

September 3, 2004

**NOTICE OF PREHEARING CONFERENCE
TO RESOLVE DISCOVERY DISPUTE
(Scheduled for September 8, 2004, at 1:30 p.m.)**

RE: *Washington Exchange Carriers Association v. WebTel Wireless, Inc.*,
Docket No. UT-041239

TO ALL PARTIES:

On August 26, 2004, the Commission issued a Notice in this proceeding that states, in relevant part:

Deposition of one or more persons designated by WebTel as having knowledge of the facilities and operations by which WebTel provides service to customers in Washington is appropriate considering that company personnel or contractors should be uniquely possessed of the knowledge necessary to inform our record in this proceeding. The parties should consult among themselves to establish a mutually convenient time and place to conduct the deposition of such person or persons as are designated by WebTel as possessing knowledge of the company's facilities and operations. If the parties cannot agree, the Presiding Officer, upon being informed of the failure to agree, will set the time and place for such deposition(s).

On August 3, 2004, WECA filed a letter stating that counsel for WECA and WebTel had been unable to agree on a deposition date and urging the Commission to establish September 13, 2004, as the date for the taking of the subject deposition(s). The undersigned Presiding Officer communicated informally with the parties via e-mail, as follows:

I have received Mr. Finnigan's correspondence, dated today, concerning WebTel's settlement overture, its apparent initial failure, and the need to schedule one or more depositions. Mr. Finnigan's letter represents that the parties have not been able to agree to a date for this discovery process to be conducted.

I have very definite preferences when it comes to this sort of thing. I have high expectations for cooperative behavior by all parties.

My first preference is that the parties work discovery issues out among themselves (*i.e.*, including Staff in the case of a deposition) without consulting me at all.

Since I have been consulted, I am exercising my second preference which is to communicate informally with the parties with the strong suggestion that they get in touch via telephone today and work out a mutually acceptable date, time, location. Again, please coordinate deposition scheduling with Staff, so Staff can participate if it elects to attend.

If I learn after today that my suggestion has failed, I will schedule a formal telephone conference on shortened notice and set the schedule for you.

Considering WebTel's informal response to the Presiding Officer via e-mail today stating its position that "depositions are not needed and should not be scheduled," in part because of certain decisions by WebTel to take unilateral actions at some indefinite time "next week" and thereafter that it presumes will resolve this proceeding, it is apparent that formal process will be required and that there is no reason to delay notice of a prehearing conference to resolve this discovery dispute. The Commission will hear this discovery dispute on shortened notice, as provided under WAC 480-07-425(1) and by our prior Notice concerning this matter.

THE COMMISSION GIVES NOTICE That a prehearing conference in this matter will be held at 1:30 p.m. on Wednesday, September 8, 2004, in Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The purpose of the prehearing conference is to resolve a

discovery dispute concerning the scheduling of one or more depositions, consistent with the provisions of WAC 480-07-425.

THE COMMISSION GIVES FURTHER NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default in accordance with RCW 34.05.440. The parties are further advised that the sanction provisions of WAC 480-07-450 are specifically invoked.

DATED at Olympia, Washington, and effective this ___ day of September, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge