

February 13, 2002

RE: United & Informed Citizen Advocates Network, Inc., Complainant v. U.S. WEST Communications, Inc., Respondent; - Docket No. UT-960659

GTE Northwest, Inc., Complainant, v. United & Informed Citizens Advocates Network, Respondent; - Docket No. UT-970257

TO PARTIES OF RECORD:

On November 13, 2001, US WEST (now Qwest), GTE Northwest (now Verizon) and the Commission filed a motion seeking Commission approval to have a Subpoena Duces Tecum served on U&I CAN and its counsel. A draft Subpoena Duces Tecum was provided with the motion.

The Administrative Law Judge assigned to this matter has reviewed the draft Subpoena Duces Tecum, and considers the document filed with the Commission to seek information that is not appropriately obtained through a Subpoena Duces Tecum. A Subpoena Duces Tecum is a tool used to obtain documents. Many of the questions asked in the proposed Subpoena Duces Tecum seek information that might properly be obtained through discovery, or a deposition, but not through a Subpoena Duces Tecum. It appears that the proposed subpoena is not appropriate for the Commission to adopt and serve.

The State Administrative Procedure Act (APA) allows subpoenas to be issued by a presiding officer, by an agency or by an attorney of record. RCW 34.05.446. Any of those persons may seek to enforce a subpoena in Superior Court. RCW 34.05.588. In addition, the Commission's discovery rule (WAC 480-09-480) was triggered at the outset of this matter in the order on prehearing conference entered February 12, 1997. The provisions of that rule allow parties to depose witnesses.

A notice of hearing for February 21, 2002, was included in the Sixth Supplemental Order entered November 16, 2001. That order provides:

The parties present agreed to the following schedule. Because previous data requests are possibly stale, US WEST, GTE and Commission Staff agreed to withdraw any outstanding data requests, and to issue fresh requests by September 20, 2001. An outline for further proceedings is that once full and complete answers to discovery are received,

US WEST, GTE and Commission Staff will file direct testimony and exhibits 60 days later. U&I CAN will file its responsive testimony 30 days thereafter, and rebuttal testimony and exhibits will be filed 30 days thereafter. A hearing for receipt and cross-examination of testimony will be scheduled two to four weeks later.

The Administrative Law Judge asked for a check-back date to review the status of the proceeding, and to keep matters progressing. The parties agreed to hold another prehearing conference on Tuesday, November 13, 2001, at 1:30 in the afternoon, and the hearing was set on the record. A second notice followed, which gave notice of the hearing on November 13, 2001.

The venue of that conference was moved to Seattle and the date rescheduled to February 21, 2002 by notice served on February 4, 2002. The parties may subpoena witnesses and documents to that conference, or may determine other appropriate means of going forward.

Very truly yours,

MARJORIE R. SCHAER
Administrative Law Judge