

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-111T

IN THE MATTER OF THE REVIEW OF CERTAIN WHOLESALERATES OF QWEST
CORPORATION.

**ORDER GRANTING JOINT MOTION TO ESTABLISH
NEW PROCEDURAL REQUIREMENTS**

Mailed Date: April 23, 2004
Adopted Date: April 21, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the Joint Motion to Stay Proceedings, and Establish New Procedural Requirements filed by Commission Staff and the Colorado Office of Consumer Counsel. The Joint Motion requests that we temporarily stay the existing procedural requirements in this docket and reset those procedures to some later dates. Now being duly advised, we grant the request to establish new procedural requirements consistent with the discussion here.

2. In this docket, the Commission intends to set rates for certain wholesale services provided by Qwest Corporation (Qwest) to competitive local exchange carriers, including rates for unbundled network elements (UNEs). *See* Decision No. C04-0272. The existing schedule in this case requires parties to file, on May 3, 2004, initial comments listing the service elements for which rates should be set in this docket; reply comments must be filed on May 17, 2004. The Commission is to conduct a prehearing conference on May 25, 2004.

3. As grounds for the request to temporarily stay these proceedings and establish new procedures, the Joint Motion states that the court's decision in *United States Telecom Association v. Federal Communications Commission*, 359 F.3d 554 (D.C. Cir. 2004) (*USTA II*) affects potential issues in this case. The Joint Motion points out that the *USTA II* decision creates uncertainty regarding Qwest's obligation to provide certain UNEs, the pricing for such UNEs, and other aspects of the wholesale market. Therefore, the Joint Motion suggests, the existing schedule for comments and for the prehearing conference should be vacated and a new prehearing conference scheduled after June 15, 2004. The intent of that prehearing conference would be to establish new dates for comments regarding the services for which rates should be set in this case.

4. We agree that the *USTA II* decision could affect some potential issues in this docket. Therefore, we will extend the time for filing comments regarding the services to be at issue here. The new schedule discussed below provides some opportunity for clarification (by the federal courts and the Federal Communications Commission) of Qwest's obligations to provide UNEs. We note, however, that the *USTA II* decision does not affect many of the issues that we anticipate being raised in this docket. Therefore, we do not stay these proceedings as requested in the Joint Motion. Further, it is unnecessary to conduct a prehearing conference simply to establish new dates for comments as suggested in the Joint Motion.

5. The extension of the schedule adopted here will provide the parties additional opportunity to consider the effects of the *USTA II* decision on this docket. We understand that the *USTA II* docket may not be fully resolved by the time comments are due under the revised schedule adopted here. However, as noted above, it is now clear that the *USTA II* decision does

not affect many services that will be at issue in this case. As such, we will not stay these proceedings indefinitely pending full resolution of the *USTA II* case.

II. ORDER

A. The Commission Orders That:

1. The Joint Motion to Stay Proceedings and Establish New Procedural Requirements filed by Commission Staff and the Colorado Office of Consumer Counsel is granted in part consistent with the above discussion. The parties shall file initial comments listing the service elements for which rates should be set in this docket on or before June 15, 2004. Reply comments shall be filed on June 29, 2004. The Commission will set a new date for a prehearing conference after consideration of these comments. The purpose of that prehearing conference will be to set the procedural schedule in this matter.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 21, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners