

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

WASHINGTON UTILITIES AND	)	DOCKET NO. UT-033011
TRANSPORTATION COMMISSION,	)	
	)	ORDER NO. 14
Complainant,	)	
	)	PREHEARING CONFERENCE
v.	)	ORDER; ESTABLISHING
	)	PROCEDURAL SCHEDULE;
ADVANCED TELECOM GROUP,	)	NOTICE OF PREHEARING
INC., et al.	)	CONFERENCE
	)	<b>(To be held Monday,</b>
Respondents.	)	<b>January 3, 2005, at 1:30 p.m.);</b>
	)	NOTICE OF ADDITIONAL DAY
	)	OF HEARING
	)	<b>(To be held Thursday,</b>
	)	<b>January 20, 2005, at 9:30 a.m.)</b>
.....	)	

*1* **NATURE OF THE PROCEEDING.** This is a complaint proceeding brought by the Washington Utilities and Transportation Commission (Commission), through its staff, against Qwest Corporation (Qwest) and 13 other telecommunications companies alleging that the companies entered into certain interconnection agreements identified in Exhibit A to the Amended Complaint,<sup>1</sup> and failed to file, or timely file, the agreements with the Commission as required by state and federal law. The complaint also alleges that the companies entered into certain agreements to resolve disputes, but that the agreements violated federal and state law by failing to make terms and conditions available to other requesting carriers, providing unreasonable preferences, and engaging in rate discrimination.

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<sup>1</sup> The Commission issued a Complaint against the parties on August 14, 2003, and issued an Amended Complaint on August 15, 2003 to include Exhibits A and B to the Complaint.

2     **PREHEARING CONFERENCE.** The Commission convened a prehearing conference in this docket at Olympia, Washington on September 21, 2004, before Administrative Law Judge Ann E. Rendahl. The purpose of the prehearing conference was to determine the current status of the proceeding, and revise the procedural schedule for the proceeding as a result of rescheduling the hearing dates.

3     **APPEARANCES.** Christopher Swanson, Assistant Attorney General, Olympia, Washington, represents Commission Staff. Daniel Waggoner, Davis Wright Tremaine, LLP, Seattle, Washington, and Gary Witt, AT&T Law Department, Denver, Colorado, represent AT&T Communications of the Pacific Northwest and TCG Seattle (AT&T). Karen S. Frame, Senior Counsel, Denver, Colorado, represents Covad Communications Company. Charles L. Best, attorney, Vancouver, WA, represents Electric Lightwave, LLC. Judith A. Endejan, Graham & Dunn, PC, Seattle, Washington, and Dennis J. Ahlers, Senior Attorney, Minneapolis, Minnesota, represent Eschelon Telecom of Washington, Inc (Eschelon). Richard A. Finnigan, Law Office of Richard A. Finnigan, Olympia, Washington, represents Fairpoint Carrier Services, Inc., f/k/a Fairpoint Communications Solutions, Corp., Integra Telecom of Washington, Inc., and SBC Telecom, Inc. Greg Kopta, Davis Wright Tremaine, LLP, Seattle, Washington represents Global Crossing Local Services, Inc., and XO Washington, Inc. Dan Lipschultz, Moss & Barnett, Minneapolis, Minnesota, represents McLeodUSA Telecommunications Services, Inc. (McLeodUSA). Arthur A. Butler, Ater Wynne, LLP, Seattle, Washington, and Michel Singer Nelson, Regulatory Attorney, Denver, Colorado, represent WorldCom, Inc. and its subsidiaries doing business in Washington (n/k/a MCI, Inc.). Lisa A. Anderl, Associate General Counsel, and Adam Sherr, Senior Attorney, Seattle, Washington, Todd Lundy, Associate General Counsel, Denver, Colorado, and Peter S. Spivak, Hogan & Hartson, Washington, D.C., represent Qwest Corporation. Arthur A. Butler, Ater Wynne, LLP, Seattle, Washington, represents Time Warner Telecom

of Washington, LLC. Robert Cromwell, Assistant Attorney General, Seattle, Washington, represents Public Counsel.

