

Decision No. R04-1310-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04B-361T

IN THE MATTER OF THE PETITION OF AUTOTEL FOR ARBITRATION OF AN
INTERCONNECTION AGREEMENT WITH QWEST CORPORATION PURSUANT TO
SECTION 252(B) OF THE TELECOMMUNICATIONS ACT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING HEARING, SPECIFYING
EVIDENTIARY RECORD, AND
ORDERING FILING OF FINAL
AND JOINT ISSUE MATRIX**

Mailed Date: November 5, 2004

I. STATEMENT

1. On July 2, 2004, Autotel (Petitioner) filed a Petition for Arbitration of an Interconnection Agreement with Qwest Corporation (Qwest). The Petition for Arbitration (Petition) commenced this proceeding.

2. Qwest filed its Response to Petition for Arbitration on July 28, 2004. Petitioner and Qwest are the only parties in this matter.

3. On August 3, 2004, the Commission determined that it will issue an initial decision in this proceeding and that an administrative law judge (ALJ) will hear this matter. *See* Minute Order dated August 3, 2004. This docket is assigned to the undersigned ALJ.

4. By Decision No. R04-1073-I the ALJ established a procedural schedule for this matter and set the hearing for November 16, 2004. By this Order the ALJ will vacate the hearing.

5. The ALJ held a final prehearing conference on October 27, 2004. Both parties participated by telephone. Following extensive discussion, the parties suggested that an evidentiary hearing in this matter is unnecessary because the parties are prepared to submit this matter on the existing record and on factual representations made during the prehearing conference by counsel for Qwest. In short, the parties believe that the factual development of the issues is complete and that only legal argument remains. Based on her review of the record in this matter, the ALJ agrees and will vacate the hearing scheduled for November 16, 2004.

6. Pursuant to the procedural schedule established in Decision No. R04-1073-I, parties will file their statements of position in this matter on or before **December 10, 2004**.

7. To ensure clarity in this matter, the ALJ will specify the following as the evidentiary record in this proceeding: (a) all prefiled testimony and exhibits of Messrs. Easton, Morris, and Oberdorfer and of Ms. Torrence; (b) the factual representations made by Mr. Monson, counsel for Qwest, on behalf of his client during the prehearing conference held on October 27, 2004; (c) the Petition; (d) the Response to the Petition; and (e) the Final and Joint Issues Matrix (see discussion below). This is the evidentiary record upon which the Commission will decide this arbitration. The parties are on notice that, absent further Order, the Commission will not consider factual matters outside of, or not contained in, the evidentiary record as specified here.¹

8. The ALJ will order the parties to file, on or before **December 10, 2004**, a Final and Joint Issues Matrix and an electronic copy of that matrix.² This Matrix will be a single

¹ In this regard, the ALJ advises that the Commission is unlikely to reopen the evidentiary record in this matter in view of the date by which the Commission must issue its decision (*i.e.*, February 28, 2005).

² The electronic version shall be on the diskette, shall be formatted in Microsoft Word, and shall be filed with the Commission.

document in the same format as the Joint Issues Matrix filed by Qwest on October 15, 2004. Each party will state its position on each issue and, for each identified issue, will provide the specific language which, if adopted, will accomplish the result sought by that party. If the Qwest-submitted Joint Issues Matrix filed on October 15, 2004, is satisfactory to both parties, the parties may make a filing informing the Commission of that fact; and such a filing will suffice to meet the Final and Joint Issues Matrix requirement established in this paragraph so long as a diskette containing the Qwest-submitted Joint Issues Matrix is filed with the Commission.

9. When citing or referring to an order of the Federal Communications Commission (FCC), a party shall provide the name of the order, the docket numbers(s), and the FCC order number (*e.g.*, the *Triennial Review Order* was issued in CC Dockets No. 01-338, No. 96-98, and No. 98-147 and its order number is FCC 03-36).

10. A party shall provide the decision number when referring to or citing a Commission decision.

11. Parties are reminded of Rule 4 *Code of Colorado Regulations* 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 Commission 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 hearing scheduled for November 16, 2004, is vacated.
2. The evidentiary record for this proceeding is set out above.

3. On or before December 10, 2004, the parties shall file a Final and Joint Issue Matrix and accompanying diskette as set out above.

4. On or before December 10, 2004, each party will file its statement of position.

5. The parties shall follow the procedures, and shall make the filings, as detailed above.

6. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge