

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of an Investigation Regarding Qwest's Compliance with Section 271 of the Telecommunications Act of 1996 with Respect to the Provisions of InterLATA Services Originating in Minnesota

PUC Docket No. P-421/CI-96-1114
OAH Docket No. 12-2500-14473-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist items 3, 7, 8, 9, 10, and 12

PUC Docket No. P-421/CI-01-1370
OAH Docket No. 12-2500-14485-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist items 1, 2, 4, 5, 6, 11, 13, and 14

PUC Docket No. P-421/CI-01-1371
OAH Docket No. 7-2500-14486-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 272 of the Telecommunications Act of 1996's Separate Affiliate Requirement

PUC Docket No. P-421/CI-01-1372
OAH Docket No. 7-2500-14487-2

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(d)(3)(C) of the Telecommunications Act of 1996 That the Requested Authorization is Consistent with the Public Interest, Convenience and Necessity

PUC Docket No. P-421/CI-01-1373
OAH Docket No. 6-2500-14488-2

In the Matter of the Commission's Review and Investigation of Qwest's Unbundled Network Element (UNE) Prices

PUC Docket No. P-421/CI-01-1375
OAH Docket No. 12-2500-14490-2

In the Matter of the Request of Covad to Define and Price a Line Sharing over DLC UNE to be offered by Qwest

PUC Docket No. P-421/CI-02-293
OAH Docket No. 12-2500-14765-2

TWENTY-FIRST PREHEARING ORDER

This matter came on for a telephone prehearing conference before Administrative Law Judge Richard C. Luis on July 10, 2002.

The following persons noted their appearances at the prehearing conference:

Robert Cattanach, Shannon Heim, John Devaney, and Jason Topp, for Qwest.

Steve Alpert and Ginny Zeller, Assistant Attorneys General, for the Department of Commerce.

Peter Marker, Assistant Attorney General, for the OAG-RUD.

Lesley Lehr for WorldCom.

Steven Weigler, Letty Friesen, Janet Browne, and Rebecca DeCook for AT&T.

Megan Dobernack for Covad.

Cecilia Ray for the CLEC Coalition.

Diane Wells, for the Commission Staff.

SCHEDULING ORDER AMENDMENTS

1. Qwest requested modification of the schedule in the OSS Checklist docket (1371) due to the volume of work remaining before the scheduled hearing and unforeseen amounts of information requested by the U.S. Department of Justice and the FCC arising from the five applications for 271 approval filed with the FCC for other jurisdictions. Prior to the telephone conference, Qwest proposed schedule changes for the docket that would move back the filing deadlines for Qwest's Reply and all Surreplies, and move the hearing to September 4-18, 2002. Qwest affirmed that its 271 application with the FCC would be filed no sooner than November 4, 2002.^[1] Other participants in the conference expressed concern that witnesses would need their schedules accommodated again if the hearing dates are moved. The Department of Commerce objected to the request to move back the hearing as placing an undue burden on the Department, arising from the costs of utilizing consultants to address Qwest's filings. Several of the parties expressed concern that continuing the dates in this proceeding could render the data underlying earlier filed testimony "stale."

2. Qwest has demonstrated good cause for adjusting the schedule in this docket. While moving the dates in this proceeding will cause the other parties some additional burdens, these burdens are not excessive. Extending the hearing dates will

require that the witnesses' schedules be accommodated when establishing the order of testimony. The ALJ expects that the parties will follow the hearing procedure rulings made on July 2, 2002, regarding witness scheduling. Those rulings were specifically addressed to accommodate the needs of witnesses and those rulings should accomplish that result in the newly rescheduled hearing dates.

3. As has been the case in other 271 dockets, data has been updated in prefiled testimony at the OAH or posthearing supplements directly to the PUC. Substantial portions of the evidence to be considered in this docket (such as the ROC Final Report) are unlikely to be changed. The existing practice of supplementing filings as new information becomes available should suffice to prevent data from becoming stale.

4. The schedule in the OSS Checklist docket is modified as follows: Qwest's Reply filing is due August 2, Surreplies are due August 23, the hearing will begin September 4 and continue through September 18, 2002. Posthearing briefs and proposed findings are anticipated to be due September 27 and the anticipated date for the ALJ Report is October 21, 2002. These dates are incorporated in the attached schedule. The schedule for the combined portion of the OSS Checklist and Unfiled Agreements dockets remains unchanged.

DISCOVERY ISSUES

5. AT&T and Qwest have been engaging in discovery regarding win-back activities. Disputes have arisen in the course of that discovery. Qwest moved for an order compelling answers to a number of its information requests. AT&T moved for a protective order precluding further motions by Qwest to compel discovery until the parties meet and confer on the outstanding issues. AT&T filed its responses to the information requests on July 9, 2002. Qwest did not have time to review them completely prior to the telephone conference. Qwest indicated that it will file a new motion to compel if it considers the responses to be insufficient. The ALJ reaffirms that Qwest's motion to compel of July 3, 2002 was rendered moot by AT&T's July 9, 2002 filing. AT&T's motion for a protective order is deferred to allow to the parties to meet and confer on any outstanding discovery issues.

Dated: July 11, 2002

/s/ Richard C. Luis
RICHARD C. LUIS
Administrative Law Judge

^[1] Qwest is free to file earlier with the FCC if the PUC concludes its consideration of the Qwest 271 Application dockets earlier than November 4, 2002.