

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04B-491T

IN THE MATTER OF THE PETITION OF QWEST CORPORATION FOR ARBITRATION
OF AN INTERCONNECTION AGREEMENT WITH UNION TELEPHONE COMPANY
D/B/A UNION CELLULAR UNDER SECTION 252 OF THE FEDERAL
TELECOMMUNICATIONS ACT OF 1996.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SCHEDULING PREHEARING CONFERENCE
AND LISTING ISSUES FOR DISCUSSION**

Mailed Date: October 27, 2004

I. STATEMENT

1. On September 30, 2004, Qwest Corporation (Qwest) filed a Petition for Arbitration of an interconnection agreement with Union Telephone Company, doing business as Union Cellular (Union). The Petition for Arbitration (Petition) commenced this proceeding.

2. By Minute Order, the Commission referred the Petition to an Administrative Law Judge (ALJ) for hearing. The Commission will issue an initial decision in this proceeding.

3. Union filed its Response to Petition for Arbitration (Response) on October 25, 2004. Among the issues raised in its Response, Union challenges the Commission's jurisdiction in this matter based on the assertion that the time within which Qwest could seek Commission arbitration expired on June 23, 2004. Thus, according to Union, Qwest filed the Petition too late, and this Commission has no jurisdiction to arbitrate the disputed issues pertaining to the proposed interconnection agreement.

4. Based on the provisions of 47 U.S.C. § 252(b), and assuming (without deciding) that the Petition was timely filed, it appears that the Commission must issue its decision in this matter on or before January 23, 2005.

5. This docket is assigned to the undersigned ALJ.

6. It is necessary to schedule a hearing and to establish a procedural schedule in this proceeding as soon as possible. A prehearing conference will be held on **November 5, 2004**. The provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-79(b)(3) and of Rule 4 CCR 723-1-79(b)(4) will govern this prehearing conference.

7. In addition to the issues specified in ¶ 9, below, the parties must be prepared to discuss at the prehearing conference: (a) date by which the parties will file, simultaneously, their direct testimony¹ and exhibits; (b) date by which the parties will file, simultaneously, their answer testimony and exhibits; (c) date by which the parties will file a final joint issue matrix; (d) date by which each party will file its prehearing motions; (e) hearing dates; and (f) date by which written post-hearing statements of position will be due and whether response should be permitted. In addition, the parties must be prepared to discuss: (a) who will pay for the daily transcript; (b) the format of the joint issue matrix; (c) discovery procedures and deadlines; (d) any special provisions for service of testimony and exhibits and of discovery; and (e) any pending motions (*e.g.*, Qwest's request for protective order). Further, the parties should review, and be prepared to discuss to the extent relevant, the matters contained in Rule 4 CCR 723-1-79(b)(5). Finally, the parties may raise any issues.

¹ All testimony will be filed in question and answer format. Except for rebuttal witnesses, no person will be permitted to testify in this proceeding unless that person has submitted either direct or answer testimony.

8. Due to the abbreviated period of time available for the hearing and the ALJ's schedule, the ALJ preliminarily finds that the hearing will be held on December 3 and 6, 2004. The ALJ's schedule does not permit any later hearing date if the Commission decision date of January 23, 2005, is to be met.

9. As mentioned above, Union challenges the Commission's jurisdiction in this matter. *See* Response at 3-4. In addition, Union proposes that certain initial issues be resolved before this matter proceeds. *See id.* at 7-8. Finally, Union suggests that "it would save administrative resources to consider a joint proceeding [presumably involving this Commission and the Wyoming Public Service Commission] on the same issues" presented here and in Wyoming. *Id.* at 2. The parties must be prepared to discuss these suggestions, to present legal argument as necessary, and to present options for considering the jurisdictional challenge within the statutory time frame so that the Commission's decision in this arbitration can issue on or before January 23, 2005 (assuming the Commission has jurisdiction).

10. The undersigned expects the parties to consult prior to the prehearing conference with respect to the listed matters. The parties are encouraged to present, if possible, a procedural schedule and hearing dates which are satisfactory to the parties and which allow sufficient time for Commission deliberations on, preparation of, and issuance of a Commission decision in this matter no later than January 23, 2005.

11. The parties received a copy of this Order by facsimile on October 27, 2004.

II. ORDER

A. It Is Ordered That:

1. A prehearing conference in this docket is scheduled as follows:

DATE: November 5, 2004

TIME: 1:00 p.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

2. The parties shall follow the procedures, and shall be prepared to discuss the matters, as set forth above.

3. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge