

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION

3 In the Matter of the Petition of )  
4 )  
5 GTE NORTHWEST INCORPORATED ) DOCKET NO. UT-961632  
6 For Depreciation Accounting ) VOLUME 1  
7 Changes ) Pages 1 - 17  
8 -----)

9 A pre-hearing conference in the above matter  
10 was held on February 27, 1997 at 1:35 p.m. at 1300  
11 South Evergreen Park Drive Southwest, Olympia,  
12 Washington, before Administrative Law Judge TERRENCE  
13 STAPLETON.

14 The parties were present as follows:

15 THE WASHINGTON UTILITIES AND TRANSPORTATION  
16 COMMISSION STAFF, by SALLY G. JOHNSTON, Assistant  
17 Attorney General.

18 MR. BAKER: South Evergreen Park Drive  
19 Southwest, Olympia, Washington 98504

20 GTE NORTHWEST INCORPORATED, by A. TIMOTHY  
21 L. WILLIAMSON and RICHARD E. POTTER, Attorneys at Law,  
22 1800 41st Street, Everett, Washington 98201.

23 FOR THE PUBLIC, SIMON FFITCH, Assistant  
24 Attorney General, 900 Fourth Avenue, Suite 2000,  
25 Seattle, Washington 98164.

26 Cheryl Macdonald, CSR  
27 Court Reporter

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APPEARANCES (Cont'd.)

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3 MCI TELECOMMUNICATIONS CORPORATION, INC.,  
4 MCI METRO ACCESS TRANSMISSION SERVICES, INC., by CLYDE  
MACIVER, Attorney at Law, 4400 Two Union Square, 601  
Union Street, Seattle, Washington 98101.

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6 AT&T COMMUNICATIONS OF THE PACIFIC  
NORTHWEST, INC., by KRAIG BAKER, Attorney at Law, 2600  
Century Square, 1501 Fourth Avenue, Seattle,  
Washington 98101.

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8 TRACER, by ARTHUR A. BUTLER, Attorney at  
Law, 5450 Two Union Square, 601 Union Street, Seattle,  
Washington 98101.

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## 1 P R O C E E D I N G S

2 JUDGE STAPLETON: This hearing will please  
3 come to order. This is a pre-hearing conference in  
4 docket No. UT-961632 in the matter of GTE Northwest,  
5 Incorporated for depreciation accounting changes. In  
6 its petition GTE seeks an order of the Commission  
7 pursuant to RCW 80.04.350 authorizing changes and  
8 revisions to its depreciation rates for certain  
9 accounts. The ultimate issue before us is whether  
10 proposed depreciation changes are lawful, proper,  
11 adequate and consistent with public interest.

12 Commission set this pre-hearing conference  
13 by notice served February 12, 1997. Today's date is  
14 February 27, 1997. We are convened in Olympia,  
15 Washington before Administrative Law Judge Terrence  
16 Stapleton who will be presiding at this pre-  
17 hearing conference. The administrative law judge  
18 assigned to this proceeding is John Prusia. The  
19 Commissioners have indicated they will preside at  
20 hearings in this matter. Let's take appearances at  
21 this time beginning with the company.

22 MR. WILLIAMSON: Good afternoon. My name  
23 is Tim Williamson. I'm attorney with GTE Northwest  
24 Incorporated, and also appearing on behalf of GTE will  
25 be Richard E. Potter. Our addresses are 1800 41st

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1 Street, Everett, Washington, 98201. Telephone number  
2 206-261-5005 and fax number 206-258-9275.

3 JUDGE STAPLETON: Thank you. For  
4 Commission staff.

5 MS. JOHNSTON: Sally G. Johnston, assistant  
6 attorney general appearing on behalf of Commission  
7 staff. My address is.

8 MR. BAKER: South Evergreen Park Drive  
9 Southwest, Olympia, Washington 98504. My telephone  
10 number is area code 360-664-9598. My fax number is  
11 area code 360-586-5522.

