

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

UM 1168

In the Matter of
PUBLIC UTILITIES COMMISSION OF OREGON
Staff Investigation Into Qwest Corporation's Failure to
File Interconnection Agreements for Commission
Approval Under Section 252(a)(1) of the
Telecommunications Act

UNIVERSAL TELECOM'S INITIAL
STATEMENT OF ISSUES

**UNIVERSAL TELECOM, INC.'S
INITIAL STATEMENT OF ISSUES**

Universal Telecom, Inc. ("Universal"), pursuant to the ruling of ALJ Smith dated October 26, 2004, hereby presents a proposed list of issues concerning the scope of the Oregon Public Utilities Commission ("OPUC") Staff investigation into the apparent failure of Qwest Corporation ("Qwest") to file interconnection agreements for OPUC approval pursuant to Section 252(a)(1) of the Telecommunications Act of 1996.

Universal presents herein the primary issues raised by Qwest's failure to file interconnection agreements with the OPUC. Universal reserves the right to identify other primary, or possibly secondary, issues raised by Qwest's actions at a later stage of this proceeding and anticipates filing an additional description of issues on November 30, 2004. In addition, given that the law at issue largely speaks for itself and is clearly established, Universal does not offering briefing on the law governing these questions at this time.

The foremost issue underlying this entire proceeding is, of course, whether and to what degree Qwest's failure to file interconnection agreements between Qwest and various Oregon CLECs constitutes a violation of federal law, 47 U.S.C. § 252(a)(1), and applicable State law.

It is Universal's understanding that the facts underlying Qwest's actions are essentially uncontested: there exist a number of interconnection agreements (in some form or another) between Qwest and Oregon CLECs that were not filed with the OPUC. Assuming these facts, or something similar, are stipulated to or otherwise not contested by Qwest, the full Commission must make a formal determination that Qwest's actions constitute a violation of federal law and applicable State law.

A second, and equally important, issue is whether Qwest's actions, and apparent violation of the law, resulted in direct or indirect harm to CLECs in Oregon.

Qwest is obligated under the law to make available to Universal (and all Oregon CLECs) "any interconnection, service, or network element"¹ under an agreement with any other CLEC. Qwest's actions in fulfilling, or failing to fulfill, that obligation have a direct impact on Universal's right to opt into, or adopt, the terms of such an agreement under Section 252(i) of the Telecommunications Act, and applicable FCC regulations.² In addition, Qwest is also obligated by contract, under its existing interconnection agreement with Universal, to allow Universal to opt into, adopt or "MFN" into more favorable terms and conditions of other agreements.

Because Qwest did not file such agreements, Universal could not avail itself of its rights under contract and federal law, to secure any more favorable terms and conditions that may have existed. Thus, because Qwest's actions have impaired, or otherwise voided, Universal's statutory and contractual rights the Commission must affirmatively determine that such rights (and those of similarly situated CLECs) were affected by Qwest's actions.

¹ 47 U.S.C. § 252(i).

² 47 C.F.R. § 51.809.

CONCLUSION

WHEREFORE, for the reasons stated above, Universal respectfully requests that the Commission include the issues described above in its consideration of the OPUC Staff Report in the above referenced matter .

Respectfully submitted,



Jeffrey R. Martin

UNIVERSAL TELECOM, INC.

[ADDRESS]

[PHONE]

[FAX]

John C. Dodge

K. C. Halm

COLE, RAYWID & BRAVERMAN, LLP

1919 Pennsylvania Avenue, N.W., #200

Washington, D.C. 20006


(202) 659-9750

(202) 452-0067

November 9, 2004

CERTIFICATE OF SERVICE

I, Jeffry Martin, do hereby certify that on the 9th day of November, 2004, I caused a copy of the foregoing Initial Statement of Issues of Universal Telecom, Inc. to be served upon the parties identified in the Service List under Oregon PUC Docket UM 1168.


Jeffry Martin

PUC Service List
11/9/2004

Name	Company	Address	City-state	email
ALEX M DUARTE	QWEST CORPORATION	421 SW OAK ST STE 810	PORTLAND OR 97204	alex.duarte@qwest.com
BRAD SCHAFFER	RIO COMMUNICATIONS INC	2360 NE STEPHENS, SUITE 100	ROSEBURG OR 97470	brad@rio.com
CHARLES BEST	ELECTRIC LIGHTWAVE LLC	4400 NE 77TH AVE	VANCOUVER WA 98662	cbest@eli.net
DAVE BOOTH	PUBLIC UTILITY COMMISSION	PO BOX 2148	SALEM OR 97308-2148	dave.booth@state.or.us
GREGORY SCOTT	INTEGRA TELECOM OF OREGON INC	1201 NE LLOYD BLVD STE 500	PORTLAND OR 97232	greg.scott@integratelecom.com
JOSEPH D CHICOINE	ELECTRIC LIGHTWAVE LLC	PO BOX 340	ELK GROVE CA 95759	jchicoin@czn.com
KAREN J JOHNSON	INTEGRA TELECOM OF OREGON INC	1201 NE LLOYD BLVD STE 500	PORTLAND OR 97232	karen.johnson@integratelecom.com
KAREN S SHORES MAN FRAME	COVAD COMMUNICATIONS CO	7901 LOWRY BLVD	DENVER CO 80230	kframe@covad.com
LISA F RACKNER	ATER WYNNE LLP	222 SW COLUMBIA ST STE 1800	PORTLAND OR 97201-6618	lfr@aterwynne.com
MARK P TRINCHERO	DAVIS WRIGHT TREMAINE LLP	1300 SW FIFTH AVE STE 2300	PORTLAND OR 97201-5682	marktrinchero@dwt.com
MICHAEL T WEIRICH	DEPARTMENT OF JUSTICE	1162 COURT ST NE	SALEM OR 97301-4096	michael.weirich@state.or.us
JOHN C DODGE	COLE RAYWID & BRAVERMAN LLP	1919 PENNSYLVANIA AVE NW 2ND FL	WASHINGTON DC 20006-3456	jdodge@crblaw.com
JUDGE CHRISTINA SMITH	PUBLIC UTILITY COMMISSION	PO BOX 2148	SALEM OR 97308-2148	
DENNIS AHLERS	ESCHELON TELECOM OF OREGON INC	730 SECOND AVE S STE 900	MINNEAPOLIS MN 55402-2489	