP-4C) to itself in less time than it provisions Tel West's service orders.
- 5 Qwest contends that the ROC OSS Test, and by extension the April-June hearings in the 271 dockets, involve a thorough evaluation and comparison of the IMA OSS interfaces and Qwest's retail electronic access to Qwest's OSS. Qwest also contends that the ROC OSS Test includes in-depth consideration of Qwest's wholesale customer service operations.
- 6 Tel West contends that since it is not active in the 271 case, only Qwest is capable of understanding what, from Tel West's case, is or is not covered in the ROC test and the degree to which it is covered in the 271 case. Tel West argues that the burden is on Qwest, as the moving party, to convince the Commission that the issues are the same. According to Tel West, Qwest fails to show that the Section 271 proceeding will address and resolve Qwest's alleged violations of the Current Agreement. Tel West also argues that Qwest repeatedly fails to explain how general findings in the 271 proceeding will establish that the company has met its obligations under the Current Agreement.
- 7 Qwest disagrees with Tel West that the conclusions reached by the Commission in the 271 process should have no bearing on the resolution of the Parity Provisioning issues. However, Qwest states that it is simply asking the Commission to suspend the Part B procedural schedule until the Commission has issued a final order on the issues raised in the April-June hearings.
- 8 Tel West argues that the Section 271 docket is generally predicated on the experiences of all CLECs, and not on the specific facts of its case. According to Tel

West, Qwest could meet the thresholds necessary to obtain the Commission's recommendation that its Section 271 application be approved, yet still provide substandard service to Tel West under the Current Agreement. Tel West argues that the Current Agreement entitles Tel West to parity with Qwest's service to itself, and not to other CLECs.

- 9 Qwest argues that to evaluate its performance under the Current Agreement requires a very broad inquiry into whether Qwest is providing Tel West provisioning of services at parity with its retail service and is providing non-discriminatory access to its OSS, even though its duty is stated in only one simple sentence. According to Qwest, these issues are chief among the subjects that are being considered by the Commission in the 271 Proceeding.
- 10 Tel West contends that Qwest seeks to use the Section 271 proceeding to escape its duties under the Current Agreement. Qwest responds that it is not trying to escape any responsibilities but merely to continue the matter so that it might be more readily resolved, in light of expected resolution of overlapping issues in the 271 case. Qwest contends that its request promotes the interests of consistent application of the law and facts and of conserving the parties' and the Commission's resources.
- 11 Our interlocutory review of the Fifth Supplemental Order coincides with the near end of a long and intensive adjudication in the SGAT/271 Proceeding. The Commission has openly stated its intention to enter the last of its final orders on or before June 28, 2002. Thus, according to the scope of Qwest's request, any suspension of proceedings in this case would result in a relatively short delay.
- 12 Because there are issues that remain undecided in the SGAT/271 Proceeding, Qwest's ability to argue that the Commission's decisions in that proceeding are relevant to the resolution of disputed issues in this case are constrained. It is plausible, however, given the common themes between the two cases, that the Commission's decisions in the pending SGAT/271 order may be relevant to the unresolved issues in this case. In that event, Qwest's proposed delay would benefit both parties and the Commission.
- 13 We fail to find any significant prejudice to Tel West that would occur as the result of Qwest's requested suspension of proceedings. We note that Qwest has filed its response evidence, and this case remains subject to the expedited procedures of WAC 480-09-530.
- 14 Accordingly, we order that the current case schedule be suspended, and that a prehearing conference be subsequently convened to re-establish a schedule for the remaining proceedings.

Notice of Prehearing Conference

15 **NOTICE IS HEREBY GIVEN That a prehearing conference will be held at 9:30 a.m. on Tuesday, July 9, 2002, in Room 108, Commission Headquarters, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

16 The purpose of the conference is to re-establish a procedural schedule for remaining proceedings, and to address any other procedural matters that may require attention. Parties may attend via teleconference with prior permission from the presiding officer.

Dated at Olympia, Washington and effective this 19th day of June, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-09-760.