12 JUDGE STAPLETON: Public counsel.

13 MR. FFITCH: Simon ffitch, assistant  
14 attorney general, public counsel section, Office of  
15 Attorney General, Suite 2000, 900 Fourth Avenue,  
16 Seattle, Washington 98164-1012, and the phone number  
17 is area code 206-389-2055 and fax number 389-2058.

18 JUDGE STAPLETON: All right. On my left  
19 here, please.

20 MR. BAKER: Kraig Baker. I'm appearing on  
21 behalf of AT&T and I'm from Davis Wright Tremaine.  
22 Our address is 2600 Century Square, 1501  
23 Fourth Avenue, Seattle, 98101. Phone number is  
24 206-628-761 and fax number is 206-628-7699.

25 JUDGE STAPLETON: Mr. MacIver.

1                   MR. MACIVER: My name is Clyde H. MacIver.  
2    Appearing on behalf of MCI Telecommunications  
3    Corporation and MCI Access Transmission Services,  
4    Inc. My address is 4400 Two Union Square, 601 Union  
5    Street, Seattle, Washington 98101. My telephone  
6    number is area 206-622-8484 and, I'm sorry, I don't  
7    recall my fax number at the moment.

8                   JUDGE STAPLETON: Mr. Butler.

9                   MR. BUTLER: Name is Arthur A. Butler. I'm  
10   appearing on behalf of TRACER. Address is Ater Wynne  
11   Hewitt Dodson and Skerritt LLP, Two Union Square,  
12   Suite 5450, 601 Union Street, Seattle, Washington  
13   98101-2327. Telephone number 206-623-4711. Fax  
14   number 206-467-8406.

15                  MR. MACIVER: Your Honor, I do see my fax  
16   number on a pleading if I may give it here.

17                  JUDGE STAPLETON: Sure.

18                  MR. MACIVER: It's 206-622-7485.

19                  JUDGE STAPLETON: Anyone else present in  
20   the room who intends to file a petition or make an  
21   oral motion to intervene at this time? Let the record  
22   reflect there is no one. First order of business,  
23   then, will be to consider petitions to intervene. I  
24   have a written petition from AT&T, Mr. Baker. Do you  
25   have any comment you wish to add to your written

1 petition?

2 MR. BAKER: No, Your Honor.

3 JUDGE STAPLETON: Any objections to the  
4 petition of AT&T to intervene?

5 MR. WILLIAMSON: Yes. GTE Northwest would  
6 object to the petition of AT&T to intervene in this  
7 case. This case is regarding GTE's depreciation  
8 lives. It is not affecting the rates that GTE will be  
9 charging its customers, and it's GTE's opinion that  
10 AT&T as a competitor might have ulterior motives which  
11 basically is an accounting issue between the company  
12 and the staff.

13 MR. MACIVER: Your Honor, I was just going  
14 to say, before you -- after you take comment, before  
15 you rule on AT&T's motion, may I address, because our  
16 interests are so similar and then you could rule  
17 together on them?

18 JUDGE STAPLETON: That's acceptable to me.  
19 Ms. Johnston, any --

20 MS. JOHNSTON: Staff does not oppose.

21 JUDGE STAPLETON: Mr. ffitch.

22 MR. FFITCH: Public counsel does not  
23 oppose.

24 JUDGE STAPLETON: All right. Mr. MacIver.

25 MR. MACIVER: Thank you, Your Honor. On

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1 behalf of MCI, I'm a glutton for punishment. I'm  
2 back.

3 JUDGE STAPLETON: So am I.

4 MR. MACIVER: MCI is both a competitor and  
5 a customer, as I have previously mentioned in a  
6 similar proceeding, but I wanted to explain a little  
7 further. As I mentioned this morning, MCI is involved  
8 in existing depreciation cases as well as the pricing,  
9 generic pricing docket, and they're actively  
10 participating in that docket. These depreciation  
11 cases, Your Honor, have a direct and significant and  
12 substantial impact on the pricing docket. For this  
13 simple reason. That MCI and AT&T are dependent  
14 competitors of U S WEST which require access to  
15 unbundled network elements.

16 Now, under the act of 1996, dependent  
17 competitors buying unbundled network elements from  
18 incumbent LECs, must pay the cost of those elements,  
19 plus a reasonable markup. That is regardless of  
20 retail rates to the general consuming public. These  
21 depreciation proceedings have a direct impact on the  
22 cost of those network elements. They affect  
23 depreciation rates that will affect the costs that are  
24 used to price the network elements in the generic  
25 pricing proceeding. There is no other intervenor or

1 party to this case, Your Honor, that will protect our  
2 interests in that regard, and so to say that this case  
3 does not affect rates is not accurate, with all due  
4 respect. It is going to affect the pricing of the  
5 network elements in the generic costing proceeding.

6           In addition, even with respect to retail  
7 rates, ultimately depreciation rates impact the  
8 revenue requirement of the company which ultimately  
9 impacts rates, and so, Your Honor, we are not here to  
10 broaden the issues of this proceeding. As I mentioned  
11 previously, we are in discussions with AT&T to share a  
12 common witness, and so we would not protract these  
13 proceedings. We have a definite interest that's not  
14 being represented by another party and we will not  
15 broaden the interests. We, too, are interested in the  
16 ultimate issue of this case, which is whether the  
17 proposed depreciation changes are lawful, proper,  
18 adequate and consistent with the public interest.

19           One other thing, repeatedly, both U S WEST  
20 and insignificantly GTE, claim that the competitive  
21 environment is going to be a major factor in these  
22 depreciation cases, and I am referring to page 2 of  
23 GTE's petition saying that they intend to depart from  
24 traditional regulatory submission for depreciation  
25 rates. As a result of rapidly changing technology and

1 a competitive environment, the normal analysis is no  
2 longer applicable. Paragraph 5 on page 2 GTE states  
3 that depreciation expense that GTE considers  
4 reasonable in light of competitive marketplace that  
5 exists in today's telecommunications arena, end of  
6 quote, is going to be a significant factor in this  
7 case.

8           We are part of that picture, and we have  
9 things to offer and no one else is going to offer it  
10 on our behalf. Certainly we cannot rely on the  
11 incumbent LEC to describe what we as competitors are  
12 doing or our technology. If that is going to be a  
13 factor in this depreciation case that needs to come  
14 from AT&T and MCI to the extent that we are  
15 competitors, but the most significant impact on us and  
16 the immediate impact is that as a dependent competitor  
17 who needs and who must buy unbundled network elements.

18           So we urge that you allow us to intervene  
19 in this case as our interests may appear and assure  
20 you we will not broaden the issues nor protract and  
21 lengthen the proceeding.

22           JUDGE STAPLETON: Thank you. Any comment  
23 from any other parties on MCI's petition to intervene?

24           MS. JOHNSTON: Thank you, Your Honor. I  
25 just would like to point out that Commission staff

1 concurs in the remarks made by Mr. MacIver on behalf  
2 of AT&T and MCI, and in addition Commission staff is  
3 having extreme difficulty trying to understand why or  
4 how it is a different standard for intervention should  
5 be applicable in the depreciation proceeding than that  
6 applicable in a rate case proceeding.

7 JUDGE STAPLETON: Thank you. Mr. ffitch.

8 MR. FFITCH: Public counsel would also  
9 support the rationale advanced by MCI for  
10 intervention. We believe it would be helpful to the  
11 Commission to have competitors as parties or  
12 intervenors in the proceeding because of the focus  
13 which we expect this proceeding to have on competitive  
14 issues, a focus which may not have been there in  
15 earlier depreciation proceedings but we expect to be  
16 here in this case.

17 JUDGE STAPLETON: Mr. Williamson, did you  
18 want to add anything?

19 MR. WILLIAMSON: Yes. I think that Mr.  
20 MacIver was very eloquent in his argument, but it  
21 seemed to me that the intent is to substantially  
22 enlarge the issues in this docket. As far as  
23 customers being protected we have a very diligent  
24 staff as well as public counsel to protect the  
25 interests of customers, and I imagine that Mr. Butler

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1 with TRACER might fit that bill also.

