

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

In the Matter of the Petition of)	
)	DOCKET UT-061625
)	
QWEST CORPORATION)	ORDER 02
)	
To be Regulated Under an Alternative)	PREHEARING CONFERENCE
Form of Regulation Pursuant to RCW)	ORDER
80.36.135.)	
)	NOTICE OF HEARING
)	(Set for March 12, 2007)
)	
)	NOTICE OF PREHEARING
)	CONFERENCE
)	(Set for March 7, 2007)
.....)	

1 **NATURE OF PROCEEDING.** Docket UT-061625 involves a petition by Qwest Corporation to be regulated under an alternative form of regulation (“AFOR”) pursuant to RCW 80.36.135.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (“Commission”) convened a prehearing conference in this docket at Olympia, Washington on November 8, 2006, before Administrative Law Judge C. Robert Wallis.

3 **APPEARANCES.**¹ Lisa Anderl, Associate General Counsel Seattle, Washington, represents Qwest Corporation, Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel). Gregory Trautman, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).² Arthur A. Butler, attorney, Seattle, Washington, represents

¹ Mr. Melnikoff notified the Administrative Law Judge prior to the prehearing conference that his client may have an interest in this matter and may wish to intervene. Mr. Melnikoff is granted until December 5, 2006, to file a timely petition to intervene.

² In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an

Washington Electronic Business and Telecommunications Coalition (WeBTEC). Gregory Kopta, attorney, Davis Wright Tremaine, Seattle, represents intervenors Integra, Time Warner, Covad and XO Communications. David Rice, attorney, Miller Nash, Seattle, represents intervenor Northwest Public Communications Council.³

4 Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

5 **PETITIONS FOR INTERVENTION.** WeBTEC, Integra, Time Warner, Covad and XO Communications petitioned in writing and appeared at the conference to intervene in the docket. Northwest Public Communications Council appeared at the conference to intervene in the docket. No party objected to the petitions. We find that each of the petitioners has established a substantial interest in this proceeding and that their participation will be in the public interest. These petitions to intervene are granted.

6 Counsel for the Department of Defense and the Federal Executive Agencies indicated prior to the conference that he would be unable to attend because of conflicting hearings in another jurisdiction. Leave was granted for a late-filed petition to intervene; petitioner Qwest declined to state a position on this potential intervention until it is filed. The petition will be considered timely if filed no later than December 5, 2006.

7 **PROTECTIVE ORDER.** The parties asked that the Commission enter a protective order in this docket under RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 80-07-423 to protect the confidentiality of proprietary information. The request was granted and a protective order has been entered in this docket.

8 **DISCOVERY.** Petitioner asked that discovery be authorized; other parties agreed. The matter is one that qualifies for discovery, and the discovery rules, WAC 480-07-400 through 425, are invoked. The Commission urges the parties to work

“ex parte wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455.*

³ In addition, Richard Potter, representing Verizon Northwest, Inc., appeared at the conference to request status as an interested person pursuant to WAC 480-07-340(1)(c). All parties agreed to provide Mr. Potter with copies of filed materials.

cooperatively together to avoid having to bring discovery disagreements forward for formal resolution.

- 9 **PROCEDURAL SCHEDULE.** The Commission adopts the following procedural schedule, which is also attached in matrix format to this Order as Appendix B.⁴

Qwest prefiled evidence	October 20, 2006 (filed)
Parties' settlement conference	December 8, 2006 ⁵
Responsive evidence	January 26, 2007
Qwest rebuttal evidence	February 16, 2007
Prehearing conference	March 7, 2007
Hearings	March 12 (through 16, as needed)
Opening briefs	April 4, 2007
Answering briefs	April 13, 2007
Reply briefs	(Not contemplated)

- 10 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter beginning Monday, March 12, 2007, at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington. Facilities are reserved for five days. As the time draws nearer, parties are asked to provide updated estimates of anticipated time requirements.

- 11 **NOTICE OF PREHEARING CONFERENCE.** The Commission will hold a prehearing conference in this matter on Wednesday, March 7, 2007, at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington. The purpose of the conference is to verify the list of prefiled exhibits, to collect and mark exhibits, including exhibits proposed for use on cross examination, and to address any other procedural matters that may assist in the orderly conduct of the proceeding.

⁴ Public Counsel voiced concerns about the proposal, which we recognize involves a relatively tight time schedule and which is interleaved with one or more other Commission proceedings in which counsel is appearing. We understand the challenges in such a situation, and counsel is free to seek a modification of the schedule if events in either docket appear to require changes. Counsel are asked to agree on recommended back-up dates and share those with the bench.

- 12 **HEARINGS FOR COMMENT BY MEMBERS OF THE PUBLIC.** Public Counsel requested 30 days in which to make arrangements with Commission public affairs staff and the Company for hearings for members of the public to express their views on the proposed AFOR. Public Counsel requested as many as three such hearings, in Olympia, in Seattle, and in eastern Washington, perhaps Spokane.
- 13 Qwest is willing to work with Public Counsel to seek appropriate dates and locations, but spoke against convening three such hearings. Qwest is also willing to provide notice of the hearings through bill inserts; Qwest requested that the schedule for such hearings and the language of the proposed insert be determined quickly to permit timely distribution. Public Counsel is asked to propose an agreed or preferred public hearing schedule no later than December 1, 2006. Parties are asked to communicate with Ms. Walker of the Commission Staff regarding availability of personnel and facilities for suggested dates.
- 14 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus twelve copies of all pleadings, motions, briefs, and other filed materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 15 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 16 An electronic copy of all filings must be provided through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or by e-mail delivery to <records@wutc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a CE or a 3.5-inch IBM-formatted high-density diskette including the filed document(s). Parties should furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or

⁵ Parties are asked to hold December 12 as a fall-back date.

later) format. Parties are required to follow WAC 480-07-140(5) in organizing and identifying electronic files.

