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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,) DOCKET NO. UT-941136
5 Complainant,) VOLUME 1
6 vs.) PAGES 1 - 11
7 PAYTEL NORTHWEST INC.,)
8 Respondent.)
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8 A pre-hearing conference in the above
9 matter was held on November 3, 1994, at 3:10 p.m. at
10 1300 South Evergreen Park Drive Southwest before
11 Administrative Law Judge ELMER CANFIELD.

12 The parties were present as follows:

13 PAYTEL NORTHWEST, by BROOKS E. HARLOW,
14 Attorney at Law, 4400 Two Union Square, 601
15 Union Street, Seattle, Washington 98101-2352.

16 WASHINGTON UTILITIES AND TRANSPORTATION
17 COMMISSION STAFF, by ANN RENDAHL, Assistant Attorney
18 General, 1400 South Evergreen Park Drive Southwest,
19 Olympia, Washington 98504.

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Cheryl Macdonald

Court Reporter

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

2 JUDGE CANFIELD: This pre-hearing
3 conference will please come to order. We're convened
4 in the matter of Washington Utilities and
5 Transportation Commission, complainant, vs. Paytel
6 Northwest, Inc., respondent, docket No. UT-941136.
7 This matter is being held at Olympia, Washington on
8 Thursday, November 3, 1994. Elmer Canfield,
9 administrative law judge with the Office of
10 Administrative Hearings is conducting the hearing.
11 The issues involved are set forth in the complaint and
12 notice of hearing that was entered in the matter on
13 September 7, 1994.

14 At today's session we're going to be taking
15 appearances, taking interventions, adopting a
16 schedule, discussing discovery and other
17 preliminary-type matters. I would like to begin by
18 taking appearances beginning with the respondent,
19 please.

20 MR. HARLOW: Good afternoon, Your Honor.
21 My name is Brooks Harlow. I'm with the law firm of
22 Miller, Nash, Wiener, Hager and Carlsen, and I
23 represent the respondent Paytel Northwest.

24 JUDGE CANFIELD: Can I get you to put your
25 address on the record, please.

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1 MR. HARLOW: Certainly. That is 601 Union
2 Street, Suite 4400, Seattle, Washington 98101-2352.

3 JUDGE CANFIELD: Thank you.

4 MR. HARLOW: My facsimile number is
5 206-622-7485.

6 JUDGE CANFIELD: Thank you.

7 MS. RENDAHL: Ann Rendahl, assistant
8 attorney general representing the Commission staff in
9 this matter.

10 JUDGE CANFIELD: Can I get your address for
11 the record.

12 MS. RENDAHL: Yes. It's 1400 South
13 Evergreen Park Drive Southwest, Olympia, Washington
14 98504-0128.

15 JUDGE CANFIELD: Thank you. I'll ask if
16 there are any other appearances being made at this
17 time?

18 Let the record reflect there are none. I
19 will note that public counsel has advised our office
20 in other matters, I guess, and this one, too, a
21 specific note from Rob Manifold, public counsel,
22 indicates that they received the notice on the change
23 of pre-hearing conference date to today's date, but
24 indicated that they would not be appearing in this or
25 the other AOS cases. And other than that, we've not

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1 received any indication that any others desire to
2 participate by way of intervention. There's been no
3 petitions filed and no one here to make an oral motion
4 to intervene, so that takes care of that. I did check
5 downstairs with the records center as far as prefiled
6 evidence goes, and they did indicate that they could
7 get by with a few less copies in this case than the
8 usual, so they said an original plus 16 would be
9 sufficient on the number of prefiled copies. And
10 we're going to be discussing a few additional matters
11 momentarily, but are there any preliminary-type
12 matters that either one has to address before we get
13 to those other things?