- 4 **DISCOVERY CUT-OFF DATE.** Commission Staff requests a discovery cut-off date of November 15, 2004, to avoid conflicts with the Thanksgiving and Christmas holidays. Qwest opposes a cut-off date for discovery, asserting that one week is not sufficient to conduct discovery on reply testimony due November 8, 2004, and that it is unreasonable to cut off discovery in this proceeding, asserting that Qwest has an enormous amount at stake in the proceeding.
- 5 During the hearing, the Administrative Law Judge determined that there is a need for a discovery cut-off date, given the extensive amount of time between the date for filing responsive testimony and the date the hearings are scheduled to begin. Qwest and other parties may propound written discovery through November 30, 2004, and may schedule depositions after that date, but must conclude any depositions by Wednesday, December 15, 2004.
- 6 **PROCEDURAL SCHEDULE.** The parties agreed upon a procedural schedule during the conference. The Commission adopts this procedural schedule, which is attached to this Order as Appendix B, and incorporated into the body of this Order by this reference.
- 7 **NOTICE OF PREHEARING CONFERENCE.** The Commission convenes a prehearing conference in this matter to collect and mark exhibits and cross-examination exhibits, discuss time estimates for cross-examination, and address all other pending issues prior to the hearings scheduled to begin January 10, 2005. **The conference will be held in Room 108, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington at 1:30 p.m., on Monday, January 3, 2005.**

- 8 Parties must provide to the Commission electronically by **5:00 p.m. on Wednesday, December 29, 2004**, a list of the party's witnesses, in preferred order, appearing at the hearing, estimates of cross-examination time for other parties' witnesses, a list of exhibits the party has prefiled with the Commission and will sponsor in the hearing, and a list of any cross-examination exhibits the party plans to offer during the hearing. Parties are granted a one-day extension of time to file paper copies of these documents with the Commission pursuant to WAC 480-07-145(6), and must file these documents with the Commission on Thursday, December 30, 2004. **Parties must bring to the January 3, 2005, prehearing conference paper copies of all cross-examination exhibits they plan to offer at the hearing.** Parties must provide four copies to the Administrative Law Judge and file an original and eight copies with the Commission.
- 9 **NOTICE OF HEARING.** The Commission will hold an additional day of evidentiary hearings in this proceeding on **Thursday, January 20, 2005, in Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, beginning at 9:30 a.m.**
- 10 **REMEDIES.** During the conference, counsel for AT&T inquired whether the issue of remediation should be addressed in reply testimony or will be addressed in post-hearing briefs. The Administrative Law Judge determined that all issues, including the appropriate remedy for violations alleged in the Amended Complaint, should be addressed in pre-filed testimony, but that parties may address in briefs the remedies proposed in prefiled testimony.
- 11 **STATUS OF SETTLING PARTIES.** Qwest objects to AT&T, and other parties who have settled with Commission Staff, filing reply testimony and participating further in the proceeding. Qwest asserts that parties whose settlements the Commission has approved are dismissed as parties from the proceeding, with the exception of Eschelon and McLeodUSA, whose settlement agreements specify that they will remain parties to the proceeding.

12 **Discussion and Decision.** The settlement agreements entered into between Staff and the CLECs in this proceeding state that the settlements “constitute a full settlement of all issues raised against” the settling CLEC. Commission orders approving these settlement agreements, Order Nos. 07, 08, 10, 11, 12, and 13, approve and adopt the various settlements, but do not dismiss the settling parties as parties to the proceeding. Parties are not dismissed from a proceeding by entering into a settlement agreement. Where parties settle issues in multi-party proceedings before the Commission, the settling parties remain as parties to the proceeding and often file testimony addressing issues that remain in dispute between non-settling parties, *e.g.*, rate case and costing and pricing proceedings.

13 **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 22<sup>nd</sup> day of September, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL  
Administrative Law Judge

**APPENDIX A**  
**PROCEDURAL SCHEDULE**  
**DOCKET NO. UT-033011**

EVENT / DEADLINE	DATE	INTERVAL
Prefiled Reply Testimony	Monday, November 8, 2004	—
Discovery Cut Off – Data Requests Propounded	Tuesday, November 30, 2004	22 Days
Discovery Cut Off – Depositions Concluded	Wednesday, December 15, 2004	15 Days
Witness Lists, Cross- examination Time Estimates, Exhibit Lists and Cross- examination Exhibit Lists Due	Wednesday, December 29, 2004, by <b>5 pm</b> <b>(submitted electronically)</b>	14 Days
Prehearing Conference	Monday, January 3, 2005, at 1:30 pm	5 Days
Evidentiary Hearings	January 10-11, 13-14, 2005 January 20, 2005	7 Days
Simultaneous Initial Briefs Filed	Friday, February 18, 2005	29 Days <b>(from last day of hearing)</b>
Simultaneous Responsive Briefs Filed	Friday, March 4, 2005	14 Days