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BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ATKINS ROTARY SPECIALTIES,) Docket No. UT-991421
INC.,) Volume I
Complainant,) Pages 1-15
vs.)
US WEST COMMUNICATIONS, INC.,)
Respondent.)
_____)

A hearing in the above matter was held on January 11, 2000, at 9:35 a.m., at 1300 Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judge KAREN CAILLE.

The parties were present as follows:

THE COMPLAINANT, by Kathy Atkins, Pro Se, 3718 Gay Road East, Tacoma, Washington 98443.

THE RESPONDENT, by Elizabeth Weber, 1600 Seventh Avenue, Room 3206, Seattle, Washington 98191.

COMMISSION STAFF, by Jonathan Thompson, Assistant Attorney General, 1400 S. Evergreen Park Drive, S.W., P.O. Box 40128, Olympia, Washington 98504-1028.

Barbara L. Spurbeck, CSR
Court Reporter

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1 JUDGE CAILLE: We are here today for the
2 prehearing conference in the proceeding captioned
3 Atkins Rotary Specialties, Incorporated, versus US
4 West Communications, Incorporated, and this is Docket
5 Number UT-991421. My name is Karen Caille, and I am
6 the presiding Administrative Law Judge in this
7 proceeding. Today is January the 11th, 2000, and we
8 are convened in a hearing room at the Commission's
9 offices in Olympia, Washington.

10 This proceeding is being held to determine
11 whether US West has violated state laws by failing to
12 provide prompt, efficient, or adequate service to
13 Complainant, as alleged in the complaint.

14 Our basic agenda today is as I described it
15 before we went on the record this morning. And does
16 anyone have anything to add to that agenda?

17 MS. WEBER: No.

18 JUDGE CAILLE: All right. Then the first
19 order of business will be to take appearances. I
20 will ask you to state your name, please spell your
21 last name, who you represent, your street address and
22 mailing address, telephone number, fax number, and if
23 you have it, e-mail address. Let's begin with the
24 Complainant.

25 MS. ATKINS: Kathy Atkins, A-t-k-i-n-s,

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1 3718 Gay Road East, that's Tacoma, Washington, 98443,
2 253-922-6347.

3 JUDGE CAILLE: Just a second. I have a
4 different number here. Okay.

5 MS. ATKINS: Fax number is 253-848-3482.
6 E-mail is Atkins@accessone.com

7 JUDGE CAILLE: And how are you related to
8 Atkins Rotary Specialties?

9 MS. ATKINS: I'm a corporate officer.

10 JUDGE CAILLE: Corporate officer, okay.
11 Ms. Weber.

12 MS. WEBER: I'm Elizabeth Weber, that's
13 W-e-b-e-r, representing US West Communications, Inc.
14 My address is US West, Inc., 1600 Seventh Avenue,
15 Suite or Room 3206, Seattle, Washington, 98191.
16 Phone number is 206-343-4038, fax 206-343-4040,
17 e-mail is exweber@uswest.com.

18 JUDGE CAILLE: All right. And Mr.
19 Thompson.

20 MR. THOMPSON: I'm Jonathan Thompson, I'm
21 Assistant Attorney General, representing the
22 Commission Staff. My address is 1400 South Evergreen
23 Park Drive, S.W., P.O. Box 40128, Olympia, 98504. My
24 phone is 360-664-1225, fax is 360-586-5522, and my
25 e-mail address is jthompso@wutc.wa.gov.

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1 JUDGE CAILLE: So is that t-h-o-m-p-s-o?
2 MR. THOMPSON: Yes.
3 JUDGE CAILLE: Thank you. I assume there
4 are no appearances on the bridge line -- or the
5 teleconference line? It's not a bridge line.
6 MR. DITTEMORE: I don't think it's on.
7 JUDGE CAILLE: Is that it for the
8 appearances? Okay. Then let the record reflect
9 there are no other appearances. Looks like we don't
10 have any motions to intervene. Are there any other
11 preliminary motions?
12 MS. WEBER: No.
13 JUDGE CAILLE: All right.
14 (Discussion off the record.)
15 JUDGE CAILLE: Hello?
16 MS. DEAN: Hi, it's Holly Dean.
17 MR. DITTEMORE: You've reached us.
18 MS. WEBER: Hi, Holly.
19 JUDGE CAILLE: This is Karen Caille,
20 Administrative Law Judge. We have started. We just
21 finished taking appearances. I've explained to Ms.
22 Atkins the procedure. Before going on the record, I
23 explained the procedure for this prehearing
24 conference. And at this point, are you intending to
25 enter an appearance?

