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BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)Docket No. UT-011329
TRANSPORTATION COMMISSION,)Volume I
Complainant,)Pages 1-18
v.)
QWEST CORPORATION,)
Respondent.)
_____)

A prehearing in the above matter
was held on October 22, 2001, at 1:36 p.m., at 1300
Evergreen Park Drive Southwest, Olympia, Washington,
before Administrative Law Judge KAREN CAILLE.

The parties were present
as follows:

QWEST CORPORATION, by Lisa Anderl and
Adam Sherr, Attorneys at Law, 1600 Seventh Avenue, Room
3206, Seattle, Washington 98191.

METRONET SERVICES CORPORATION, by David
Rice, Attorney at Law, Miller Nash, LLP, 4400 Two Union
Square, 601 Union Street, Seattle, Washington 98101 (Via
teleconference bridge.)

PUBLIC COUNSEL, by Robert Cromwell,
Assistant Attorney General, 900 Fourth Avenue, Suite
2000, Seattle, Washington 98164 (Via teleconference
bridge.)

THE COMMISSION, by Shannon
Smith, Assistant Attorney General, 1400 Evergreen
Park Drive, S.W., P.O. Box 40128, Olympia,
Washington 98504-0128.

Barbara L. Nelson, CSR

Court Reporter

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1 JUDGE CAILLE: Let's go on the record. We
2 are here today for the first prehearing conference in
3 the proceeding in Docket Number UT-011329,
4 encaptioned Washington Utilities and Transportation
5 Commission versus Qwest Corporation. This is a
6 complaint brought by the Commission concerning
7 Qwest's Centrex customer loyalty program.

8 My name is Karen Caille, and I'm the
9 presiding Administrative Law Judge in this
10 proceeding. It's my understanding that the
11 Commissioners will be sitting on this case. Today is
12 Monday, October the 22nd, and we are convened in the
13 hearing room at the Commission's offices in Olympia,
14 Washington.

15 I'd like to begin this morning with
16 appearances. If you will please state your name,
17 whom you represent, your street address and mailing
18 address, telephone number, fax number, and e-mail
19 address. And let's begin with Ms. Smith.

20 MS. SMITH: Thank you. Shannon Smith,
21 Assistant Attorney General, Counsel for Commission
22 Staff. My address is P.O. Box 40128, Olympia,
23 Washington, 98504-0128. My telephone number is area
24 code 360-664-1192. I believe my fax number is
25 360-586-5522. E-mail is ssmith@wutc.wa.gov. And the

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1 street address for parcel delivery is 1400 South
2 Evergreen Park Drive, S.W.

3 JUDGE CAILLE: Thank you. And for Qwest.

4 MS. ANDERL: Thank you, Your Honor. Lisa
5 Anderl, representing Qwest Corporation. My business
6 address is 1600 Seventh Avenue, Room 3206, Seattle,
7 Washington, 98191. Telephone 206-345-1574; fax,
8 206-343-4040; and e-mail is landerl@qwest.com.

9 MR. SHERR: And Adam Sherr, for Qwest, as
10 well. Last name is spelled S-h-e-r-r. Same address
11 and fax number as Ms. Anderl. Phone number
12 206-398-2507. E-mail, asherr@qwest.com.

13 JUDGE CAILLE: I'm sorry. Would you give
14 me that e-mail again?

15 MR. SHERR: You bet. It's
16 asherr@qwest.com.

17 JUDGE CAILLE: Thank you. And on the
18 bridge line?

19 MR. RICE: Yes, this is David Rice, here on
20 behalf of Metronet Services Corporation. My address
21 is Miller Nash, LLP. We're at 4400 Two Union Square,
22 601 Union Street, Seattle, Washington, 98101. My
23 phone number is 206-777-7424. My e-mail address is
24 rice@millernash.com. The fax number is 206-622-7485.

25 JUDGE CAILLE: All right. And Mr.

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1 Cromwell.
2 MR. CROMWELL: Thank you. Robert Cromwell,
3 on behalf of Public Counsel, 900 Fourth Avenue, Suite
4 2000, Seattle, Washington, 98164-1012. My direct
5 line 206-464-6595. My fax number is 206-389
6 (inaudible) --
7 JUDGE CAILLE: I'm sorry, Mr. Cromwell.
8 Would you please repeat the first three numbers?
9 MR. CROMWELL: The fax number?
10 JUDGE CAILLE: Yes, not the area code, but
11 the --
12 MR. CROMWELL: 389-2058.
13 JUDGE CAILLE: 2058. You're fading just a
14 little bit.
15 MR. CROMWELL: Okay. My e-mail address is
16 robertc1@atg.wa.gov.
17 JUDGE CAILLE: Thank you. Is there anyone
18 else on the bridge line? Okay. Next, are there any
19 petitions to intervene?
20 MR. RICE: This is David Rice. I would
21 like to intervene on behalf of Metronet Services
22 Corporation.
23 MS. ANDERL: Judge Caille, this is Lisa
24 Anderl, on behalf of Qwest. I'd like to interrupt
25 Mr. Rice right here to ask if we might have a break

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1 wherein I could speak with him offline about this
2 intervention. We did not have any notice about this,
3 and I have some concerns that I'd rather not air
4 publicly at this time, but would like an opportunity
5 to speak with Mr. Rice about some things that perhaps
6 his partner, Mr. Harlow, did not communicate to him.

7 JUDGE CAILLE: Do you have a suggestion on
8 how to handle that? Do you want to break now and --
9 or shall we proceed and -- how about if we proceed
10 and take a break when we would normally look at
11 schedules?

12 MS. ANDERL: That would be fine.

13 JUDGE CAILLE: All right. Are there any
14 preliminary or dispositive motions?

15 MS. SMITH: Your Honor, I don't know if
16 this is a motion, per se, but the Commission Staff
17 would like to have an exhibit from the 271 case, the
18 exhibit that precipitated the finding that caused the
19 Commission to direct this complaint be filed. It is
20 a confidential exhibit. It's Exhibit C-511, I
21 believe, our response to Washington Record Request
22 Number Four. It is somewhat of a jurisdictional
23 document in this case. It's confidential, so I
24 hesitate to give any more identifying information
25 about it at this time.

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1 And along with asking that this exhibit be
2 made an exhibit in this case, the Commission Staff
3 would like to ask that the confidential designation
4 of this exhibit be lifted, because we see no reason
5 why this entire exhibit needs to remain designated as
6 confidential.

7 JUDGE CAILLE: All right. Ms. Anderl.

8 MS. ANDERL: I think that the request is a
9 little unusual. Ordinarily, an exhibit has a
10 sponsoring witness, either through direct or cross.
11 I understand what Ms. Smith's concern is in terms of
12 the jurisdictional nature of the document, in that I
13 believe that Staff will contend that -- or that's
14 basically their case and they need that in the
15 record. I think we could probably come up with a way
16 to deal with that offline.

17 It does seem to me that if we are going to
18 go ahead with a contested proceeding here, it will
19 unfold that there are witnesses on both sides and
20 that someone has to present the case in chief for the
21 Commission or Commission Staff, and there will be one
22 or more witnesses who might well sponsor that
23 document, and likely without objection from Qwest.

24 I haven't given any thought to the
25 confidentiality. I haven't reviewed that document in

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1 a while, and I think I would like to hold for another
2 day the discussion as to that particular issue, if we
3 may, because I'm simply not prepared to address it at
4 this time without having had some time to review the
5 document and to discuss with internal folks at Qwest
6 the nature of the confidential designation and
7 whether we would like to retain that, and if so, why.

8 MS. SMITH: If I might respond briefly.
9 Just in response to Ms. Anderl's comment that it is a
10 little bit unusual to bring a document in as an
11 exhibit in a case without having a sponsoring
12 witness, it is unusual, but this is somewhat of a
13 unique case, because the Commission did take this
14 evidence in the 271/SGAT docket, this evidence was
15 reviewed by the Commission in the context of that
16 proceeding, and while it is not a conclusive document
17 on the ultimate issue in the case, it certainly was
18 reliable enough for the Commission to decide to file
19 this complaint. So it is somewhat part and parcel to
20 the Commission's complaint in this case. However,
21 it's a confidential document, so it couldn't be
22 discussed in detail in the complaint. So it is a bit
23 unusual, but that's because of the unique procedural
24 nature of how this complaint came about.

