

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Application for Acquisition of Assets of)	WC Docket No. 04-13
Allegiance Telecom, Inc. by Qwest)	
Communications International Inc.)	

ORDER

Adopted: February 3, 2004

Released: February 3, 2004

By the Chief, Competition Policy Division:

Revised Filing Dates:

Comments Due: February 23, 2004

Reply Comments Due: March 1, 2004

1. On January 21, 2004, the Commission released a Public Notice seeking comment on an application filed for the acquisition of assets of Allegiance Telecom, Inc., Debtor-in-Possession (Allegiance), by Qwest Communications International Inc. (Qwest) (together, Applicants).¹ The Public Notice stated that interested parties could file comments on or before February 4, 2004 and reply comments on or before February 11, 2004.

2. On February 2, 2004, Eschelon Telecom, Inc. (Eschelon) filed a motion to extend the deadlines for filing comments and reply comments in this proceeding.² In its pleading, Eschelon requests an extension of time in order to allow interested parties and the Commission to consider ongoing proceedings in the Bankruptcy Court for the Southern District of New York (Bankruptcy Court). On February 9, 2004, the Bankruptcy Court is scheduled to accept additional bids for Allegiance's assets and, if higher bids are submitted to the Bankruptcy Court, it will hold an auction on February 12, 2004. The Bankruptcy Court is scheduled to confirm the winning bidder on February 19, 2004. Eschelon contends that until this time, ". . . there is no way to predict whether Qwest, or another entity, ultimately will be the highest bidder."³ Given the possibility that an entity other than Qwest may be the successful bidder, Eschelon states that the Qwest/Allegiance Application may become moot and that the current pleading cycle would

¹ *Commission Seeks Comment on Application for Acquisition of Assets of Allegiance Telecom, Inc. By Qwest Communications International Inc.*, WC Docket No. 04-13, Public Notice, DA 04-136 (rel. Jan. 21, 2004).

² Eschelon Motion to Extend or Postpone Comment Period, WC Docket No. 04-13 (filed Feb. 2, 2004).

³ *Id.* at 2.

have “. . . resulted in an unnecessary expenditure of resources by the Commission and interested parties.”⁴

3. It is the policy of the Commission that extensions of time are not routinely granted.⁵ In this instance, however, the Bureau finds that Eschelon has shown good cause for an extension of the deadline for filing comments and reply comments in this proceeding. Because of the proximity of the initial pleading cycle to the Bankruptcy Court’s February 19 deadline for confirming a winning bidder, and a lack of evidence in the record demonstrating that Qwest would be prejudiced by a brief extension, we grant a limited extension so that parties may file comments on or before **February 23, 2004** and reply comments on or before **March 1, 2004**.⁶ This matter shall continue to be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁷ All other requirements discussed in the Public Notice remain in effect.

4. ACCORDINGLY, IT IS ORDERED, pursuant to the authority delegated under sections 0.91 and 0.291 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, that Eschelon’s Motion To Extend or Postpone Comment Period in the above-captioned proceeding IS GRANTED IN PART to the extent set forth herein.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief, Competition Policy Division

⁴ *Id.* at 2-3.

⁵ 47 C.F.R. § 1.46(a).

⁶ We note that on February 3, 2004, the Applicants filed in opposition to Eschelon’s request to extend the pleading cycle. *See* Joint Opposition to Motion to Extend or Postpone Comment Period, WC Docket 04-13 (filed Feb. 3, 2004).

⁷ 47 C.F.R. § 1.1206.