

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

In the Matter of the Petition of)	DOCKET UT-073034
)	
QWEST CORPORATION)	ORDER 01
)	
Petitioner,)	
)	PREHEARING CONFERENCE
For Commission Approval of Stipulation)	ORDER
Regarding Certain Performance Indicator)	
Definitions and Qwest Performance)	NOTICE OF SECOND
Assurance Plan Provisions.)	PREHEARING CONFERENCE
)	(STATUS CONFERENCE)
)	(Set for August 21, 2007,
)	at 9:30 a.m.)
.....)	

- 1 **NATURE OF PROCEEDING.** Docket UT-073034 involves a petition by Qwest Corporation and four (4) competitive local exchange carriers (CLECs)¹ seeking Commission approval of a stipulation modifying various Performance Indicator Definitions (PIDs) as well as the Qwest Performance Assurance Plan (QPAP), each of which is an exhibit to Qwest’s Statement of Generally Available Terms (SGAT).

- 2 The stipulating parties ask the Washington Utilities and Transportation Commission (Commission) to approve the stipulation within 60 days of Qwest’s filing of the petition on June 26, 2007, pursuant to Section 252(f) of the Telecommunications Act of 1996 (47 U.S.C. §252(f)(3)).² Qwest has filed the stipulation and is pursuing the same action before 13 other state commissions.

¹ Three of these CLECs (Eschelon Telecom, Inc., DIECA Communications, Inc., d/b/a Covad Communications Company, and McLeodUSA Telecommunications Services, Inc.) conduct business in Washington. The fourth CLEC (US Link, Inc.) does business only in North Dakota and Minnesota.

² A more detailed account of the issues is reflected in the Petition as well as the supporting Stipulation and associated documents, copies of which are available on the Commission’s web site at www.utc.wa.gov/073034.

3 **CONFERENCE.** The Washington Utilities and Transportation Commission
(Commission) convened a prehearing conference in this docket at Olympia,
Washington, on July 31, 2007, before Administrative Law Judges (ALJ) Ann E.
Rendahl and Adam E. Torem.

4 **APPEARANCES.** Lisa A. Anderl, Associate General Counsel, Seattle, Washington,
represents Qwest Corporation. Jonathan Thompson, Assistant Attorney General,
Olympia, Washington, represents the Commission's regulatory staff ("Commission
Staff" or "Staff").³ Neither the CLECs joining Qwest in the petition nor any other
CLECs doing business in Washington made any appearance at the conference.
Contact information provided at the conference for the parties' representatives,
including those of the CLECs joining Qwest in the petition, is attached as
Appendix A to this order.

5 **PETITIONS FOR INTERVENTION AT PREHEARING CONFERENCE.** No
petitions to intervene were filed at or prior to the prehearing conference.

6 **DEADLINE FOR ADDITIONAL PETITIONS FOR INTERVENTION.**
Commission Staff filed comments on the petition and questioned whether the Notice
of Prehearing Conference served on July 13, 2007, was sent to all potentially
interested Washington CLECs.⁴ Qwest indicated that in early 2006, it invited each
CLEC operating under an interconnection agreement with Qwest in its 14-state local
service region to participate in the negotiations that led to the subject stipulation.
Further, Qwest reported that it provided notice of its filings to all potentially
interested Washington CLECs in its 14-state region.⁵ However, Qwest noted that it
had not independently notified all potentially interested Washington CLECs of the
prehearing conference.

³ In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

⁴ The term "potentially interested Washington CLECs" means those CLECs doing business in Washington which are subject to a Qwest PAP.

⁵ See Petition, at page 2 (paragraphs 4 and 5) and page 5 (paragraph 13).

- 7 Fairness and the interests of a full and complete record require that the deadline for filing a Petition to Intervene be extended. In order to ensure appropriate notice of Commission action on Qwest's petition and the parties' stipulation, this prehearing conference order is being served to all potentially interested Washington CLECs.⁶
- 8 Unless additional petitions for intervention are received by **5:00 p.m. on Wednesday, August 15, 2007**, the case shall proceed with the stipulating parties and Commission staff as the only parties. Any party wishing to respond to newly filed petitions for intervention may do so by **3:00 p.m. on Monday, August 20, 2007**.
- 9 **PROTECTIVE ORDER.** A protective order will *not* be entered in this docket at this time. However, the parties reserved their right to ask that the Commission enter a protective order in this docket under RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 480-07-423 to protect the confidentiality of any information identified as proprietary information.
- 10 **DISCOVERY.** Qwest and Commission Staff agreed that formal discovery is not necessary at this time. If the need for discovery becomes apparent later, any party may request by motion that the Commission allow for discovery pursuant to the Commission's discovery rules, WAC 480-07-400 – 425.
- 11 Qwest is responding to informal data requests from Commission Staff and intends to complete its responses by **Friday, August 3, 2007**, but shall ensure complete responses are provided **no later than Tuesday, August 7, 2007**. Qwest shall continue to respond to any additional data requests from Commission Staff as quickly as possible.