2           With regards to the historic process, I  
3 want to point out that the change is that  
4 traditionally depreciation lives were discussed with  
5 the FCC and the staff and the particular utility, and  
6 because of the 1996 Telecommunications Act it appears  
7 the FCC is not going to make it mandatory that they be  
8 involved, although they may be optional, and that is  
9 the change that we are addressing, and so it's not  
10 that different. Yes, we are in a new environment but  
11 what we're talking about is simply having the ability  
12 to have our books reflect proper lives. And I again  
13 stress, as the petition states, there is no -- we are  
14 not requesting any changes in the rates charged in its  
15 intrastate services in Washington, so I would again  
16 renew my objection to AT&T and MCI.

17           JUDGE STAPLETON: Thank you. Well, Mr.  
18 MacIver, I don't think that I am oblivious to the fact  
19 that nearly everything that happens in this day and  
20 age in the telecommunications industry and with the  
21 individual companies will likely have some effect on  
22 the way that companies pursues its own self-interests  
23 and it tries to protect itself in terms of, in this  
24 instance, a request to take another look at  
25 depreciation rates. I still, however, believe that

1 the participation by MCI and AT&T would add an  
2 additional element to this case that is not  
3 appropriate, and I will therefore as with the AT&T/MCI  
4 petition in the U S WEST case will deny the petitions  
5 to intervene.

6 Mr. Butler, you wish to make a motion to  
7 intervene?

8 MR. BUTLER: Yes, Your Honor. TRACER is an  
9 association of large users, including some of GTE's  
10 largest customers. Depreciation rates have a direct  
11 impact on the operating expenses of the company, the  
12 company's revenue requirement, determination of  
13 whether the company is overearning, underearning,  
14 ultimately the basis for either a complaint to reduce  
15 rates or a request by the company to increase rates.

16 We have a significant interest in one of  
17 the most significant elements which affect the cost  
18 basis of the rates which we pay. I would note for  
19 Your Honor's benefit the fact that the issue of  
20 whether depreciation rates, which are necessary input  
21 into costs that underlie prices is an issue which have  
22 to be determined only in a rate case or can be  
23 determined in a separate proceeding and then used to  
24 calculate depreciation expense in the context of a  
25 rate case, is an issue which is currently pending

1 before the state supreme court. On that issue it is  
2 the position of the Commission that those rates can be  
3 determined in a separate proceeding whereas it was the  
4 position of U S WEST that they can only be determined  
5 in the context of a rate case. It is the law of this  
6 state at this point that they can be determined in a  
7 separate proceeding, with the ruling, in effect, the  
8 ruling of the King County Superior Court, the ruling  
9 of this Commission in the U S WEST rate case.

10 In addition, we believe that as customers  
11 and members of the public, intended beneficiaries of  
12 the Telecommunications Act of 1996 for whose benefit  
13 that act was really enacted, if we are to achieve the  
14 public benefits intended by that act, namely the  
15 benefits of competition, it is important that  
16 appropriate prices for unbundled network elements be  
17 developed so that competition and customer choice can  
18 have a chance to develop in this country.

19 Depreciation rates can and are expected to  
20 be a very significant and direct input into the prices  
21 of unbundled network elements. They are not  
22 attributable components. The assumption about  
23 depreciation rates by our calculation represents an  
24 order of magnitude, for example, in the cost estimates  
25 of a local loop which, depending upon the cost models

1 that you're talking about, can exceed the entire cost  
2 found for the local loop. The Commission in U S WEST  
3 rate case found as a matter of great magnitude and  
4 significance. We think on that basis the  
5 determination of the rates in this case can  
6 significantly affect whether competition can develop  
7 in this state in any way that can produce public  
8 benefits.

9           On this basis we move to intervene noting,  
10 however, that we do not think that the determination  
11 to be made in this case will require us to do anything  
12 that is beyond the scope of the petition here which  
13 necessarily involves an evaluation of the effects of  
14 competition and the technological change on the  
15 expected economic lives of various plant categories.

