

**Qwest**

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August 13, 2004

*Via E-mail and  
Overnight Mail*

Ms. Carole J. Washburn, Executive Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive SW  
P.O. Box 47250  
Olympia, WA 98504-7250

Re: Docket No. UT-033011 - Unfiled Agreements  
Qwest's Request to Modify Hearing Date

Dear Ms. Washburn:

Earlier today, Qwest submitted a letter expressing its views on Staff's and Eschelon's August 12 request for an extension of the deadline to file response testimony from August 16 to August 30. Qwest explained that, while it does not object, in principle, to an extension of the testimony deadline, it has concerns, including the timing of reply testimony and the need to reschedule the hearing date. By a Notice issued earlier today, the Commission granted extensions of response testimony from August 16 to August 30 and reply testimony from October 4 to October 25. The purpose of this letter is to address the need to reschedule the hearing.

The five-day evidentiary hearing in this case remains, at present, scheduled to begin on Monday, November 1. That is one week following the new deadline for filing reply testimony. It is my understanding that the Commissioners have limited availability to preside over the hearing on this matter in the coming months. Going forward into mid-January 2005, I understand that there are only two possible alternatives to accommodate a five day hearing: (1) November 8, 9, 10 (half day), 22 and 23; or (2) the entire week of January 10, with a half day on January 12.

**As between those two alternatives, for several reasons Qwest greatly prefers and requests the second option, the week of January 10, 2005.**

First, given what is at stake in this case, Qwest will need to have adequate time to analyze Staff's and other parties' reply testimony and prepare for hearing. Under the original procedural schedule, five weeks were provided between the reply round and the hearing. Due

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to the previous one-week extension of response and reply testimony and now the joint request by Staff and Eschelon, that period will be severely truncated if the hearing date is not moved or is moved just one week to begin on November 8. Qwest will, in effect, lose the ability to conduct discovery on the reply testimony and will be severely prejudiced by this last-minute and unnecessary compression of the schedule.

Second, rescheduling the hearing date to begin on January 10 could facilitate settlement, in Qwest's view, as Qwest and Staff will have additional time to confer. If the parties have but one or two weeks following the filing of reply testimony to review what is sure to be extensive testimony, prepare for cross examination and gather and distribute cross examination exhibits, it is highly unlikely that any time will remain to permit negotiation. Far more time will be available for such negotiations should the January dates be used. Given that it is the explicit policy of this Commission to encourage settlement (WAC 480-07-700, et seq.), Qwest's request is appropriate.

Third, a split schedule will be much more impractical for all parties, but especially those traveling from other parties of the country. Most of Qwest's legal personnel (attorneys and paralegals) and witnesses in this case are located in Denver or on the East Coast. It would be far more burdensome to conduct the case in phases, especially when the second phase under the first alternative occurs the week of Thanksgiving.

Finally, Qwest is aware that at least one of its two witnesses is unavailable the week of November 22. Depending upon the nature and contents of the testimony filed in the response round by other parties, it is possible that additional Qwest witnesses will be needed. While this is simply speculation at this point, it seems safe to predict that work-related travel the week of Thanksgiving (November 22-26) will be highly problematic for most individuals.

Given all of the above, and given the last-minute nature of the Staff/Eschelon request to alter the procedural schedule, Qwest requests that the hearing dates in this proceeding be rescheduled from November 1-5 to January 10-14.

Sincerely,

Adam L. Sherr

ALS/llw

cc: Service List (*via e-mail and U.S. Mail*)  
ALJ Rendahl  
Sally Johnston