⁶ Qwest provided the Commission with a mailing list of all potentially interested Washington CLECs. A copy of this list can be obtained from the Commission's Records Management System (RMS), accessible at www.utc.wa.gov/073034. As the Commission maintains lists of local exchange companies operating in Washington, telecommunications carriers registered in Washington, and carriers with interconnection agreements in Washington, the Commission compared its lists to Qwest's and mailed out a notice broadly to all carriers on Qwest's list using contacts for the carriers on the Commission's lists.

- 12 **STAFF FILING ON PETITION AND STIPULATION.** Commission Staff or other interested persons may file its objections to or substantive concerns with Qwest's petition and the parties' stipulation on or before **Thursday, August 16, 2007, at 5:00 p.m.** In addition, if Commission Staff or interested parties wishes to contend that the language contained in 47 U.S.C. §252(f)(3) requiring that the Commission act on Qwest's petition within 60 days of its filing is not applicable to this matter, they shall file a brief memorandum of points and authorities explaining the basis for this argument.
- 13 **WAIVER OF INITIAL ORDER.** In order to consider the stipulation within 60 days under 47 U.S.C. 252(f), the Commission must enter a final order. To allow the Commission to enter a final order in this matter, all parties must file with the Commission by Monday, August 20, 2007, at 3:00 p.m., letters indicating whether they waive their right to an initial order in this case pursuant to RCW 34.05.461.
- 14 **NOTICE OF PREHEARING CONFERENCE.** The Commission will hold a prehearing conference in this matter, to commence on **Tuesday, August 21, 2007, at 9:30 a.m., in Room 206 of the Commission's headquarters, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** This conference may be canceled if the record in this proceeding shows that no party objects to Qwest's petition and the parties' stipulation.
- 15 The purpose of the conference is to allow the assigned ALJ to rule on any pending petitions for intervention. Further, the parties will make presentations as to the applicability of the 60-day provision set out in 47 USC §252(f)(3), discuss any objections filed to the petition by interested CLECs or Commission Staff, as well as discuss the status of settlement negotiations and address whether any disputed issues remaining in the case would best be resolved through a brief adjudicative proceeding (BAP) under WAC 480-07-610 or a full hearing on the merits.
- 16 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus **five (5) paper copies** of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials 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.

- 17 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 18 An electronic copy of all filings must be provided either through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or by e-mail delivery to 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 or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 19 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Pursuant to WAC 480-07-145(6), the presiding officer grants a one-day extension of the paper-filing requirement, allowing electronic submission of documents with the Commission on the filing deadline. Parties must submit documents either through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or by e-mail to records@wutc.wa.gov, and file an original, plus **five (5) paper copies**, of the documents with the Commission by noon on the following business day. **Parties must provide courtesy copies of their electronic submissions to the presiding administrative law judge and the parties to the proceeding.**
- 20 **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) 664-1144.

21 **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.**

Dated at Olympia, Washington, and effective August 6, 2007.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

ANN E. RENDAHL
Administrative Law Judge

APPENDIX A				
PARTIES' REPRESENTATIVES				
DOCKET UT-073034				
PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
QWEST CORPORATION	LISA A. ANDERL Associate General Counsel 1600 7 th Avenue, Rm 3206 Seattle, WA 98191	206-345-1574	206-343-4040	lisa.anderl@qwest.com
ESCHELON TELECOM, INC.	GINNY ZELLER Associate General Counsel 730 Second Avenue S., Suite 900 Minneapolis, MN 55402	612-436-1888	612-436-6816	gazeller@eschelon.com
DIECA COMMUNICATIONS, INC. d/b/a COVAD COMMUNICATIONS COMPANY	GREGORY DIAMOND Senior Counsel 7901 Lowry Blvd. Denver, CO 80230	720-670-1069		gdiamond@covad.com
MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.	WILLIAM A. HAAS Vice President and Deputy General Counsel One Martha's Way Hiawatha, IA 52233	319-298-7295		Whaas@mcleodusa.com
COMMISSION STAFF	JONATHAN THOMPSON Asst. Attorney General 1400 S Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1189	360-586-5522	jthomps@utc.wa.gov
Administrative Law Judge	ANN E. RENDAHL 1300 S Evergreen Park Dr SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1144	360-664-2654 [ALD fax only – do not use to file]	arendahl@utc.wa.gov
Administrative Law Judge	ADAM E. TOREM 1300 S Evergreen Park Dr SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1138	360-664-2654 [ALD fax only – do not use to file]	atorem@utc.wa.gov

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-073034**

EVENT	DATE	INTERVAL
Qwest Filing of Petition	Tues, June 26, 2007	—
Prehearing Conference	Tues, July 31, 2007	35 Days
Deadline for Petitions to Intervene	Weds, August 15, 2007	15 Days
Deadline for Staff Filing (various)	Thurs, August 16, 2007	1 Day
Deadline to Respond to Petitions to Intervene (if any) <u>and/or</u> Deadline to Waive Initial Order	Mon, August 20, 2007	4 days
Prehearing Conference (Second)	Tues, August 21, 2007	1 Day
Hearing or Brief Adjudicative Proceeding	To be Determined	—
47 USC §252(f)(3) 60 Day Deadline for Commission to Act on Petition	Fri, August 24, 2007	3 days
Commission Action (Initial/Final)	To be Determined	—