

ISSUED: March 17, 2004

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1100

In the Matter of the Investigation to)
Determine, Pursuant to Order of the)
Federal Communications Commission,)
Whether Impairment Exists in Particular)
Markets if Local Circuit Switching for)
Mass Market Customers is No Longer)
Available as an Unbundled Network)
Element.)

RULING

DISPOSITION: PROCEEDING TEMPORARILY SUSPENDED

On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit (Court) released its decision in *United States Telecom Assoc. v. FCC*, Decision 00-1012, regarding appeals of the Federal Communications Commission's (FCC) Triennial Review Order (TRO). Among other things, the Court vacated as unlawful the FCC's subdelegation of authority to state commissions to determine impairment for mass market switching and certain transport elements. The Court also vacated and remanded as unlawful the FCC's nationwide impairment determinations with respect to these elements. For those portions of the TRO to be vacated, the Court stayed the vacatur until "no later than the later of: (1) denial of any petition for rehearing en banc, or (2) 60 days from March 2, 2004."

On March 5, 2004, Qwest Corporation (Qwest) filed a Motion to Suspend Proceedings Indefinitely. AT&T Communications of the Pacific Northwest, Inc., and AT&T Local Services on behalf of TCG Oregon (collectively, AT&T) filed an Opposition to Qwest's Motion, Corrected Version (Opposition) on March 10, 2004.

A teleconference was held on March 10, 2004, to discuss Qwest's motion. At the conference, the majority of competitive telecommunications carriers participating in this investigation joined AT&T in opposing the proposed suspension. On March 15, 2004, Qwest filed a Reply to AT&T's Opposition.

Based upon our review of the pleadings and the unsettled legal environment regarding this matter, we find that the schedule in this proceeding should be suspended temporarily. A procedural conference will be scheduled within the next 30 days to update the Commission regarding developments at the federal level. A notice of the conference shall be issued at a later date.

RULING

The procedural schedule adopted in this investigation is suspended temporarily.

Dated at Salem, Oregon, this 17th day of March, 2004.

Samuel J. Petrillo
Administrative Law Judge

Allan J. Arlow
Administrative Law Judge