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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

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COMMISSION

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In the Matter of the Petition )

4 for Arbitration and Approval )

of an Interconnection )

5 Agreement Between ) DOCKET NO. UT-093035

) Volume IV

6 NORTH COUNTY COMMUNICATIONS ) Pages 23 - 31

CORPORATION OF WASHINGTON )

7 and )

QWEST CORPORATION )

8 )

Pursuant to 47 U.S.C. )

9 Section 252(b) )

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A status conference in the above matter

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was held on February 8, 2010, at 11:05 a.m., at 1300

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South Evergreen Park Drive Southwest, Olympia,

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Washington, before Administrative Law Judge ANN

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RENDAHL.

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17 The parties were present as follows:

18 QWEST CORPORATION, by LISA A. ANDERL (via

bridge line), Associate General Counsel, 1600 Seventh

19 Avenue, Room 1506, Seattle, Washington 98191;

telephone (206) 345-1574.

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NORTH COUNTY COMMUNICATIONS CORPORATION OF

21 WASHINGTON, by CHRIS REICHMAN, (via bridge line),

Attorney at Law, Dicks and Workman, 2720 Symphony

22 Towers, 750 B Street, San Diego, California 92101;

telephone, (619) 685-6800.

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24 Kathryn T. Wilson, CCR

25 Court Reporter

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1 P R O C E E D I N G S

2 JUDGE RENDAHL: Good morning. We are here

3 for a status conference before the Washington Utilities

4 and Transportation Commission. Today is Monday,

5 February the 8th, 2010, and we are here in the

6 Commission's hearing room in Room 108 in Olympia,

7 Washington.

8 The matter is, In the matter of the petition

9 for arbitration and approval of an interconnection

10 agreement between North County Communications

11 Corporation of Washington and Qwest Corporation,

12 pursuant to 47 U.S.C., Section 252(b). Before we go

13 any farther, let's see who is making an appearance this

14 morning, starting with Qwest.

15 MS. ANDERL: Thank you, Your Honor. This is

16 Lisa Anderl, in-house attorney representing Qwest

17 appearing by conference call.

18 MR. REICHMAN: Your Honor, this is Chris

19 Reichman appearing for North County Communications

20 Corporation on the conference.

21 JUDGE RENDAHL: This was scheduled as a

22 status conference. The parties asked, we had scheduled

23 previously a deadline of December 15th when the parties

24 were going to resolve this matter, and that date has

25 now come and gone, and then the parties requested a

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1 stay for 30 days, and we scheduled a status conference

2 for this day because the 30-day period is up now, so

3 where are the parties in this matter?

4 MR. REICHMAN: At this point, NCC is willing

5 to continue trying to negotiate this agreement, but we

6 are not sure that Qwest wishes to continue the informal

7 negotiations.

8 MS. ANDERL: Our understanding, Your Honor,

9 is that Qwest has made a proposal to NCC and is

10 awaiting a response, and that is on the RUF, which is

11 the Relative-Use Factor, which is our understanding is

12 the only remaining open issue.

13 JUDGE RENDAHL: So the Relative-Use Factor in

14 your understanding, Ms. Anderl, is the last issue?

15 MS. ANDERL: That's what the e-mail traffic

16 has seemed to indicate.

17 JUDGE RENDAHL: Mr. Reichman?

18 MR. REICHMAN: I'm not prepared to say that

19 that's the last remaining issue because that issue

20 seems to have been brought up at the end as a bit of a

21 surprise to NCC. It does seem we are very close to

22 agreement.

23 My understanding is that there seems to be a

24 bit of miscommunication, because my understanding is

25 Qwest had not made an offer but made something of an

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1 ultimatum and said that that was the only offer they

2 were going to put on the table was the RUF. I wasn't

3 aware Qwest was awaiting response on that. If that's

4 the case, we are, of course, willing to continue that

5 negotiation.

6 MS. ANDERL: And I guess I have to take a

7 little bit of issue with it being a surprise to NCC.

8 The RUF language that Qwest has proposed has not

9 changed since Qwest filed its arbitration petition, and

10 so it is brought up at the last minute, it was brought

11 up at the last minute because North County discovered

12 that they thought they had an issue with it, and that's

13 fine. We are still in the negotiation process, but

14 that's my understanding of where we are.

15 We sent an e-mail to North County on

16 Thursday, and asked them, as well as copying Joe Dicks,

17 asked them where they were on the issue, and I'll just

18 tell you what it said. It's from Jeff Nodland, who is

19 our attorney in Denver on interconnection issues, to

20 Todd Lesser --

21 JUDGE RENDAHL: Ms. Anderl, I'm not sure it's

22 necessary to go into this detail on this call.

23 Obviously, there is an issue remaining and maybe

24 others. I guess I'm a bit frustrated in how long this

25 has dragged out. I don't want to spend the

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1 Commission's resources in scheduling a hearing to

2 resolve something that may be resolved on its own.

3 However, we've had status conferences now since October

4 of last year, and if we drag it on another month, we

5 will be in six months of dragging this out.

6 I would impress upon the parties that we

7 either go to hearing or not. At this point, Qwest

8 still has its petition for arbitration pending, which

9 brings it within the purview of having a judge, an

10 arbitrator involved, but the status really is is that

11 the parties are in negotiation.

