

**DRAFT MODEL ORDER OF ARBITRATION PROCEDURE**  
(Appendix "A" to Draft Interpretive Policy Statement)

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition for Arbitration	)	DOCKET NO.
of an Interconnection Agreement Between	)	
	)	
[COMPANIES]	)	ORDER ON ARBITRATION
	)	PROCEDURE
Pursuant to 47 USC Section 252	)	
.....	)	

**NATURE OF PROCEEDING:** On [date], [company] filed with the Commission a request for arbitration pursuant to 47 USC § 252(b)(1) of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56 (1996)(the "1996 Act" or "the Act"). The petition was served on [parties names] and included the following materials: [list documents in filing]. This arbitration will be governed by the terms of this order, pursuant to the Commission's Interpretive and Policy Statement dated \_\_\_\_\_.

**STATUTORY DATES:** The petition reports the following statutory dates:

Request for Negotiation	[date]
Plus 135 Days	[date]
Plus 160 Days	[date]
Nine Month Deadline for Resolution	[date]

According to the reported dates, the petition is timely filed. Any party asserting that the dates are incorrect should do so within three business days of service of this order. If no objection is received these dates shall be adopted as the statutory deadlines for this arbitration.

**MODIFIED PROCEDURES:** Pursuant to WAC 480-09-010, the Commission adopts the following modified procedures for purposes of this proceeding. These procedures shall govern the course of the arbitration unless modified for cause by the arbitrator or the Commission.

**ARBITRATOR:** The Commission appoints [name] as the arbitrator for this proceeding. The arbitrator may select staff members to provide technical or other assistance. The arbitrator shall have all the reasonable and necessary authority to conduct the arbitration according to the terms of this order and to issue an Arbitration Report as set forth below.

**PARTIES:** The parties to the arbitration are [company names]. While non-parties may ask to participate, intervention by persons not a party to the negotiation will generally not be permitted, except upon a showing that such participation will serve a compelling public interest. Public Counsel Section of the Office of Attorney General may request participation in an arbitration pursuant to RCW 80.04.510. If the arbitrator permits any participation, limits may be imposed on the participants rights in the arbitration.

**RESPONSE BY NON-PETITIONING PARTIES:** The non-petitioning parties may respond to the petition and may file such additional information as they wish with the arbitrator 25 days after the petition filing date. At a minimum, the response shall include:

a. A brief or other written statement addressing the disputed issues. The brief should address, in addition to any other matters, how the parties' positions, and any conditions requested, meet or fail to meet the requirements of Sections 251 and 252 of the 1996 Act, any applicable FCC regulations, and any applicable regulation, order or policy of this Commission.

b. Where prices are in dispute, the responding party shall submit its proposed rates or charges, and all relevant cost studies and related supporting materials. If the responding party is not an incumbent carrier, the petitioner shall submit the foregoing material to the extent available.

c. Any conditions which the responding party requests be imposed.

d. A proposed schedule for implementation of the terms and conditions by the parties to the agreement.

e. The response may include a recommendation as to any information which should be requested from the parties by the arbitrator pursuant to Section 252(b)(4)(B). The recommendation should state why the information is necessary for the arbitrator to reach a decision on the unresolved issues.

f. At the party's option, a proposed interconnection agreement may be submitted.

g. Any other documents relevant to the dispute, including copies of all documents in their possession or control on which they rely in support of their positions or which they intend to introduce as exhibits at the hearing.

3. All responses and accompanying documentation shall be verified as provided by WAC 480-09-425, or submitted by affidavit.

**PROTECTIVE ORDER:** The petition in this matter requested a protective order pursuant to WAC 480-09-015, as permitted by the Interpretive Statement. The Commission will enter a protective order in this matter concurrently with this order.

**DISCOVERY:** Parties shall cooperate in good faith in the voluntary, prompt and informal exchange of all documents and other information relevant to the disputed issues, subject to claims of privilege or confidentiality. Parties shall exchange copies of all documents relevant to the dispute, including those on which they rely in support of their position or which they intend to introduce as exhibits. Failure to exchange information may be deemed a failure to negotiate in good faith under the Act. The arbitrator may decline to consider documents or information improperly withheld during discovery.

**DISCOVERY CONFERENCE:** A discovery conference shall be scheduled as a matter of course for a date ten days after the deadline for responses to the petition for arbitration. The purpose of the conference will be to review the need for any remaining discovery, including requests or additional requests for information by the arbitrator pursuant to 47 USC § 252(b)(4)(B). Any party-to-party discovery requests not responded to may be submitted to the arbitrator at the conference, with a request that the arbitrator order the discovery. The request should include an explanation of why the information is necessary to reach a decision on the unresolved issues. This provision shall not limit the right of the arbitrator or Commission to request information from the parties at any time pursuant to 47 USC § 252(b)(4)(B).

**COMMISSION REQUEST FOR INFORMATION:** Pursuant to 47 USC § 252(b)(4)(B), the arbitrator may require the petitioning and responding parties to provide information necessary to reach a decision on unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request, then the arbitrator may proceed on the basis of the best information to it from whatever source derived. The parties shall respond to such requests within seven days, unless another time is set by the arbitrator.

**NOTICE OF HEARING:** An arbitration hearing will be held in this matter on [date] at [time] in [location]. Parties may waive hearing and submit the issues to arbitration on the written record.

**HEARING PROCEDURE:** Hearing time shall not exceed two days, unless extended by the arbitrator. Parties may call eight witnesses each. The direct testimony of a witness shall be offered in written form if the witness will address matters not covered in the written filings. Cross-examination and rebuttal testimony will be oral. Documentary evidence may be introduced. Evidence is admissible if, in the judgment of the arbitrator, it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Evidence may be excluded on the ground that it was improperly withheld during discovery.

**ARBITRATOR'S REPORT:** The arbitrator is authorized to issue an Arbitrators' Report which shall constitute the resolution by the Commission of the issues submitted for arbitration, subject to final Commission review during the approval process. The Arbitrators Report shall comply with the requirements of 47 USC §252(c).

DATED at Olympia, Washington and effective this      day of      19 .

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SHARON L. NELSON, Chairman

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner