

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

In the Matter of the Petition for	)	DOCKET UT-063061
Arbitration of an Interconnection	)	
Agreement between	)	ORDER 11
	)	
QWEST CORPORATION,	)	ORDER SUPPLEMENTING
	)	PROCEDURAL SCHEDULE AND
and	)	DENYING MOTION FOR
	)	EXTENSION OF PAGE
ESCHELON TELECOM, INC.	)	LIMITATIONS
	)	
	)	
Pursuant to 47 U.S.C. Section 252(b).	)	<b>NOTICE OF HEARING</b>
	)	<b>(Scheduled for July 18, 2007, 9:30</b>
	)	<b>a.m.)</b>
	)	
.....	)	

**MEMORANDUM**

- 1 **NATURE OF PROCEEDING:** Docket UT-063061 involves Qwest Corporation’s (Qwest) request for arbitration of an interconnection agreement with Eschelon Telecom, Inc., (Eschelon) pursuant to 47 U.S.C. §252(b) of the Telecommunications Act of 1996.
  
- 2 **PROCEDURAL BACKGROUND:** During the prehearing conference conducted on May 3, 2007, the parties jointly requested the opportunity to present supplemental testimony on the issue of wire centers and proposed deadlines for the submission of that testimony. The parties asserted that a supplemental hearing was unnecessary. The Administrative Law Judge granted the request for supplemental testimony, but determined that a hearing should be scheduled in the event inquiry regarding that testimony should arise. The parties were to confer regarding a potential hearing date and modified procedural schedule for the remainder of the deadlines in this matter and present the proposed procedural schedule at the hearing scheduled to convene on May 8, 2007. On May 8, 2007, the parties presented a proposed procedural schedule.

3 On May 21, 2007, Eschelon filed a motion for extension of page limitations. Eschelon requested that the page limitation for post-hearing briefs be extended from 60 pages to 150 pages given the length and complexity of the record and issues in this proceeding. Eschelon did not oppose Qwest being granted a similar extension. On May 22, 2007, Qwest filed its opposition to the motion asserting that there is ample testimony addressing the issues and that briefs should be necessary only to the extent testimony at the hearing addressed those issues.

4 **COMMISSION DECISION:** The revised procedural schedule proposed by the parties is reasonable and should be adopted. The revised procedural schedule is attached to this Order as Appendix A. The parties proposed one set of dates in the event a supplemental hearing is necessary and a second set of dates in the event a hearing is not required. The revised procedural schedule is based on the parties' assertion that a hearing will be unnecessary. If, after the supplemental testimony is filed, it appears necessary to convene a hearing, the parties' alternative procedural schedule will be adopted.

5 The motion for extension of page limitations filed by Eschelon is denied. As noted by Eschelon, the record in this case is extensive. Eschelon cites another proceeding<sup>1</sup>, in which the Commission granted an extension of the page limitation from 60 pages to 125 pages. However, that case is not comparable to this proceeding. The proceeding cited by Eschelon was an extension of a generic cost docket and involved establishing rates for both Qwest and Verizon.<sup>2</sup> The issues in that proceeding were more complex than those presented in this case. The complexity of issues is exemplified by the fact that approximately five days and approximately 1200 pages of transcript were dedicated to hearing. In contrast, in this proceeding, the hearing concluded in one day and the hearing transcript consists of approximately 200 pages. Accordingly, the breadth and depth of issues was more extensive than those presented in this proceeding.

6 In addition to the complexity of issues, the Administrative Law Judge in that proceeding concluded that it was necessary to extend the brief length to allow one party to respond to multiple arguments presented by the other parties. In that proceeding, there were a total of six parties. In this case, there are only two. Moreover, the parties in this case requested that the normal briefing cycle, including

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<sup>1</sup> *In the Matter of the Review of Unbundled Loop and Switching Rates, the Deaveraged Zone Rate Structure, and Unbundled Network Elements, Transport, and Termination*, Docket UT-023003.

<sup>2</sup> Notice of Prehearing Conference, Docket UT-023003.

responsive briefs, be substituted with one round of simultaneous briefs. Hence, there is no need to expand briefing page limitations in order to adequately respond to arguments raised by the other party.

7 The primary rationale cited by the Administrative Law Judge for extending the briefing page limitations was to obtain briefs that would assist the Commission in rendering a decision. Without addressing the merits of any position, both parties in this case submitted prefiled testimony and exhibits that respectably support their positions. Given the length of the prefiled testimony and the brevity of the hearing, it is difficult to ascertain how lengthier briefs would more fully describe a party's position and thus, aid the decision-making process.

8 By way of comparison, the appellate courts in Washington limit all parties' initial briefs to 50 pages<sup>3</sup> and appellant's reply brief to 25 pages. These page limitations are applicable to all cases presented to the Court of Appeals and the Washington Supreme Court and, certainly, many matters that are more complex and far-reaching than this proceeding. The Commission's rules already afford a more generous page limitation than that allowed by the appellate courts.

9 For all the foregoing reasons, Eschelon has failed to demonstrate good cause for extending the page limitation of post-hearing briefs.

10 **HEARING:** A supplemental evidentiary hearing in this matter is scheduled to convene on **July 18, 2007, beginning at 9:30 a.m.** in Room 206, Richard Hemstad Building, 1300 S. Evergreen Drive S.W., Olympia, Washington.

DATED at Olympia, Washington, and effective May 24, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK  
Administrative Law Judge

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<sup>3</sup> Washington State Court Rules: Rules of Appellate Procedure, Rule 10.4(b)

**APPENDIX A  
PROCEDURAL SCHEDULE  
DOCKET UT-063061**

<b>EVENT</b>	<b>FORMER DATE</b>	<b>REVISED DATE</b>
Prefiled Supplemental Direct Testimony and Exhibits	None	May 31, 2007
Prefiled Supplemental Responsive Testimony	None	June 28, 2007
Supplemental Evidentiary hearing	None	<b>July 18, 2007</b>
Simultaneous Briefs	June 26, 2007	<b>July 20, 2007</b>
Arbitrator's Report and Order	October 26, 2007	<b>November 20, 2007</b>
Petitions for Review of Arbitrator's Report and Order	November 30, 2007	<b>December 20, 2007</b>
Proposed Interconnection Agreement/Answers to Petitions for Review of Arbitrator's Report and Order	January 7, 2008	<b>January 30, 2008</b>
Oral Argument Before Commissioners	To be determined	To be determined
Commission Decision	To be determined	To be determined