

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

In the Matter of the Petition of)	DOCKET UT-083056
)	
WASHINGTON INDEPENDENT)	ORDER 01
TELEPHONE ASSOCIATION and)	
LEWIS RIVER TELEPHONE)	
COMPANY, d/b/a TDS TELECOM)	PREHEARING CONFERENCE
)	ORDER
For a Declaratory Ruling)	
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket UT-083056 involves a petition by the Washington Independent Telephone Association (WITA) and Lewis River Telephone Company, d/b/a TDS Telecom (TDS) for a declaratory ruling to determine whether TDS is required to negotiate terms of interconnection with Comcast Phone of Washington, LLC (Comcast) for provision of fixed voice over Internet protocol (VoIP) service or, in the alternative, whether Comcast is acting as a telecommunications carrier offering telecommunications services.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on Monday, December 1, 2008, before Administrative Law Judge Ann E. Rendahl.

3 **APPEARANCES.** Richard Finnigan, Attorney, Olympia, Washington, represents WITA and TDS. Gregory J. Kopta, Davis Wright Tremaine LLP, Seattle, Washington, and Michael C. Sloan, Davis Wright Tremaine LLP, Washington, D.C., represents Comcast. Gregory M. Romano, General Counsel – Northwest Region, Everett, Washington, represents Verizon Northwest Inc., MCI Communications Services Inc. d/b/a Verizon Business Services and Bell Atlantic Communications Inc. d/b/a Verizon Long Distance (collectively “Verizon”). Arthur A. Butler, Ater Wynne LLP, Seattle, Washington, represents the Washington Electronic Business and Telecommunications Coalition (WeBTEC). David L. Rice, Miller Nash LLP, Seattle, Washington, represents the Broadband Communications Association of Washington (BCAW). Jonathan Thompson, Assistant Attorney General, Olympia, Washington,

represents the Commission Staff.¹ Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

4 **PETITIONS FOR INTERVENTION.** Verizon, WeBTEC, and BCAW petitioned in writing to intervene in the docket. No party objected to any of the petitions for intervention, which were granted.

5 **PROCEDURAL SCHEDULE.** In its answer to WITA and TDS' petition for declaratory ruling, Comcast asserted that it is a necessary party under RCW 34.05.240(7), and notified the Commission in its written answer that it objects to deciding the issues in a declaratory order proceeding. During the conference, the presiding administrative law judge acknowledged Comcast's assertion and provided an opportunity for any other interested persons to file comments by Friday, December 12, 2008, on the threshold issues in RCW 34.05.240(7) of whether there are any necessary parties to the proceeding, whether they object in writing to deciding the issues in a declaratory order proceeding and whether entering a declaratory order would substantially prejudice the rights of a necessary party. The presiding officer also provided an opportunity for WITA and TDS to file written responses to Comcast's answer or other comments by Monday, December 29, 2008.

6 In a notice issued on December 1, 2008, the Commission provided an opportunity for the parties and interested persons to file comments and responses as discussed above. In compliance with RCW 34.05.240(5)(c), the Commission notified the parties and interested persons that it will enter a decision on the petition for declaratory ruling by Friday, January 9, 2009. The Commission adopts this procedural schedule, which is also attached to this Order as Appendix B.

7 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus **four (4)** 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

¹ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties 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 regulatory staff. RCW 34.05.455.

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.

8 All filings must be mailed or delivered to the Executive Director and 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.

9 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.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.

10 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus **four (4)** paper copies, of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. *WAC 480-07-145(6)*. Parties may submit documents electronically through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov. Finally, to perfect filing, parties must simultaneously provide e-mail courtesy copies of filings to the presiding administrative law judge and advisory staff identified on Appendix A to this Order as well as to the parties to the proceeding.

11 **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.

12 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective December 4, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET UT-083056**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
WITA & TDS	Richard Finnigan 2112 Black Lake Blvd SW Olympia, WA 98512	360-956-7001	360-753-6862	rickfinn@localaccess.com
	Joel Dohmeier TDS Telecommunications Corporation Director – State Government Affairs 525 Junction Road Madison, WI 53717	608-664-4168	608-830-5570	joel.dohmeier@tdstelecom.com
Comcast	Gregory J. Kopta Davis Wright Tremaine LLP 1201 Third Ave. – Ste 2200 Seattle, WA 98101-3045	206-757-8079	206-757-7079	gregkopta@dwt.com
	Michael C. Sloane Davis Wright Tremaine LLP 1919 Pennsylvania Ave. Suite 200 Washington, D.C. 20006	202-973-4227	202-973-4499	michaelsloan@dwt.com
Verizon	Gregory M. Romano General Counsel – Northwest Region Verizon 1800 41 st Street; WA0105GC Everett, WA 98201	425-261-5460	425-261-5262	Gregory.m.romano@verizon.com
WeBTEC	Arthur A. Butler Ater Wynne LLP 601 Union Street, Suite 1501 Seattle, WA 98101-3981	206-623-4711	206467-8406	aab@aterwynne.com

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
BCAW	David L. Rice Miller Nash LLP 601 Union Street, Suite 4400 Seattle, WA 98101 Carol Munnerlyn	206-777-7424	206-622-7485	David.rice@millernash.com Carol.munnerlyn@millernash.com
Presiding Admin. Law Judge	Ann E. Rendahl 1300 S. Evergreen Pk. 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
Policy Advisor	Brian Thomas 1300 S. Evergreen Pk. Dr. SW P.O. Box 47250 Olympia, WA 98504-7250			bthomas@utc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-083056

EVENT	DATE	INTERVAL
Comments on Threshold Issues under RCW 34.05.240(7)	Friday, December 12, 2008	—
Response by WITA and TDS	Monday, December 29, 2008	17 Days
Order on Petition for Declaratory Ruling	By Friday, January 9, 2009	11 Days