

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-3026
on its own motion, seeking to)
conduct a 9-month proceeding as)
contemplated by the Federal Com-)
munications Commission in its) HEARING OFFICER'S ORDER
Triennial Review Order adopting)
new rules for network unbundling)
obligations.) Entered: December 30, 2003

BY THE HEARING OFFICER:

O P I N I O N A N D F I N D I N G S

AT&T and MCI's Motions for Reconsideration:

On November 26 and December 2, 2003, MCI and AT&T, respectively, served discovery on both Qwest and ALLTEL. As such discovery was not consistent with the planning conference held in this matter, nor filed pursuant to the Commission's Procedural Order No. 1, dated October 28, 2003, the parties were directed to disregard such discovery requests. AT&T and MCI subsequently requested reconsideration. Reconsideration is denied.

As indicated previously, AT&T and MCI may again seek "supplemental" discovery, if necessary, once answers to the Commission's Consolidated Discovery have been filed and appropriately reviewed.

AT&T and MCI Discovery Objections To Consolidated Discovery:

On December 1, 2003, the Commission served Consolidated Discovery on several entities operating in the state of Nebraska as telecommunications providers. Such discovery was served on both MCI and AT&T, among others.

On December 15 and 16, 2003, MCI and AT&T, respectively, filed objections to several of the Commission's Consolidated Discovery Requests. The objections are overruled. MCI and AT&T are directed to answer all such discovery. While each objection is not addressed individually, a number of the objections are specifically addressed in an effort to clarify the Commission's position.

In at least two of the Commission's discovery questions (i.e. - 3(f) and 7(f)), the Commission inadvertently referred to "business" lines. The information sought is for "residential" lines. Therefore, the parties are directed to respond to such questions with regard to the number of residential lines.

In regard to AT&T's concern over the issue of the Commission's use of "ILEC wire center" for gathering information, such concern is misplaced. The Commission has not yet made such a determination and only seeks to obtain information in a form that is easily decipherable and tabulated. Therefore, AT&T's objection is overruled and the parties are directed to respond.

Furthermore, it is the Commission's decision as to what "may" or "may not" be relevant to this proceeding or what might lead to admissible information in this matter. Since the Commission released the Consolidated Discovery, it is apparent that such information is important to the Commission's evaluation of this matter. Therefore, such objections are overruled and the parties are directed to respond.

Finally, in regards to Question 24, the Commission offers the following clarification:

For rate plans, identified in Question 23, that contain minute-of-use rates, provide minute-of-use demand for customers subscribing to said rate plans.

In conclusion, the AT&T and MCI objections are overruled and the parties are directed to respond to the Consolidated Discovery to the extent that such information is available.

AT&T's Objection Regarding ALLTEL:

On December 5, 2003, AT&T filed a pleading entitled "AT&T's Objections To Alltel's Notice." On December 16, 2003, such pleading was discussed at the Commission's regularly scheduled Grist Meeting. By agreement of all Commissioners present, Alltel was granted until January 5, 2004, to respond.

On December 19, 2003, AT&T respectfully clarified its pleading as a motion and requested that oral arguments be scheduled to address the issue on January 7, 2004, in an effort to avoid further disruption to the Commission's Procedural Schedule.

Due to its significance, the issue should be addressed as soon as practicable. Therefore, the Commission will conduct an oral argument on this matter on January 7, 2004, at 10:00 a.m. in the Commission Hearing Room.

Qwest's Request for Order Directing Production:

On December 19, 2003, Qwest requested that the Commission enter an order directing Qwest to produce information in its possession that might reveal a CLEC's or carrier's identity when provided in response to discovery requests in this proceeding or when offered into evidence by Qwest. The Commission has entered a protective order in this matter, which includes a number of increased protections for the parties, that it is unnecessary to take this additional step. Therefore, I decline to grant Qwest's request. Therefore, the request is denied.

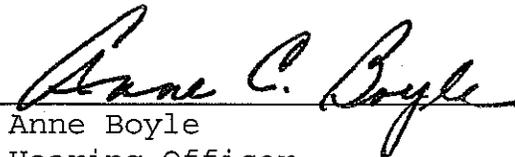
O R D E R

IT IS THEREFORE ORDERED by the Hearing Officer that the above-outlined issues are resolved as set forth above.

MADE AND ENTERED at Lincoln, Nebraska, this 30th day of December, 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

By:


Anne Boyle
Hearing Officer

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