16           JUDGE STAPLETON: Thank you. Mr.  
17 Williamson, any comment?

18           MR. WILLIAMSON: I want to try to couch  
19 this comment so I'm not more hypocritical than usual.  
20 Having -- TRACER -- I guess a qualified reject of  
21 TRACER's petition, to the extent that I believe the  
22 customers, large or small, are ably served by public  
23 counsel. Having said that, I think that the public  
24 counsel can do an excellent job in protecting  
25 consumers of all sizes in this state. On that basis I

1 don't think that TRACER is an essential part of this  
2 docket.

3 JUDGE STAPLETON: Commission staff, any  
4 comment?

5 MS. JOHNSTON: Commission staff does not  
6 oppose TRACER's active participation in this  
7 proceeding.

8 JUDGE STAPLETON: Public counsel?

9 MR. FFITCH: Public counsel does not object  
10 to TRACER's intervention and would recommend that the  
11 petition be granted. I thank the company for its kind  
12 words about our ability to represent the interests of  
13 the citizens of the state. As a practical matter, the  
14 addition of a representative for a particular group of  
15 the retail customers, the large business customers, I  
16 think is of great assistance to the Commission in  
17 analyzing the issues in a case like this and for that  
18 reason we would support the petition.

19 JUDGE STAPLETON: Thank you. The motion of  
20 TRACER to intervene will be granted.

21 MR. MACIVER: Your Honor, as I requested  
22 before, I would appreciate it if you would issue a  
23 specific order on your denial for the petition to  
24 intervene so that any further proceedings may be keyed  
25 to those orders.

1 JUDGE STAPLETON: As with the U S WEST, I  
2 will commit to having that out within two business  
3 days, Mr. MacIver. All right. Parties, I assume,  
4 will move to invoke the discovery rule.

5 MS. JOHNSTON: Yes.

6 JUDGE STAPLETON: WAC 480-09480 will be  
7 invoked for purposes of this proceeding. Is there any  
8 need to change the time lines for filing responding  
9 data requests contained in that rule?

10 MS. JOHNSTON: I don't believe so.

11 JUDGE STAPLETON: Thank you. As always,  
12 the parties are encouraged to use informal discovery,  
13 and to the extent necessary work out whatever  
14 conflicts may arise with the discovery in an informal  
15 fashion. I remind you that discovery requests should  
16 not be sent to the Commission's secretary nor to the  
17 administrative law judge.

18 MR. WILLIAMSON: Your Honor, will you be  
19 issuing a standard protective order?

20 JUDGE STAPLETON: Thank you, Mr.  
21 Williamson. That was my next point. We will issue a  
22 protective order at the request of company based on  
23 No. UT-901029, the Electric Lightwave matter before  
24 this Commission. I am reminding the company,  
25 especially that to the extent that you may submit

1 confidential information, it needs to be segregated  
2 from the filing itself and that no materials should be  
3 served on anyone who has not executed the agreement  
4 under the protective order.

5 Let's go off the record briefly here and  
6 discuss scheduling.

7 (Recess.)

8 JUDGE STAPLETON: Let be back on the  
9 record. While we were off the record we discussed  
10 scheduling. The parties have agreed to the following  
11 schedule for this proceeding. GTE will prefile its  
12 direct testimony on March 21st, 1997. Staff, public  
13 counsel, intervenors will file direct testimony on May  
14 27th. GTE will file its rebuttal on June 27.  
15 Hearings are scheduled August 27, 28 and 29. Public  
16 counsel will notify the hearings examiner sometime  
17 early summer about potential public hearings and the  
18 number, the dates and sites. Briefs are due October  
19 14, 1997.

20 Is there anything else we need to cover in  
21 this pre-hearing conference?

22 MR. WILLIAMSON: I don't believe so.

23 MS. JOHNSTON: I don't believe so.

24 JUDGE STAPLETON: We'll be in recess. Thank you.

25 (Hearing adjourned at 2:15 p.m.)

