

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">v.</p> <p>QWEST CORPORATION AND MCI WORLDCOM COMMUNICATIONS, INC.,</p> <p style="text-align:center">Respondents.</p>	<p>DOCKET NO. FCU-02-5 (C-02-22)</p>
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**ORDER GRANTING REQUEST FOR AMENDMENTS
TO PROCEDURAL SCHEDULE**

(Issued July 17, 2002)

On July 15, 2002, MCI WorldCom Communications, Inc. (WorldCom)¹ filed a Request for Amendments to Procedural Schedule and requested expedited relief. On July 16, 2002, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a Resistance to the request. The parties and the undersigned held a conference on the request and the resistance on July 16, 2002. Qwest Corporation (Qwest) was connected by telephone conference call. Qwest did not resist the request for amendments filed by WorldCom.

¹ In the Order Establishing Procedural Schedule and Notice of Hearing issued May 31, 2002, MCI WorldCom Communications, Inc. was referred to as MCI. Since that order, the parties have been referring to MCI WorldCom Communications, Inc. as WorldCom. Therefore, we will use WorldCom as the reference for consistency.

WorldCom requested that all dates in the procedural schedule be postponed approximately 45 days for several reasons. These reasons include that WorldCom's witness was laid off by WorldCom, the expedited procedural schedule in Board Docket No. SPU-02-9 conflicts with the procedural schedule in this case, Docket No. SPU-02-9 is highly unusual in the amount of counsel and in-house resources required, and Mr. Dublinske's telecommunications associate is on maternity leave. WorldCom also argued there would be no prejudice in delay of the internal date for the filing of its testimony, since the Consumer Advocate was willing to postpone the briefing and hearing dates for 30 days. It also argued there would be no harm to Mark Seed by the delay because the underlying problems in the informal complaint (Docket No. C-02-22) have been resolved, and if any penalties are assessed, they would not go to Mark Seed.

The Consumer Advocate resisted for the following reasons: the only conflicts in the procedural schedules are in the hearing dates and briefing schedules, not the date prefiled testimony is due, WorldCom is asking for postponement of this case to devote all of its legal resources to a single case and no company deserves such accommodation, it would not be fair to the interests of consumers, the case is not complex and WorldCom has had enough time to prepare, layoff of the witness is not determinative, and WorldCom should come forth with responsive evidence in accordance with the procedural schedule. The Consumer Advocate argued that it represented the interests of consumers generally, not just those of Mark Seed, justice delayed is justice denied, and the case had already gone on for months. The

Consumer Advocate was willing to defer the briefing and hearing dates by approximately 30 days.

Under the circumstances, it is reasonable to slightly amend the procedural schedule in this case, although not for the reasons given in the request, and not for the amount of time contained in the request. The fact that an attorney and client have other pressing cases is no reason to delay a long-established procedural schedule. Accommodation for the associate's maternity leave was made in setting the original procedural schedule. A company cannot avoid compliance with a procedural schedule by laying off a witness.

However, the Consumer Advocate is willing to delay the briefing and hearing dates for approximately 30 days. Given this fact, it is hard to see why a short delay of the date for WorldCom to file prefiled testimony would be prejudicial to anyone. In addition, it does not appear that a short delay in the briefing and hearing dates would be prejudicial to any of the parties, the interests of consumers generally, and the interests of the Mark Seed Company. A complete postponement of this case until after the briefs are filed in Docket No. SPU-02-9 is not necessary and would be unreasonable.

IT IS THEREFORE ORDERED:

1. The Order Establishing Procedural Schedule and Notice of Hearing issued on May 31, 2002, in this case is hereby amended as follows:

a. On or before August 12, 2002, WorldCom and Qwest must file prepared rebuttal testimony and exhibits. WorldCom and Qwest may refer to any document already in the record, and do not need to refile exhibits already

submitted in the informal complaint process and made a part of the record. WorldCom and Qwest may also refer to the information filed pursuant to the May 14, 2002, Board order. In their prepared testimony and exhibits, WorldCom and Qwest must address the issues discussed in the May 31, 2002, procedural order and file any other evidence not previously filed.

In addition, in its prepared testimony, WorldCom must explain the references "TO DIR ASSIST" and "TO SPORTS" on Mark Seed's March 4, 2002, bill. WorldCom must also file proof of verification of Mark Seed's authorization for a change in service and a copy of the script its sales people use when calling prospective customers. If the script Tina Bryant used when she called Mark Seed differs from the current script, WorldCom must file a copy.

In its prefiled testimony, Qwest must explain in detail what it did to correct the problem, why the problem was not corrected for each time Qwest stated it had been corrected, why the customer continued to receive WorldCom charges as late as the May 4, 2002, bill, whether the problem is corrected, and what Qwest is doing to ensure the customer will not receive another bill with WorldCom charges on it. Qwest must also file a copy of any bill it sends to Mark Seed after the May 4, 2002, bill and before the hearing. If a bill contains WorldCom charges, Qwest must explain why and what it has done to correct the problem.

b. If the Consumer Advocate or any intervenor is going to file prepared rebuttal testimony and exhibits, it must do so by September 3, 2002.

c. A hearing for the presentation of evidence and the cross-examination of witnesses will be held in Conference Room 3, 350 Maple Street, Des Moines, Iowa, on September 17, 2002, commencing at 10 a.m. The parties should plan to come to the hearing room at 9:45 a.m. to mark exhibits. Each party must provide a copy of its prepared testimony and all exhibits to the court reporter.

Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

d. Any party who wishes to file a pre-hearing brief must do so on or before September 12, 2002. If needed, a post-hearing briefing schedule will be established at the conclusion of the hearing.

2. All other provisions in the Order Establishing Procedural Schedule and Notice of Hearing issued May 31, 2002, remain in effect.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 17th day of July, 2002.