

[Service Date November 12, 2004]

November 12, 2004

**NOTICE OF OPPORTUNITY TO RESPOND TO SETTLEMENT AGREEMENT
(Due on Monday, November 22, 2004)**

**NOTICE OF SUSPENSION OF PROCEDURAL SCHEDULE
(Canceling Deadlines for Reply Testimony – December 6, 2004;
Cross-Examination Exhibits, Estimate and Witness Lists – December 29, 2004;
Prehearing Conference – scheduled for January 3, 2005, at 1:30 p.m.; and
Hearings – scheduled for January 10-11, 14, 21, 2005)**

**NOTICE OF SETTLEMENT PRESENTATION
(To be held on Monday, November 29, 2004, at 1:30 p.m.)**

**NOTICE OF OPPORTUNITY TO FILE TESTIMONY ADDRESSING
SETTLEMENT AGREEMENT
(Due on Friday, December 17, 2004, by Noon)**

**NOTICE OF HEARING ON CONTESTED SETTLEMENT
(To be held on Thursday, January 13, 2005, beginning at 9:30 a.m.)**

RE: *WUTC v. Advanced TelCom Group, Inc., et al.*; Docket No. UT-033011

TO PARTIES OF RECORD:

On Tuesday, November 9, 2004, Commission Staff, Qwest Corporation (Qwest), and Public Counsel, filed with the Commission a Settlement Agreement and Narrative with Qwest Corporation proposing to settle all remaining issues in the proceeding. The parties requested a telephone conference to discuss procedural matters in the proceeding due to the settlement being filed.

On Wednesday, November 10, 2004, representatives of Commission Staff, Qwest, Public Counsel, Eschelon Telecom of Washington, Inc., McLeodUSA Telecommunications, Inc., and Time Warner Telecom of Washington, Inc. (Time Warner), participated in a conference call with the Administrative Law Judge and agreed upon certain changes to the procedural schedule.

In order for the Commission to address the settlement agreement between Staff, Qwest and Public Counsel, the procedural schedule in this proceeding is suspended. **The deadline for filing reply testimony on December 6, 2004, the deadline for filing cross-examination exhibits, estimates and witness lists by December 29, 2004, the prehearing conference scheduled for January 3, 2005, at 1:30 p.m., and the hearings scheduled for January 10-11, 14, 21, 2005, are canceled.**

The parties also agreed to suspend the discovery schedule, including any scheduled depositions and pending data requests propounded, while the Commission considers the proposed settlement agreement. Should the Commission reject the settlement, all parties recognize Qwest's right to reschedule depositions, and Qwest's and Staff's right to responses to any outstanding data requests.

The Commission requests that **any party seeking to respond to the proposed settlement agreement file a response with the Commission by Monday, November 22, 2004.** Parties may submit responses with the Commission electronically or via facsimile pursuant to WAC 480-07-145(6) and file paper copies the next business day.

During the scheduling conference, counsel for Time Warner indicated that Time Warner may contest the proposed settlement agreement and requested the opportunity to respond to and present testimony addressing the proposed settlement agreement, as well as the opportunity to propound discovery concerning the settlement.

The Commission's procedural rules governing settlements provide that the Commission "will schedule a hearing to consider a proposed settlement if the commission believes a hearing will assist it to determine whether to adopt the proposal." *WAC 480-07-740(1)(d)*. The rules also allow parties opposed to a settlement to cross-examine witnesses supporting the settlement and present evidence opposing the proposal, and allow the presiding officer to allow discovery on the proposed settlement. *WAC 480-07-740(2)(c)*.

A hearing to present the proposed settlement is scheduled for **Monday, November 29, 2004, at 1:30 p.m. in the Commission's main hearing room, Room 206, located in the Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The Commission schedules this settlement presentation for purpose of receiving testimony about the proposed settlement and allowing questions from the parties and the bench about the proposal. After the evidentiary presentation, the Commission will inquire into the procedural issues that the proposals raise and, as appropriate, receive argument.

Consideration of the proposal in the settlement presentation does not signal any result on the merits, and merely preserves an option in the litigation. The Commission establishes in this notice a schedule for filing testimony and exhibits concerning the proposed settlement agreement and for a settlement hearing, should the Commission defer full consideration of the proposed settlement pending opportunity for Time Warner to present substantive evidence.

Parties may file prefiled testimony and exhibits addressing the proposed settlement agreement by Noon on Friday, December 17, 2004. Parties may submit responses and prefiled testimony with the Commission electronically or via facsimile pursuant to WAC 480-07-145(6) and file paper copies the next business day.

A hearing to address contested issues concerning the proposed settlement agreement is scheduled for **Thursday, January 13, 2005, beginning at 9:30 a.m. in the Commission's main hearing room, Room 206, located in the Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

Sincerely,

ANN E. RENDAHL
Administrative Law Judge