25 JUDGE CAILLE: Anything further, Ms.

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1 Anderl?

2 MS. ANDERL: Not at this time, no.

3 JUDGE CAILLE: Okay. I think I will let
4 the parties discuss this and see if they can come up
5 with a way to handle it, and we'll take this up along
6 with the intervention --

7 MS. SMITH: Thank you, Your Honor.

8 JUDGE CAILLE: -- matter. Okay. I think
9 next we should look at discovery. Is there anyone
10 who will want to have the discovery rule invoked?

11 MS. SMITH: Commission Staff, please.

12 JUDGE CAILLE: All right. Then I rule that
13 the Commission's discovery rule should be made
14 available in this proceeding, and that the discovery
15 process, as outlined in WAC 480-09-480, will be
16 available to you. If there are any discovery
17 problems, I will be available to consider those on an
18 expedited basis by telephone. We haven't got to
19 schedule yet, but maybe the parties want to consider
20 whether there should be a discovery cutoff date
21 during the scheduling.

22 The next matter I would like to bring up is
23 the protective order. I assume -- well, maybe not.

24 Is there going to be a need for a protective order?

25 MS. ANDERL: Qwest believes that there may

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1 be.

2 JUDGE CAILLE: All right. Does anyone
3 object to Qwest's request for a protective order?
4 All right. Then, hearing none, I will see that a
5 protective order is issued in this proceeding.

6 I think that the -- going on to issues, I
7 think the issues are fairly well -- well, they're
8 very well set forth in the complaint. Is there
9 anything that needs to be added to that? Okay. Then
10 that brings us to our procedural schedule. Have the
11 parties had an opportunity to discuss the schedule?

12 MS. ANDERL: Not yet.

13 MS. SMITH: We haven't yet, Your Honor.

14 JUDGE CAILLE: Well, then I'm going to go
15 off the record and let you discuss scheduling. If
16 you could give me -- well, I just need to check in
17 with when the Commissioners will be available. If
18 you can just, like, give me a month that we would be
19 -- I don't mean that we'd be in hearing for a month,
20 but I'm hoping we're far enough out that they won't
21 be scheduled like they are now. So let's go --

22 MR. CROMWELL: Your Honor.

23 JUDGE CAILLE: Yes.

24 MR. CROMWELL: Robert Cromwell. I just
25 want to bring to your attention now on the energy

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1 side --

2 JUDGE CAILLE: Yes.

3 MR. CROMWELL: -- we are expecting probably
4 the first week of November a general rate case filed
5 by Puget Sound Energy, as well as sometime in later
6 November a general rate case filed by Avista. In
7 addition, I believe last week our office filed a
8 complaint against Puget Sound Energy for
9 approximately a hundred million dollar BPA credit at
10 issue from their merger case.

11 So you may want to, when looking at the
12 Commissioners' calendars, keep in mind that there
13 are, while not yet set, likely to end up being fairly
14 significant -- in looking for that time.

15 JUDGE CAILLE: All right. Thank you, Mr.
16 Cromwell. The first one was PSE, did you say?

17 MR. CROMWELL: Yeah.

18 JUDGE CAILLE: It's a PSE rate case, Avista
19 rate case, and your complaint by PSE? I mean --

20 MR. CROMWELL: Right. Those are the ones
21 that I know that are significant that will be
22 pending. I know that there's also some 271 dates
23 that are unset, but likely to be early in the year.

24 JUDGE CAILLE: Ms. Smith probably knows.

25 MS. SMITH: I don't really know a lot. I

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1 do know that I will be counsel for Commission Staff
2 on the PSE rate case, so I would imagine that a lot
3 of that scheduling will sort of fall into place, as
4 it always does, with everybody's calendars. While
5 that is forthcoming, I don't believe it is on the
6 Commission's calendar as of this point.

7 JUDGE CAILLE: Okay. Then let's go off the
8 record.

9 (Recess taken.)

10 JUDGE CAILLE: We're back on the record
11 after a brief recess for the parties to discuss
12 scheduling in this matter and to take up two issues,
13 one regarding intervention by Metronet and the other
14 issue was -- had to do with an exhibit from the 271
15 proceeding. Why don't we take up the intervention
16 first.

17 MS. ANDERL: Okay. I think Mr. Rice is
18 back on the line.

19 MR. RICE: Yes, I'm here. I can speak now.
20 Metronet must withdraw its motion to intervene at
21 this time without prejudice as to renewing, and also
22 we reserve the right to file a late intervention
23 request in the future.

24 JUDGE CAILLE: Okay. Is that agreeable to
25 Qwest?

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1 MS. ANDERL: Well, Qwest is not waiving any
2 -- Qwest does not object to Metronet withdrawing its
3 petition. Qwest is not withdrawing any rights it may
4 have to assert untimeliness at a later date when and
5 if Metronet chooses to refile.

6 JUDGE CAILLE: All right. And Mr. Rice,
7 you do understand that, depending on when you do --
8 if you should intervene, you would have to take the
9 record as it stands at that point?

10 MR. RICE: Yes, I understand that.

11 JUDGE CAILLE: All right, then. Metronet's
12 motion to intervene has been withdrawn. And let's
13 move on to the next issue.

14 MS. ANDERL: On the Exhibit C-511 from the
15 SGAT/271 proceeding, I have proposed to Staff that
16 Qwest be given an opportunity to discuss internally
17 both the admission of that document and the
18 confidentiality of it, and we would propose to get
19 back to Staff sometime within the next day or two and
20 perhaps either then present that to you for
21 resolution or present an agreed-upon resolution.

22 JUDGE CAILLE: All right. Is that
23 agreeable?

24 MS. SMITH: That's correct.

25 JUDGE CAILLE: Okay.

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1 MR. CROMWELL: Your Honor.

2 JUDGE CAILLE: Yes, Mr. Cromwell.

3 MR. CROMWELL: I would simply ask that if
4 some agreement is reached, that it be memorialized on
5 the record in some fashion, either by a communication
6 from you or some filing.

7 MS. SMITH: In some way, I think we'll
8 facilitate getting that on the record.

9 JUDGE CAILLE: Yes.

10 MS. SMITH: Exactly how that would shape up
11 right now, I guess we don't know, but certainly it's
12 Staff's desire to get this document on the record, so
13 we would do what needed to be done.

14 MS. ANDERL: And we wouldn't communicate to
15 Your Honor about that without notifying all the other
16 parties.

17 JUDGE CAILLE: Okay. So then I assume the
18 confidentiality of that document is also something
19 that you're going to put over?

20 MS. SMITH: Yes, it is. We'll be --
21 hopefully, we'll have an opportunity to discuss both
22 issues and come to some resolution on both of them
23 within the next couple of days.

24 JUDGE CAILLE: Should we set a date for
25 that?

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1 MS. SMITH: I don't know if we need to set
2 a date. Perhaps we could commit to getting back with
3 you by Friday on what we decide. Certainly, we'll
4 talk before then, but if it would require any
5 documents that we might want to draft, I think we
6 might want to give ourselves a couple of days after
7 we discuss this to decide what the best way is to
8 bring that to your attention. So if we could commit
9 to getting back to you on Friday or by Friday, that
10 would work for Staff.

11 MS. ANDERL: And Qwest, as well.

12 JUDGE CAILLE: Just as a status, that
13 sounds reasonable.

14 MS. SMITH: Yeah, and we might be able to
15 get back with you before then.

16 JUDGE CAILLE: Okay. I believe that takes
17 care of the outstanding issues. And now scheduling.

18 MS. SMITH: Your Honor, offline the parties
19 have discussed sort of a general schedule. We would
20 propose that the Commission Staff would file its
21 direct case by January 11th, 2002; Qwest would file
22 its responsive case by February 11th, 2002; and Staff
23 would file rebuttal by March 11th. And that would
24 give us time to do whatever we need to do after all
25 of the testimony is filed and still get this matter

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1 before the Commissioners on any of those dates in
2 April that you've said are available.