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1 MS. WEBER: She's with public policy, and
2 just attending as a procedural matter.

3 JUDGE CAILLE: Okay. At this point, we
4 were about to discuss the possibility of some
5 discovery. I noted in your complaint that you are
6 requesting some records.

7 MS. ATKINS: Mm-hmm.

8 JUDGE CAILLE: Have you gotten any of the
9 records that you've requested?

10 MS. ATKINS: No, I have not.

11 JUDGE CAILLE: Is there -- I guess I should
12 ask, do these records exist?

13 MS. WEBER: They do exist. We do have
14 them. We were under the impression that we were
15 waiting for some type of discovery procedure before
16 we provided those. We weren't certain if we were
17 going to go with a subpoena-based system or if we
18 could, since that's somewhat cumbersome for
19 everybody, if we could have some type of stipulation
20 between the parties to provide materials without the
21 subpoena process.

22 JUDGE CAILLE: Generally, what I encourage
23 is that type of process. And I only become involved
24 if there is some problem. So if the parties can just
25 work out a way to exchange materials, I think that

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1 would be the best.

2 MS. WEBER: Us West's only concern with
3 that is that the materials be protected.

4 JUDGE CAILLE: All right. Do you want a
5 protective order, then?

6 MS. WEBER: We would prefer one, yes.

7 MR. THOMPSON: Your Honor, is what you have
8 in mind that the parties would send each other data
9 requests, or just handle it informally without that?

10 JUDGE CAILLE: I'm sure Ms. Atkins doesn't
11 know what a data request is. A data request is --
12 it's a legal document that formally requests a
13 particular piece of information. I don't know, do
14 you think that it's necessary to do formal data
15 requests?

16 MS. WEBER: I would be willing to just do
17 it by, you know, letter, you know, just so that it's
18 in writing, but not necessarily in a formal data
19 request.

20 JUDGE CAILLE: Right, okay. Since Ms.
21 Atkins is representing herself, I would like to be as
22 flexible with what we require her to do. I don't
23 expect to see a legal document that I would expect
24 from you folks. All right.

25 MS. ATKINS: So would this be something

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1 that I would just mail to her and she would respond,
2 or would it go through the Utilities Commission and
3 get back to her?

4 JUDGE CAILLE: I don't think -- the data
5 requests do not get filed with the Records Center.

6 MS. WEBER: No, they do not.

7 MS. ATKINS: So it's just between the two
8 of us.

9 JUDGE CAILLE: Between the parties, and
10 Commission Staff.

11 MS. ATKINS: Okay.

12 MR. THOMPSON: Yeah, just to have a copy of
13 -- if you could send to our address a copy of what
14 you request from the company, that would be helpful.

15 MS. ATKINS: Okay.

16 JUDGE CAILLE: Now, I do think you probably
17 need to know what a protective order is. It allows
18 the company to feel free to release information to
19 you that they would consider to be proprietary or
20 confidential, and under -- and it goes both ways, so
21 if you would release information to them that you
22 would consider proprietary or confidential. I think
23 that the protective order will describe what it's all
24 about sufficiently. But should you have any
25 questions about that -- I don't know, John, do we

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1 normally -- would you be able to answer questions?

2 MR. THOMPSON: Yeah, I would be willing to
3 answer questions, to the extent that I can, you know,
4 without offering legal advice.

5 JUDGE CAILLE: Right, exactly. This would
6 just be -- and the same for me, if you can't reach
7 me. I can give you -- I can guide you procedurally,
8 but I can't talk to you about the substance of your
9 -- unless we are all together on a conference call.