- 17 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Pursuant to WAC 480-07-145(6) the presiding officer may grant parties a one-day extension of the paper-filing requirement, allowing electronic submission of documents with the Commission on the filing deadline. Parties may only submit documents electronically with the Commission in this proceeding with the permission of the presiding officer. If, at any time during this proceeding, parties are authorized to submit documents with the Commission electronically under WAC 480-07-145(6), parties must submit the document through the Commission's Web portal (www.wutc.wa.gov/e-filing) or by e-mail to records@wutc.wa.gov, and file an original, plus twelve copies, of the document with the Commission by the following business day. Finally to perfect filing, parties must provide courtesy copies of filings to the presiding officer and advisory staff, as well as the parties to the proceeding.
- 18 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1142.
- 19 **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. Parties must provide courtesy copies of filings to the presiding administrative law judge.**

Dated at Olympia, Washington, and effective November 16, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET UT-061625**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Qwest Corporation	Lisa. A. Anderl Adam L. Sherr 1600 7 th Avenue, Room 3206 Seattle, WA 98191	(206) 345-1574 (206)	(206) 343-4040	lisa.anderl@qwest.com adam.sherr@qwest.com
Public Counsel	Simon ffitich Public Counsel Section Office of Attorney General 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	(206) 389-2055	(206) 389-2058	simonf@atg.wa.gov
Commission Staff	Gregory Trautman Assistant Attorney General 1400 S. Evergreen Park Dr SW P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1187	(360) 586-5522	gtrautma@wutc.wa.gov
Integra Telecom, Time Warner Telecom, Covad Communications Co., and XO Communications	Gregory J. Kopta Davis Wright Tremaine LLP 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688	(206) 628-7692	(206) 628-7699	gregkopta@dwt.com
WeBTEC	Arthur A. Butler Ater Wynne LLP 601 Union Street, Suite 5450 Seattle, WA 98101-2327	(206) 623-4711	(206) 467-8406	aab@aterwynne.com
Northwest Public Communications Council	David L. Rice Miller Nash LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101-2352	(206) 622-8484		david.rice@millernash.com

APPENDIX A

**PARTIES' REPRESENTATIVES (continued)
DOCKET UT-061625**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
The United States Department of Defense	Stephen S. Melnikoff ⁶ Regulatory Law Office U.S. Army Litigation Ctr. Office of the Judge Advocate General 901 N. Stuart St., Ste 700 Arlington, VA 22203-1837	(703) 696-1643	(703) 696-2960	stephen.milnikoff@hqda.army.mil
Presiding Administrative Law Judge	C. Robert Wallis 1300 S. Evergreen Park Dr SW P.O. Box 47250 Olympia, WA 98504-7250	(360) 664-1142	(360) 664-2654 (ALD fax only – do not use to file)	bwallis@wutc.wa.gov

⁶ Parties are ordered to serve Mr. Melnikoff pending determinations on whether his client chooses to intervene and whether the intervention is granted.

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-061625

EVENT	DATE	INTERVAL
Qwest prefiled evidence	October 20, 2006	N/A
Parties' settlement conference	December 8, 2006	49 days
Responsive evidence	January 26, 2007	49 days
Qwest rebuttal evidence	February 16, 2007	21 days
Prehearing conference	March 7, 2007	19 days
Hearings	March 12 – 16, 2007	5 days
Opening briefs	April 4, 2007	23 days
Answering briefs	April 13, 2007	9 days
Reply briefs	Not contemplated	N/A

APPENDIX C

**INFORMAL DISTRIBUTION LIST (In addition to counsel of record)
DOCKET UT-061625**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Qwest Corporation	Mark Reynolds			Mark.reynolds3@qwest.com
Public Counsel	Mary Kimball (Regulatory Analyst) Stefanie Johnson (Regulatory Analyst) Carol Williams (Legal Assistant)			Maryk2@atg.wa.gov stefaniej@atg.wa.gov carolw@atg.wa.gov
WeBTEC	Jill Davenport			jrd@aterwynne.com
Time Warner Telecom	Brian D. Thomas (Vice President, Regulatory)	(206) 676-8090	(206) 676-8001	Brian.thomas@twtelecom.com
XO Communications	Rex Knowles Regional Vice President	(801) 983-1504	(801) 983-1667	Rex.knowles@xo.com
Integra Telecom of Washington, Inc.	Jay Nusbaum Government Affairs Attorney	(503) 453-8054	(503) 453-8221	Jay.nusbaum@integratelecom.com
Covad Communications Company	Gregory T. Diamond Senior Counsel	(720) 670-1069	(720) 670-3350	gdiamond@covad.com
Northwest Public Communications Counsel	Carol Munnerlyn			carol.munnerlyn@millernash.com
Commission Staff	Tom Wilson (Staff)	(360) 664-1282	(360) 586-1150	twilson@wutc.wa.gov
Commission Advisory Staff	Lisa Steel (Policy)	(360) 664-1303	(360) 586-1150	lsteel@wutc.wa.gov