

0001

1

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2

COMMISSION

3

In the Matter of the Petition)
 for Arbitration and Approval)
 of an Interconnection)
 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))

10

11

A status conference in the above matter
 12 was held on February 8, 2010, at 11:05 a.m., at 1300
 13 South Evergreen Park Drive Southwest, Olympia,
 14 Washington, before Administrative Law Judge ANN
 15 RENDAHL.

16

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.

20

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.

23

24

Kathryn T. Wilson, CCR

25

Court Reporter

0002

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

0003

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

0004

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

0005

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

0006

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

0007

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

0008

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

0009

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.)

25