

Decision No. R04-0595-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03F-405T

ESCHELON TELECOM OF COLORADO, INC.,

COMPLAINANT,

V.

QWEST CORPORATION,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING HEARING, REQUIRING
FILING, AND WAIVING RESPONSE TIME**

Mailed Date: June 4, 2004

I. STATEMENT

1. On September 16, 2003, Eschelon Telecom of Colorado, Inc. (Eschelon), filed an Accelerated Formal Complaint (Complaint) against Respondent Qwest Corporation (Qwest). The Complaint commenced this proceeding.

2. For the reasons set out in Decision No. R04-0021-I, the undersigned Administrative Law Judge (ALJ) denied cross-motions for summary judgment. In that order the ALJ also determined that this proceeding is no longer an accelerated complaint case.

3. Respondent filed its Answer to the Complaint. The Answer put the case at issue.

4. By Decision No. R04-0083-I, the ALJ established the procedural schedule and set hearing dates for this proceeding. Hearing is scheduled for June 8 and 9, 2004.

5. Pursuant to the procedural schedule, Eschelon and Qwest each filed direct and answer testimony. In addition, Eschelon filed a List of Potential Hearing Exhibits with attached copies of those potential exhibits.

6. On June 3, 2004, Eschelon and Qwest spoke with the ALJ by telephone. They informed the ALJ that they had reached an agreement under which the testimony and exhibits would be admitted without objection and each party waived cross-examination. Based on this agreement, the parties proposed that the ALJ vacate the scheduled hearing unless the ALJ desired to ask questions of any witness based on his submitted testimony.

7. Based on the representations made on June 3, 2004 and further based on the parties' willingness to submit the case on the existing and stipulated record, the ALJ will vacate the hearing scheduled for June 8 and 9, 2004.

8. In accordance with the existing procedural schedule, the parties shall file their statements of position on or before July 2, 2004, and shall file their responses to statements of position on or before July 16, 2004.

9. The parties will be directed to file, on or before June 8, 2004, a stipulation setting forth the agreement concerning admission of the prefiled testimony and exhibits and of their waiver of cross-examination (in essence, submission of this matter on a stipulated record).

10. Taking the June 3, 2004, conversation as a motion to submit the case on a stipulated record and to vacate the hearing date, the ALJ will waive response time to that motion as both parties joined in the motion.

II. ORDER

A. It Is Ordered That:

1. The request to submit the case on a stipulated record is granted.
2. The hearing in this matter scheduled for June 8 and 9, 2004, is vacated.
3. The parties shall file, on or before June 8, 2004, a stipulation setting forth their agreement concerning admission of the prefiled testimony and prefiled exhibits and concerning waiver of cross-examination (in essence, submission of this matter on a stipulated record).
4. Response time to the request to vacate hearing date is waived.
5. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge