

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

PACIFIC BELL WIRELESS	)	
NORTHWEST, LLC (a/k/a	)	DOCKET UT-063048
CINGULAR WIRELESS),	)	
	)	
Complainant,	)	ORDER 05
	)	
v.	)	
	)	INITIAL ORDER APPROVING
QWEST CORPORATION,	)	SETTLEMENT AGREEMENT AND
	)	DISMISSING COMPLAINT, WITH
Respondent.	)	PREJUDICE
	)	
.....	)	

*Synopsis: This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. If this Initial Order becomes final, the Settlement Agreement will be approved as being in the public interest and the joint request to dismiss, with prejudice, the complaint of Cingular against Qwest will be granted.*

**SUMMARY**

1 **Nature of Proceeding:** On June 16, 2006, Pacific Bell Wireless Northwest, LLC, more commonly known as Cingular Wireless (Cingular) filed a formal complaint against Qwest Corporation (Qwest). Cingular alleges that Qwest improperly billed Cingular from August 2003 through October 2005 for Signaling System 7 (SS7) signaling on all local calls exchanged between the companies in violation of the parties’ interconnection agreement. Qwest disputes the allegations and asserts that much of the service involves interstate circuits outside the Washington Utilities and Transportation Commission’s (Commission) jurisdiction. Qwest further alleges that the service involves services provided under tariff, not according to the terms of an interconnection agreement.

2 **Party Representatives:** Greg Kopta, Davis Wright Tremaine LLP, Seattle, Washington, represents the complainant, Cingular. Lisa Anderl, Qwest Corporation, Seattle, Washington, represents the respondent, Qwest.

3 **Procedural History:** The Commission convened a prehearing conference in this docket at Olympia, Washington, on August 14, 2006, before Administrative Law Judge Dennis J. Moss. The case was later reassigned to Administrative Law Judge Patricia Clark. In Order 01 Prehearing Conference Order, the Commission established a procedural schedule.

4 On September 28, 2006, the parties filed a joint request to suspend the procedural schedule to enable the parties to devote their efforts to settlement discussions. The parties requested authority to file either a settlement agreement or a notice of the status of settlement negotiations by November 1, 2006.

5 On September 29, 2006, the Commission granted the request for continuance and suspended the procedural schedule.<sup>1</sup>

6 On November 1, 2006, the parties filed a notice of the status of settlement negotiations. The parties asserted that they had reached an agreement in principle but had not had a sufficient opportunity to memorialize that agreement in writing. The parties requested a continuance until November 17, 2006, to file the settlement agreement and requested continued suspension of the procedural schedule.

7 On November 2, 2006, the Commission granted the joint motion for continuance and continued suspension of the procedural schedule.<sup>2</sup> The Commission established November 17, 2006, as the deadline for the parties to submit either a settlement agreement or a report on the status of negotiations.

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<sup>1</sup> See Order 02.

<sup>2</sup> See Order 04.

8 On November 16, 2006, the parties filed a joint motion to approve a confidential Settlement Agreement and dismiss the complaint with prejudice.<sup>3</sup> The parties also filed Narrative Supporting Settlement Agreement.

### INITIAL ORDER

9 **Background:** The principal issue in the complaint filed by Cingular against Qwest is whether Qwest improperly billed Cingular from August 2003 through October 2005 for SS7 signaling on all local calls exchanged between the companies in violation of the parties' interconnection agreement. SS7 signaling enables telecommunications switches to properly route calls. Both companies use SS7 signaling to route all telecommunications traffic on their respective networks, including calls originated to, and received from, each other. Cingular asserted that the terms and conditions of the interconnection agreement entered into between the companies govern the charges that Qwest may bill Cingular for the exchange of local traffic.

10 In its answer to the complaint, Qwest denied that the interconnection agreement in question governed the services in the complaint. In addition, Qwest asserted that the majority of the SS7 links at issue in this proceeding were ordered as interstate circuits under Qwest's Federal Communications Commission (FCC) Tariff No. 1. Therefore, Qwest asserted that the Commission lacks jurisdiction and that the dispute must be presented to the FCC for resolution.

11 On September 28, 2006, the parties advised the Commission that they were engaged in settlement negotiations. On November 1, 2006, the parties advised the Commission that they were able to reach agreement regarding the issues presented in the complaint. The parties filed their Settlement Agreement and Memorandum Supporting Settlement Agreement on November 16, 2006, and re-filed revised versions of those documents on December 5, 2006.<sup>4</sup>

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<sup>3</sup> Following an off-the-record conversation between the parties and the presiding officer, the parties re-filed their Settlement Agreement on December 5, 2006, redacting lesser portions of the Settlement Agreement. Under the revised Settlement Agreement, two sentences are redacted from the public version of the document. It is unclear whether RCW 80.04.095 is applicable to the portions of the Settlement Agreement which the parties designate as confidential. The parties also revised and re-filed the Narrative Supporting Settlement Agreement describing how the settlement agreement is in the public interest.

<sup>4</sup> *Id.*

12 **Discussion:** In the Narrative Supporting Settlement Agreement (Revised) the parties state that the dispute concerns the nature and compensation for SS7 signaling that Qwest provides to Cingular in connection with the exchange of local telecommunications traffic. The parties were able to resolve this issue to their mutual satisfaction. The Narrative Supporting Settlement Agreement (Revised) provides, in pertinent part, as follows:

3. Cingular and Qwest agreed to settle and compromise the disputes by entering into a confidential Settlement Agreement. The Settlement Agreement resolves the past compensation issues, as well as the Parties' disagreement with respect to the terms and conditions governing Qwest's provision of SS7 signaling in connection with the exchange of local traffic on a going forward basis. The Parties have agreed on a level of compensation for Qwest's provisioning of SS7 for the period referenced in the complaint. The Parties have also reached an understanding with respect to how local traffic associated with Qwest's provisioning of SS7 signaling to Cingular will be identified and the applicable amount of compensation applied.

4. . . . The Parties assert that the Agreement is in the public interest because the complaint raises intercarrier issues that are specific to the Parties and do not directly impact consumers, and early resolution of the Parties' dispute conserves limited Party and Commission resources that would otherwise be devoted to litigating Cingular's claims.

13 We agree with the parties that it is in the public interest to approve and adopt the Settlement Agreement. Given the fact that the parties were willing to engage in settlement negotiations before significant time and pecuniary resources were expended in the preparation of prefiled testimony and exhibits and administrative review, both company and Commission resources were conserved. Moreover, the issues in this proceeding appear to be limited to the resolution of intercarrier disputes that do not directly impact consumers. Finally, resolution of these issues in an amicable manner is likely to promote a positive business relationship between the parties and foster a willingness to negotiate future disputes. All of these factors favor the conclusion that it is in the public interest to approve the Settlement Agreement.

14 The Commission concludes that the Settlement Agreement should be approved and adopted as a full resolution of the issues pending in this proceeding.

**ORDER**

THE COMMISSION ORDERS that the Settlement Agreement filed by the parties to this proceeding on November 16, 2006, as revised on December 5, 2006, is approved. The Commission adopts the Settlement Agreement as a full resolution of the issues in this proceeding.

DATED at Olympia, Washington, and effective December 12, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK  
Administrative Law Judge

**NOTICE TO THE PARTIES**

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition To Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and

sufficient cause. No Answer to a Petition To Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and eight copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250