14 MR. HARLOW: No, Your Honor.

15 MS. RENDAHL: None.

16 JUDGE CANFIELD: I will note that a
17 proposed schedule was circulated just before going on
18 the record and apparently both sides have agreed on
19 these dates, and there are no conflicts currently, and
20 I believe, Ms. Rendahl, you did double-check
21 downstairs and reserved room 250 for each of the
22 hearing dates. Is that correct?

23 MS. RENDAHL: That's correct, Your Honor.

24 JUDGE CANFIELD: I've checked my calendar
25 as well going into 1995 and these proposed dates don't

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1 pose a problem from this end of it as well, so I can
2 read these dates into the record and I will ask if
3 both agree with the dates, then. The first date for
4 the prefiling of staff evidence is March 3, 1995. The
5 cross of staff for April 17 and 18, 1995. Then the
6 prefiling date for the company evidence on May 30,
7 1995. Cross of company testimony on July 27 and 28,
8 1995. A prefiling date for staff rebuttal, August 15,
9 1995 and cross of staff rebuttal on September 29,
10 1995, and the staff opening brief to be filed October
11 30, 1995, the company brief on November 27, 1995, and
12 the staff reply brief on December 11, 1995. And as
13 indicated, each of those hearing dates would be for
14 room 250 at the Commission's Chandler Plaza building
15 and that's the second floor.

16 Any additional discussion needed on the
17 proposed schedule or are those dates agreeable with
18 each side? Maybe I can just ask individually. Ms.
19 Rendahl.

20 MS. RENDAHL: Those are fine with staff.

21 JUDGE CANFIELD: Mr. Harlow.

22 MR. HARLOW: They are fine with the
23 respondent.

24 JUDGE CANFIELD: I will adopt that hearing
25 schedule, then, as the schedule for the remainder of

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1 the case, and it's so adopted. Now, in other matters
2 we've had some discussion about notice of those
3 hearing dates, pre-filing dates, and briefing dates.
4 On some instances the pre-hearing conference order
5 has been sufficient. The parties have agreed to
6 have that serve as the notice for those dates or we
7 could go through the motion of having a separate
8 notice sent out. Maybe we can just briefly touch upon
9 that, Ms. Rendahl.

10 MS. RENDAHL: Your Honor, I believe that as
11 in other cases that given the number of parties being
12 limited that notice in the pre-hearing conference
13 order would be sufficient notice and no additional
14 notices would need to be issued.

15 JUDGE CANFIELD: Any comments on that, Mr.
16 Harlow?

17 MR. HARLOW: The company doesn't request or
18 require that separate notices be issued on the rest of
19 the hearing schedule.

20 JUDGE CANFIELD: With that we'll enter
21 those dates in the pre-hearing conference order and
22 have that notice serve as notice for the remainder of
23 the proceeding without specific notices otherwise
24 being issued.

25 I will note in the notice of hearing there

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1 were a couple of dates earlier mentioned that we're
2 going to have to cancel. I don't know if you've
3 cancelled those at the same time you were verifying
4 the dates we've adopted for today, Ms. Rendahl, or
5 not, but April 6 and 7 dates were initially noticed in
6 the notice of hearing.

7 MS. RENDAHL: I have not cancelled those
8 but will do so after the hearing, but I think those
9 dates should be cancelled.

10 JUDGE CANFIELD: Okay. Maybe while we're
11 on that, the notice of hearing makes some reference to
12 a specially designated session for testimony from
13 members of the public. I didn't hear or see anything
14 specific on that in the proposed and adopted schedule,
15 and public counsel has indicated they're not going to
16 be participating, so maybe we could just touch upon
17 that briefly. Ms. Rendahl, do you know if that's
18 still anticipated that there would be a special public
19 hearing session?

20 MS. RENDAHL: I don't believe it would be
21 necessary to have an additional date of hearing for
22 public testimony. A suggestion has been made that
23 members of the public, if necessary, could come in and
24 testify at one of the hearing dates that's already
25 been specified. If there's complaint made by the

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1 public they would like to be heard.

