

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

In the Matter of the Petition for)	DOCKET UT-093035
Arbitration of an Interconnection)	
Agreement Between)	
)	ORDER 05
NORTH COUNTY)	
COMMUNICATIONS)	
CORPORATION OF WASHINGTON)	PREHEARING CONFERENCE
)	ORDER; NOTICE OF HEARING
and)	(Set for July 13-14, 2010, at
)	9:30 a.m.)
QWEST CORPORATION)	
)	
Pursuant to 47 U.S.C. Section 252(b).)	
.....)	

1 **NATURE OF PROCEEDING.** Docket UT-093035 involves a petition by Qwest Corporation (Qwest) for arbitration and approval of an interconnection agreement (ICA) with North County Communications Corporation of Washington (North County) pursuant to 47 U.S.C. §252(b) of the Telecommunications Act of 1996 (Telecom Act).

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on March 8, 2010, before Administrative Law Judge Adam E. Torem.

3 **APPEARANCES.** Lisa A. Anderl, Associate General Counsel, Seattle, Washington, represents Qwest. Chris Reichman, Dicks & Workman, APC, San Diego, California, represents North County.

4 **STATUS OF NEGOTIATIONS.** The parties confirmed that during the last several months they have made no substantive progress toward negotiating a mutually agreeable settlement of the outstanding issues in this matter. Further, North County

has expressed its intention to file a motion to dismiss the proceeding, challenging the Commission's jurisdiction to conduct arbitration under the Telecom Act in this case.¹

5 **RESPONSE TO PETITION BY NORTH COUNTY COMMUNICATIONS.**

North County has not yet filed a formal response to Qwest's Petition. In accordance with Section 252(b)(3) of the Telecom Act, the Commission did not require North County to file an Answer. *See* Order 01, ¶ 9. At the conference, Qwest requested that North County file a responsive pleading formally identifying the remaining disputed issues in this docket. North County agreed to file its Answer to the Petition if the Commission does not grant North County's motion to dismiss.²

6 **PROCEDURAL SCHEDULE.** In light of the parties' failure to timely negotiate an agreement, the Commission determined that a procedural schedule for motions and an evidentiary hearing should be set. The parties agreed on a procedural schedule during the conference. The Commission adopts the parties' agreed procedural schedule as set forth below and in Appendix B to this Order.

North County's Motion to Dismiss re Jurisdictional Issues	Monday, March 29, 2010
Qwest's Response to Motion	Friday, April 9, 2010
North County's Reply to Qwest <i>(must be accompanied by motion justifying necessity of reply)</i>	Friday, April 16, 2010
Target Date for Entry of Commission Order on Jurisdictional Issues	Friday, April 23, 2010
North County's Answer to Petition <i>(only necessary if motion denied)</i>	5 Business Days AFTER Entry of Order on Motion
Prefiled Direct Testimony	Wednesday, May 19, 2010
Prefiled Rebuttal Testimony	Thursday, June 17, 2010

¹ Amended Status Report of North County Communications Corporation of Washington (filed February 19, 2010), at 2-3.

² In the event North County is required to file an Answer, it shall conform to the requirements and minimum contents set out in Order 01, ¶¶ 9-10.

Arbitration Hearing

Tuesday, July 13, 2010,
and Wednesday,
July 14, 2010 (if needed)

As noted at the conference, the Commission does not wish to deviate from this slow-paced and deliberate schedule. The Commission will not grant continuances or otherwise postpone deadlines except upon a formal motion showing good cause and demonstrating the absence of prejudice to the other party and the Commission, as required by WAC 480-07-385.

7 **NOTICE OF HEARING.** The Commission will hold a hearing on the merits of this matter, to begin on **Tuesday, July 13, 2010, at 9:30 a.m., in Room 206 of the Commission's headquarters, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The hearing will continue and be completed, as needed, on **Wednesday, July 14, 2010**, in the same location.

8 **ARBITRATOR'S REPORT AND DECISION.** In accordance with WAC 480-07-630(11)(b), the deadline for the arbitrator's report and decision would normally have occurred on Monday, November 23, 2009.³ Further, under Section 252(b)(4)(C) of the Telecom Act, the deadline for those same decision documents would have occurred on Wednesday, November 25, 2009.⁴ The agreed procedural schedule proposed by the parties and adopted herein will obviously not allow compliance with these already lapsed regulatory deadlines.

9 The parties have not formally agreed to waive the legally required date for issuance of the arbitrator's report and decision. However, through repeated requests to postpone the initiation of the arbitration process, the parties have adequately demonstrated their amenability to waiving these regulatory deadlines. Therefore, in light of the parties' agreed proposed schedule, **the Commission sets Friday, September 3, 2010, as the**

³ Saturday, November 21, 2009, was the 110th calendar following the date on which Qwest filed its petition for arbitration (August 3, 2009). The next business day after this deadline is Monday, November 23, 2009.

⁴ This date is calculated based on the "not later than nine months after the date on which the local exchange carrier received the request" for negotiation set out in the Telecom Act. *See* Order 01, ¶ 3, n. 1.

deadline for issuance of the arbitrator's report and decision.⁵ If any party objects to this date for the Commission's required action under Section 252(b)(4)(C) of the Telecom Act, they must timely file and objection in accordance with the guidance below. In addition, **the Commission requests that the parties file formal waivers** of the above-noted regulatory deadlines **no later than Friday, March 19, 2010**, so that the record is clear on this matter.⁶

10 **DOCUMENT PREPARATION, FILING REQUIREMENTS, AND ELECTRONIC DOCUMENT SUBMISSION.** As noted in Order 02, ¶¶ 9-12, parties must file an **original plus three (3)** paper copies of all pleadings, motions, briefs, and other prefiled materials. The parties are directed to re-familiarize themselves with the requirements set out in that order as well as in WAC 480-07-140, WAC 480-07-145, WAC 480-07-395 and WAC 480-07-460.

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 March 9, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

⁵ The Commission may further extend this date if the parties' post-hearing briefing schedule so requires.

⁶ The requested waiver should be submitted as a formal pleading with an appropriate caption.

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-093035

EVENT	DATE	INTERVAL
Prehearing Conference	Monday, March 8, 2010	—
North County's Motion to Dismiss	Monday, March 29, 2010	21 Days
Qwest's Response to Motion	Friday, April 9, 2010	11 Days
North County's Reply (<i>if needed</i>)	Friday, April 16, 2010	7 Days
Commission to Enter Order on Motion to Dismiss / Jurisdiction	Friday, April 23, 2010 (<i>target date only</i>)	7 Days
North County's Answer to Petition	Friday, April 30, 2010 (<i>or five (5) days after entry of above-noted Order on Motion</i>)	7 Days
Pre-Filed Direct Testimony	Wednesday, May 19, 2010	19 Days
Pre-Filed Responsive Testimony	Thursday, June 17, 2010	29 Days
Arbitration Hearing	Tuesday, July 13, 2010 and Wednesday, July 14, 2010	26 Days
Post-Hearing Briefs	TBD	TBD
Commission Arbitrator's Report and Decision	Friday, September 3, 2010	51 Days (after hearing)