12 So I guess I would ask what's realistic? Do

13 I need to schedule a status conference in two weeks to

14 put some pressure on to get the parties to expedite

15 their discussions?

16 MR. REICHMAN: Your Honor, I wouldn't see a

17 problem if that's the way that the Utilities Commission

18 wants to go. I think there is just a miscommunication

19 about whether we had reached the point of impasse or

20 not back in the talks before the holiday break. I

21 guess it seemed to NCC we had reached impasse where

22 Qwest wasn't viewing it that way. So it seems to me

23 like there is a good potential to resolve this through

24 nonformal negotiation, but there has been a -- this

25 last delay was created because of our perception that

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1 an impasse had been reached.

2 JUDGE RENDAHL: But the request to me was a

3 status conference to defer it for a month to allow the

4 parties to continue negotiating. It was not an

5 indication to me that there was an ultimatum that not

6 one party was not communicating to the other. If

7 that's the case, I need to know that earlier rather

8 than later. So it appears to me that there is a

9 failure of the two parties to effectively communicate

10 or negotiate with one another.

11 So what I'm going to do, because I don't

12 think it's a good use of either the Commission's or the

13 parties' resources to schedule this for hearing, but I

14 think there is a little bit more pressure that needs to

15 bear to get this thing resolved.

16 MS. ANDERL: Your Honor, if I may comment;

17 may I?

18 JUDGE RENDAHL: Yes, you may.

19 MS. ANDERL: It does seem to me that the

20 parties are kind of missing each other in terms of the

21 communication, but if it's really NCC's belief that we

22 are at an impasse, then I think NCC should file an

23 answer to Qwest's arbitration petition and we should go

24 down that road.

25 JUDGE RENDAHL: How do I make sure that the

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1 two parties communicate with one another what their

2 concerns are?

3 MR. REICHMAN: Your Honor, I think that

4 perhaps allowing two weeks to try to resolve this

5 matter informally is probably more than enough time

6 needed, if the parties are able to talk this out.

7 JUDGE RENDAHL: Ms. Anderl?

8 MS. ANDERL: Your Honor, I just don't think

9 that there has been the type of responsiveness from NCC

10 that leads me to believe that anything different is

11 going to happen during this two-week period than has

12 happened since November, and we are dealing with

13 different people from NCC. Mr. Reichman is involved

14 now. Mr. Dicks had been involved previously.

15 Mr. Lesser sometimes is involved and sometimes is not.

16 If NCC can tell me something that makes me

17 believe that this is going to be a different two weeks

18 than the last eight, then I would be willing to agree

19 to that.

20 MR. REICHMAN: If I may respond, Your Honor.

21 JUDGE RENDAHL: Go ahead.

22 MR. REICHMAN: The reason we thought that an

23 impasse had been reached is that in conversations, not

24 in November but in December dealing with the RUF, I

25 believe it was December 12th or 13th -- I'm not sure

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1 about that, but it was just before everybody left for

2 Christmas vacation or holiday vacation, Mr. Nodman had

3 indicated that the matter from his perspective, the

4 matter needed to be wrapped up then on a very short

5 fuse before everybody left for the holidays.

6 From that point on, we were left in a

7 quandary not understanding whether Qwest had finished

8 with negotiating or not --

9 JUDGE RENDAHL: Mr. Reichman, then I think

10 it's incumbent on your client to communicate with

11 Qwest. It's quite frustrating for me to sit here and

12 listen to the fact that since December, you've been

13 waiting for Qwest to get back to you and have some

14 questions.

15 So I'm not going to schedule a hearing for

16 two weeks, but I would like a written status report

17 from both parties as to the status of where we are by

18 five p.m. close of business on February the 19th, which

19 is a Friday, and if there is no movement, we will

20 schedule a prehearing conference to schedule how this

21 case is going to proceed.

22 MR. REICHMAN: Thank you, Your Honor.

23 MS. ANDERL: Thank you, Your Honor.

24 JUDGE RENDAHL: So with that, I'm simply

25 going to send a notice out reflecting that this status

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1 conference was held, and I don't think there is any

2 need for an order based on the status conference, and a

3 notice will go out requiring the written status reports

4 by Friday the 19th. Is that acceptable?

5 MS. ANDERL: Yes, Your Honor.

6 MR. REICHMAN: Yes, Your Honor.

7 JUDGE RENDAHL: Is there anything further I

8 need to know this morning?

9 MS. ANDERL: I don't think so.

10 MR. REICHMAN: I don't think so, Your Honor.

11 JUDGE RENDAHL: I would encourage both

12 parties to communicate effectively with each other as

13 to what the issues are that are remaining and try to

14 identify how to resolve those issues, and I'm going to

15 add on the 19th status report what the issues are that

16 continue to be in dispute so that you all have

17 effectively communicated with each other what those

18 issues are. With that, I think we don't have anything

19 further this morning.

20 MS. ANDERL: Thank you, Your Honor.

21 MR. REICHMAN: Thank you Your Honor.

22 JUDGE RENDAHL: This status conference is

23 adjourned. Thank you very much.

24 (Status conference adjourned at 11:17 a.m.)

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