3 JUDGE CAILLE: Okay. Are any of those
4 dates more preferable than others?

5 MS. SMITH: For the hearing?

6 JUDGE CAILLE: Yes. Oh, you said you were
7 gone the 4th through the 18th, or unavailable the 4th
8 through the 18th.

9 MS. SMITH: Yeah, I'm gone, actually, so
10 either the 1st or the 2nd would work for me, and then
11 any day that the Commissioners would have after the
12 22nd of April.

13 JUDGE CAILLE: Why don't we set the 2nd.
14 The 2nd is a Tuesday. Why don't we set it for the
15 2nd, because I don't believe they're available on the
16 1st.

17 MS. ANDERL: That's never a good day for a
18 hearing, anyway. And Your Honor, I believe that
19 hearing date works for Qwest, as well. If we could
20 just clarify, too, that the conversation we had
21 offline was that Staff's filing dates would also be
22 for dates that any party who supported the
23 allegations in the complaint would file on those
24 dates, as well, as opposed to filing in any sort of a
25 responsive mode?

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1 JUDGE CAILLE: Okay, is that agreeable to
2 anyone thinking of participating?

3 MR. RICE: Yes, Your Honor.

4 JUDGE CAILLE: Okay. If there's nothing
5 further, I can just -- I'm sorry, but I did not check
6 to see how many copies you would need to file of
7 pleadings or briefs for internal distribution to the
8 Commission. Normally, I do check that with the
9 Records Center. But I do put that in the prehearing
10 conference order, so as long as you aren't doing
11 anything beforehand. I can check for you, though, if
12 you are filing anything before that comes out.

13 MS. SMITH: Your Honor, if we do file
14 something as a result of our discussions, I will
15 check with the Records Center and make sure that we
16 file the right number of copies of whatever it is.

17 JUDGE CAILLE: Thank you. Okay. I think
18 everyone here is pretty familiar with this, but I
19 will remind you anyway. Please remember that all
20 filings must be made through the Commission's
21 secretary, either by mail to the Secretary, WUTC,
22 Post Office Box 47250, 1300 South Evergreen Park
23 Drive, S.W., Olympia, Washington, 98504-7250, or by
24 other means of delivery to the Commission's offices
25 at the street address I just mentioned.

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1 We require that filings of substance -- and
2 that means testimony, briefs, motions, answers --
3 include an electronic copy on a three-by-five
4 IBM-formatted high-density disk in PDF Adobe Acrobat
5 format reflecting the pagination of your original.
6 Also, if you will please send us the text in your
7 choice of Word 97 or later or WordPerfect 6.0 or
8 later.

9 Service on all parties must be simultaneous
10 with filing, and ordinarily the Commission does not
11 accept filings by facsimile unless you have requested
12 my permission.

13 The Commission will enter a prehearing
14 conference order and protective order and the
15 prehearing conference order will include the
16 requirements for exhibit -- witness lists and exhibit
17 lists. Oh, that reminds me. We need to choose a
18 date for a prehearing conference to mark exhibits.
19 Generally, we do it about a week before the hearing.

20 MS. SMITH: My calendar is clear through
21 all of March.

22 JUDGE CAILLE: Okay. How does -- so that
23 would be March 26th. Does that look all right for a
24 prehearing conference?

25 MS. ANDERL: I think so.

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1 JUDGE CAILLE: Okay. The order will also
2 remind the parties that the Commission encourages
3 stipulations, both as to facts and to the issues that
4 can be resolved via the settlement process or other
5 means of alternative dispute resolution.
6 If there's nothing further, thank you for
7 coming today, and the meeting is adjourned.
8 MS. SMITH: Thank you.
9 MS. ANDERL: Thank you.
10 JUDGE CAILLE: Thank you.
11 MR. CROMWELL: Thank you, Your Honor.
12 (Proceedings adjourned at 2:36 p.m.)
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