10 MS. ATKINS: Okay.

11 JUDGE CAILLE: So let's see. Why don't I
12 ask about witnesses at this point, and then we'll go
13 off the record and try to establish the schedule.
14 What do the parties anticipate for witnesses? Would
15 it just be yourself?

16 MS. ATKINS: It would be ourselves, and
17 then I've got letters from customers and other
18 business clients that have tried to get ahold of us
19 and had problems.

20 JUDGE CAILLE: Now, you have letters?

21 MS. ATKINS: Mm-hmm.

22 JUDGE CAILLE: So those people will not be
23 coming in in person to testify?

24 MS. ATKINS: No, but I'm trying to get
25 ahold of my old secretary -- she was with me for

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1 quite a while during this period -- and see if she
2 could get away from work to come down and testify.

3 JUDGE CAILLE: That would be very helpful.

4 MS. ATKINS: Okay.

5 JUDGE CAILLE: Maybe we could try to
6 accommodate her in some way in our schedule.

7 MS. ATKINS: Okay.

8 JUDGE CAILLE: As far as the letters from
9 your customers, those can come in as an exhibit -- be
10 offered as an exhibit.

11 MS. ATKINS: Okay.

12 JUDGE CAILLE: I'm wondering if there is
13 some way for you to authenticate or maybe -- maybe
14 we'll discuss this off the record, but because those
15 are letters, they are hearsay, and counsel cannot
16 cross-examine the letters.

17 MS. ATKINS: Okay.

18 JUDGE CAILLE: So it may depend on -- it
19 may be able that they can come in and be given a
20 particular amount of weight, but just so you know --

21 MS. ATKINS: Okay.

22 JUDGE CAILLE: -- direct testimony from the
23 person is really the best evidence you can provide.

24 But, you know, see what you can do about the letters.

25 MS. ATKINS: Okay.

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1 JUDGE CAILLE: That covers everything I --
2 why don't we go off the record now and discuss a
3 hearing and procedural schedule. Off the record.

4 (Discussion off the record.)

5 JUDGE CAILLE: Back on the record. We are
6 back on the record after an extensive off-record
7 discussion. It appears that there is going to be an
8 exchange of information by e-mail, and that will
9 occur as soon as I get a protective order out, and it
10 will continue up to the date of February 9th. And at
11 that point, the parties are going to convene a
12 conference call to discuss the issues and hopefully
13 come to some accord. No, excuse me, the conference
14 call is just to discuss the issues. And then there
15 will be a settlement discussion on February the 23rd.

16 In each case, the timing for these meetings
17 is at 9:30. I am not going to be involved in these.
18 Mary, I understand you're going to send out notice on
19 these, or just reminders to people. It doesn't have
20 to be formal.

21 MS. TAYLOR: Okay.

22 JUDGE CAILLE: It seems, from our
23 discussions off the record, that parties do need to
24 discuss this matter amongst themselves and with Staff
25 to try to flesh out what exactly can be done, and

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1 perhaps there can be some resolution here. Let me
2 just walk through the rest of the schedule, as long
3 as I'm talking schedule, and then we have a couple of
4 amendments to the complaint.

5 March 24th will be the due date for direct
6 testimony from the Complainant and Staff, if need be.
7 April 7th will be the filing date for US West's
8 testimony. And May 5th will be the date for the
9 reply testimony of the Complainant and Staff. And we
10 have set the hearings for May 25th and May 26th in
11 Room 108, and to begin at 9:30. Of course, hearings
12 will not go forward if there is a settlement.

13 Now, Ms. Atkins, there are a couple of
14 areas that you wish to amend on your complaint.
15 Could you state those for the record, please?

16 MS. ATKINS: I can state that the problem
17 is still ongoing with the lines, as we have a tenant
18 that's currently using them. And we would like for
19 the lines to be disconnected, as per our request back
20 in August, and that would be something that Ms. Weber
21 would need to verify, and then make sure that the
22 tenant has his line connected before the disconnect.

23 JUDGE CAILLE: Okay.

24 MS. ATKINS: And that would be on
25 253-922-6347, 253-922-0118, and then 0689 is the

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1 other one. We had also requested at that time that
2 the 253-922-0468 be transferred to a residential
3 phone.

