

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

In the Matter of the Application of	)	DOCKET NO. UT-991358
	)	
U S WEST, INC., and QWEST	)	
COMMUNICATIONS	)	
INTERNATIONAL INC.	)	FIFTEENTH SUPPLEMENTAL
	)	ORDER
For an Order Disclaiming Jurisdiction, or	)	
in the Alternative, Approving the U S	)	PREHEARING CONFERENCE
WEST, INC., - QWEST	)	ORDER
COMMUNICATIONS	)	
INTERNATIONAL INC. Merger	)	
.....	)	

1     **Proceeding:** This is a docket in which Qwest petitions for termination or modification of its Service Quality Protection Plan, an element of the Commission’s approval of the merger between Qwest and U S WEST in this docket.

2     **Conference:** The Commission convened a prehearing conference in this docket at Olympia, Washington on April 7, 2004, before Administrative Law Judge C. Robert Wallis.

3     **Appearances.** Lisa A. Anderl, Seattle, appeared for petitioner Qwest. Christopher Swanson, assistant attorney general, Olympia, appeared for Commission Staff. Simon ffitich, assistant attorney general, Seattle, appeared as Public Counsel. Karen Frame, senior counsel, Denver, CO, appeared for intervenor Covad. Don Andre appeared on behalf of intervenor Citizens Utility Alliance of Washington.

4 **Correction of ministerial error:** Covad noted that it was identified in the Fourteenth Supplemental Order as a party subject to default. This reference was in error, and the order should be deemed corrected to delete Covad from the list of parties subject to default.

5 **Protective Order.** The parties are having no difficulties with regard to the protective order served earlier in the docket, and there are no requests to modify the order.

6 **Discovery.** Discovery is working satisfactorily. Qwest will file an objection to one of the Alliance's discovery requests; the Alliance will respond.

7 **Witness identification and presentation.** The parties discussed the nature and timing of public-oriented evidence and the mechanics of implementing the process for receiving public evidence that was set out in the Thirteenth Supplemental Order. The following was agreed:

- **Written statement.** Each party presenting public testimony will submit a statement that public witnesses, if any, will support, in the same manner as other aspects of the parties' presentations. Each party will determine what form of statement will best present its positions and interests, and may present a narrative, a copy of a communication presented by the witness, or other written material.
- **Schedule.** Because of the timing of the decision on public participation, parties who will file their principal statements on April 14, 2004, may file their public statements on May 5, 2004. Qwest will file its entire rebuttal statement on May 19, 2004. Parties will identify their public witnesses when filing the related portion of their statements.

- **Number and identification of witnesses.** Public Counsel and the Alliance may present up to four witnesses total, including no more than three public witnesses. Qwest may present up to two public witnesses. Covad indicated that it will present no witnesses, and Commission Staff did not indicate that it would present any public witness. Parties are reminded that the information presented by their public witnesses is to be relevant to the issues in the proceeding and is to be non-duplicative.
- **Timing and format of presentations.** The parties are asked to discuss amongst themselves and to make a recommendation to the bench about the timing and format of their public presentations. Parties should request leave, when filing the relevant portion of their statements, to present via electronic means any public witness for whom attending the hearing would pose a hardship. Parties must make an agreed recommendation or pose the question to the bench in time to resolve the timing and format issues no later than May 19, 2004, to allow for logistical arrangements.
- **Cross-examination.** Parties asked whether cross-examination would be allowed of the public witnesses. After discussion, the consensus was that, consistent with other witnesses, examination would be allowed—and, because we do not contemplate “traditional” public testimony, such examination may be a principal vehicle for the witness’s oral remarks. In consideration of the witness’s likely unfamiliarity with process and the possibility that they may not be comfortable in the setting, cross-examination must show respect for the public witnesses and must not be antagonistic, hostile, or intimidating.

8 **Hearing schedule.** While the oral hearing schedule does not permit Commissioner attendance, Commissioners are available to hear oral argument at the time and place scheduled in the Fourteenth Supplemental Order. Parties were asked whether, to allow prompt resolution of the issues, they would waive an initial order and allow the Commissioners to resolve the issues on the basis of the written record and their oral arguments. Covad waived the initial order on the record. Public Counsel, the Alliance, Commission Staff, and Qwest all waived by separate communication on April 8, 2004. The Commissioners will hear the oral argument on June 25, 2004, and will enter the final order in this docket without the need for entry of an initial order.

9 **Further prehearing conference.** A prehearing conference has been set for 1:30 p.m. on June 3, 2004. June 2, 2004, was set as the deadline for filing documents for use during the hearing. The parties suggested that prefiling of cross-examination exhibits might be unnecessary and that those documents might be presented at the hearing. We had reservations about that proposal, having experienced situations in which a large number of such documents have been presented. The parties agreed to advise each other and the administrative law judge no later than the close of business on June 1, how many additional documents they would be presenting on June 2 for use at the hearing, and the nature of those documents. If it appears from the information available on June 2 that a further prehearing conference will be unnecessary, the session now set for June 3, 2004, in Olympia may be cancelled. If parties share information about the number and nature of exhibits by May 27, 2004, a decision about scheduling the conference (and perhaps the need for prefiling at all) may be made sooner.

10 No other matters arose for discussion.

- 11* **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 9th day of April 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS  
Administrative Law Judge