2 JUDGE CANFIELD: So by not setting a
3 special date they wouldn't necessarily be precluded
4 from offering their testimony. It would just be in
5 conjunction with one of these other hearing dates.

6 MS. RENDAHL: Correct.

7 JUDGE CANFIELD: Any comments, Mr. Harlow,
8 on that matter?

9 MR. HARLOW: Well, that would be the way we
10 would prefer to handle it. If there is a need to
11 permit members of the public to testify, I think we
12 probably ought to do it on the July 27 and 28 sessions
13 -- excuse me. No. We probably ought to do it on the
14 April 17 and 18 sessions so that the company could
15 file rebuttal if there were a need to file rebuttal to
16 those complaints.

17 JUDGE CANFIELD: You would envision some
18 sort of mechanism to notify the public about those
19 specific dates?

20 MR. HARLOW: I don't know how we would
21 notify the public. I understood the staff comment to
22 be to the effect that if somebody were to file a
23 complaint or write a letter or something, there would
24 be a need for that testimony, that we would perhaps
25 send notice to the people who were writing in.

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1 Frankly, I doubt we could get anyone down here to
2 testify as a member of the public --

3 JUDGE CANFIELD: Well, certainly if that
4 comes up we can certainly make some provision for it
5 and deal with it and specify a date that we could
6 handle that, but we can just leave that until the
7 situation presents itself, and if so, all will be
8 advised and we'll have to deal with it at that time,
9 then. So just leave that until we're advised that
10 there's a request for some public testimony, and if
11 that should become a case public counsel may become
12 involved in the matter and come on board and make some
13 sort of request, I'm not sure, but we can leave that
14 until it becomes a problem.

15 I will also note that the discovery rule
16 WAC 480-09-480 was invoked in the notice of hearing
17 and complaint that was issued on September 7, so
18 that's already been dealt with. There's been no
19 discussion of a need or a request for a protective
20 order by anyone. I don't know if that's going to be
21 requested in this matter or not. Maybe I could open
22 that up for discussion.

23 MR. HARLOW: The company does request that
24 the standard form of protective order be entered in
25 the case.

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1 JUDGE CANFIELD: Any comments, Ms. Rendahl?

2 MS. RENDAHL: No. That's fine with the
3 staff.

4 JUDGE CANFIELD: I will grant the request
5 that a protective order be issued in the matter in the
6 standard form that the Commission has used for several
7 years, the Electric Lightwave form.

8 Is there going to be any need for any sort
9 of discovery schedule to be set or are the parties
10 going to work those matters out between themselves?

11 MS. RENDAHL: I think the parties will work
12 that out between themselves. There's been some
13 discovery already, and I don't -- given that staff is
14 prefiling in March, I think there's sufficient time.
15 And I don't believe there's a need for a discovery
16 schedule, unless counsel thinks it's appropriate.

17 MR. HARLOW: No. I think we'll deal with
18 it as it comes.

19 JUDGE CANFIELD: With that, we won't set
20 any specific discovery schedule. The parties have
21 agreed to informally work between themselves and if
22 there's a problem I'm sure it will be made known.

23 Anything further that either side has to
24 address at the session today? I've looked at my notes
25 and the notice, and I don't see anything in particular

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1 that we have missed, but I will ask if there's
2 something that the parties have to address at the
3 session today.

4 MR. HARLOW: No, Your Honor.

5 JUDGE CANFIELD: Nothing further from Mr.
6 Harlow. Anything further, Ms. Rendahl?

7 MS. RENDAHL: No, Your Honor.

8 JUDGE CANFIELD: With that, then, I will
9 conclude the session and as indicated I will be
10 endeavoring to enter a pre-hearing conference order as
11 soon as possible sending it to the parties, and I will
12 also have a protective order issued as was discussed
13 earlier. So with that, we'll adjourn the session.
14 Thank you all for coming.

15 (Hearing adjourned at 3:25 p.m.)

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