4 JUDGE CAILLE: Okay. And those are your
5 existing?

6 MS. ATKINS: Those are the existing phones,
7 yes.

8 JUDGE CAILLE: Okay.

9 MS. TAYLOR: I'd put the tenant's number on
10 the record, too.

11 MS. ATKINS: The tenant's phone number?

12 JUDGE CAILLE: Yes.

13 MS. ATKINS: Is 253-922-3277, and that's
14 Saxon Auto.

15 JUDGE CAILLE: All right. Is that it for
16 your amendments?

17 MS. ATKINS: I believe so.

18 JUDGE CAILLE: Thank you. And I overlooked
19 -- I asked about the Complainant's witnesses, but I
20 overlooked US West's and Staff. Maybe even before I
21 do that, maybe -- can Staff sort of state what their
22 position is on -- not their position, but how their
23 appearance is in this docket, just for the record, so
24 --

25 MR. THOMPSON: Okay. What we envision our

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1 role to be in this case?

2 JUDGE CAILLE: Yes.

3 MR. THOMPSON: Yeah, I think, at least
4 initially, our role is just to keep the record
5 straight and probably to offer technical assistance
6 in interpreting the documents that are obtained about
7 blocking information or service information or what
8 have you.

9 And we are going to reserve the right to
10 file testimony at the same time as the Complainant,
11 potentially in support of the Complainant's case, but
12 I just want to make clear that we don't intend to
13 make the -- carry the Complainant's burden for them.

14 JUDGE CAILLE: Thank you. Okay. Now,
15 witnesses. Jonathan, since you're speaking, how many
16 witnesses would you anticipate if this went to
17 hearing, if Staff was taking --

18 MR. THOMPSON: We would need, at most, two.

19 JUDGE CAILLE: And US West?

20 MS. WEBER: I would assume that we would
21 call both a network witness, as well as a business
22 office witness.

23 JUDGE CAILLE: So two for you, as well.
24 Okay. I don't know if there is still a possibility
25 of filing any dispositive motions, so let me just

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1 read into the record the schedule for that. If
2 anyone plans to file a dispositive motion under WAC
3 480-09-426, that will be at least 30 days before the
4 hearing, and responses will be due 20 days before the
5 scheduled hearing.

6 Ms. Atkins, a dispositive motion is a
7 motion like a motion to dismiss the case, so if any
8 party wanted -- like, for instance, if US West wanted
9 to file that motion, they would have to do it under
10 the schedule I just described, and you would be given
11 an opportunity to respond.

12 MS. ATKINS: Okay.

13 JUDGE CAILLE: Again, I'll remind the
14 parties that alternative dispute resolution and
15 settlement discussions are encouraged by the
16 Commission. And as you move along, if you can keep
17 the Commission and myself, actually myself informed
18 of the progress you're making, so that I can adjust
19 the schedule or whatever, please do so.

20 I will issue the protective order at the
21 end of this week, it does need to be signed by the
22 Commissioners, and I will also issue a prehearing
23 conference order, which will set forth the procedural
24 schedule that we discussed today.

25 And let me remind you that anything you

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1 file must be directed to the attention of the
2 Commission's secretary. And her address is Post
3 Office Box 47250, 1300 Evergreen Park Drive S.W.,
4 Olympia, Washington, 98504. And you need to use both
5 the post office box and the street address when you
6 mail things in, to accommodate the state mailing
7 distribution system. And you'll need an original,
8 plus 12 copies.

9 Now, having said that, none of the
10 discovery that you may be exchanging comes to the
11 Commission, and your prefiled testimony is just
12 exchanged amongst yourself. Well, no, it does get
13 filed. Yeah, prefiled testimony does get filed. So
14 that would be the one -- those documents need to be
15 filed as I just outlined.

16 Is there any other business from anyone?
17 Well, then, I thank you all for coming and the
18 meeting is adjourned.

19 MS. WEBER: Thank you.

20 (Proceedings adjourned at 10:50 a.m.)

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