

Decision No. R04-1072-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-424T

IN THE MATTER OF THE THIRD SIX-MONTH REVIEW OF QWEST CORPORATION'S
COLORADO PERFORMANCE ASSURANCE PLAN.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING PREHEARING CONFERENCE,
SCHEDULING HEARING, AND
ESTABLISHING PROCEDURAL SCHEDULE**

Mailed Date: September 9, 2004

I. STATEMENT

1. On June 4, 2004, Staff of the Commission (Staff) filed its Third Six-Month Review Report of Qwest Corporation's Colorado Performance Assurance Plan (Staff Report). Qwest Corporation, Eschelon Telecom, Inc., DIECA Communications, Inc., doing business as Covad Communications Company, and MCI, Inc., on behalf of its regulated subsidiaries, filed comments on the Staff Report.¹ The Staff Report and the comments were filed in Docket No. 02M-259T, *In the Matter of Qwest Corporation's Colorado Performance Assurance Plan*.

2. In Decision No. C04-0931 the Commission, *inter alia*, set for hearing before an administrative law judge (ALJ) nine issues from the Staff Report. The undersigned ALJ is assigned to hear this matter.

3. By Decision No. C04-0932, the Commission opened this docket for the purpose of hearing and deciding the contested issues raised by the Staff Report and the comments on that

¹ Staff and the companies which filed comments are referred to collectively as the "Active Parties."

report. The Commission ordered that participants in Docket No. 02M-259T are parties in this docket and that all filings on the issues set for hearing by Decision No. C04-0931 are to be made in this docket.

4. By Decision No. R04-0996-I, the ALJ scheduled a prehearing conference in this matter for September 9, 2004. This Order vacates that prehearing conference. On September 8, 2004, the Active Parties were notified that the prehearing conference was vacated.

5. The Active Parties proposed, and the ALJ will adopt, the following procedural schedule and hearing dates: (a) on or before **October 29, 2004**, Staff and those parties which support the Staff recommendations will file their direct testimony and exhibits; (b) on or before **December 3, 2004**, the remaining parties will file their answer testimony and exhibits; (c) on or before **January 7, 2005**, Staff and the parties which support the Staff recommendations will file their rebuttal testimony and exhibits; (d) on or before **January 21, 2005**, the parties will file their corrected testimony and exhibits; (e) on or before **January 21, 2005**, the parties will file their prehearing motions; (f) hearing will be held on **February 2 and 3, 2005**; and (g) on or before **February 17, 2005**, the parties will file their post-hearing statements of position to which (absent further Order) no response will be permitted.

6. Absent further Order, the provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-77 will govern discovery in this matter.

7. As discussed in Decision No. R04-0996-I, the record in Docket No. 02M-259T is part of the record in this docket; but the ALJ is not familiar with the filings made in that other proceeding. To address this, the ALJ will order that, when a party cites, refers to, or relies on a document in the Docket No. 02M-259T record, the party shall provide a copy of the document to

the ALJ and shall notify the other parties that the document was provided to the ALJ. It will not be necessary for the document to be filed in this docket.

8. When citing or referring to an order of the Federal Communications Commission (FCC), a party (including their witnesses) shall provide the name of the order, the full docket name, and the FCC order number (*e.g.*, the *Triennial Review Order* is FCC 03-36).

9. A party (including their witnesses) shall provide the decision number when referring to or citing a Commission decision.

10. Parties are reminded of Rule 4 CCR 723-1-22(d)(3), which states: "If a pleading refers to new court cases or other authorities not readily available to the Commission, six copies of each case or other authority shall be filed with the pleading." If a party wishes the ALJ to consider a cited authority *other than* an opinion of the United States Supreme Court, a reported Colorado state court opinion, or a Commission decision, the party must provide a copy of, or a website address for, that cited authority.

II. ORDER

A. It Is Ordered That:

1. The prehearing conference scheduled for September 9, 2004, is vacated.
2. The procedural schedule set out above is adopted.
3. The hearing in this matter will be held on the following dates, at the following time, and at the following location:

DATES: February 2 and 3, 2005
TIME: 9:00 a.m. each day
PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

4. The parties shall follow the procedures, and shall make the filings, as set forth above.
5. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge