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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION

3 GTE NORTHWEST INCORPORATED, )  
4 )  
5 Complainant, ) DOCKET NO. UT-951240  
6 vs. ) VOLUME 1  
7 )  
8 PAUL C. and BARBARA STEPHANUS, ) PAGES 1 - 24  
9 and the marital community )  
10 composed thereof, d/b/a PAUL C.)  
11 STEPHANUS INVESTMENTS and U.S. )  
12 TELCO, INC., a Washington )  
13 corporation, )  
14 Respondents. )  
15 ----- )

16 A pre-hearing conference in the above matter  
17 was held on November 8, 1995, at 9:30 a.m., at 1300  
18 South Evergreen Park Drive Southwest, Olympia,  
19 Washington before Administrative Law Judge JOHN  
20 PRUSIA.

21 The parties were present as follows:

22 GTE NORTHWEST, INC., by TIMOTHY J.  
23 O'CONNELL, Attorney at Law, 1800 41st Street (5LE),  
24 Everett, Washington 98201.

25 WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION STAFF, by SHANNON SMITH, Assistant  
Attorney General, 1400 South Evergreen Park Drive  
Southwest, Olympia, Washington 98504.

U S WEST COMMUNICATIONS, by LISA A. ANDERL,  
Attorney at Law, 1601 7th Avenue, Room 3206, Seattle,  
Washington 98191.

Cheryl Macdonald, CSR  
Court Reporter

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APPEARANCES (Cont.)

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PAUL and BARBARA STEPHANUS, d/b/a  
STEPHANUS INVESTMENTS and U.S. TELCO, INC., by SCOTT  
A. SMITH, Attorney at Law, 3000 First Interstate  
Center, 999 Third Avenue, Seattle, Washington 98104.

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

2 JUDGE PRUSIA: The pre-hearing will please  
3 come to order. The Commission has set for pre-hearing  
4 conference at this time and place docket No.  
5 UT-951240. It is the complaint of GTE Northwest,  
6 Incorporated against Paul C. and Jane Doe Stephanus  
7 and the marital community composed thereof d/b/a Paul  
8 C. Stephanus Investments and against U.S. Telco, Inc.,  
9 a Washington corporation. The Commission entered its  
10 notice of pre-hearing conference on November 1, 1995  
11 setting the pre-hearing conference for today which is  
12 November 8, 1995. The pre-hearing conference is being  
13 held before John Prusia an administrative law judge  
14 with the Commission.

15 As is indicated in the notice of hearing,  
16 we will be considering any petitions to intervene,  
17 discuss scheduling of any future hearings and discuss  
18 other matters specified in WAC 480-09-460 including  
19 simplification of issues, necessity or desirability of  
20 amendments to the pleadings, the possibility of  
21 obtaining admissions of fact and of documents which  
22 will avoid unnecessary proof.

23 I will begin by taking appearances  
24 beginning with the representative for the complainant,  
25 Mr. O'Connell.

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1                   MR. O'CONNELL: Timothy J. O'Connell on  
2 behalf of GTE Northwest, Incorporated.

3                   JUDGE PRUSIA: Please state your business  
4 address.

5                   MR. O'CONNELL: 1800 41st Street, Everett,  
6 Washington 98201.

7                   JUDGE PRUSIA: And for the respondent.

8                   MR. SMITH: Scott Smith of Short Cressman  
9 and Burgess, 999 Third Avenue, Suite 3000, Seattle,  
10 Washington, and our appearance here is simply a  
11 special appearance. We have some concerns and  
12 questions about whether the Commission has  
13 jurisdiction over this issue as a threshold matter,  
14 and by appearing here I'm not waiving any  
15 jurisdictional claims that we may have.

16                   JUDGE PRUSIA: Are you appearing on behalf  
17 of all of the respondents?.

18                   MR. SMITH: Yes.

19                   JUDGE PRUSIA: Could you identify Jane Doe  
20 Stephanus.

21                   MR. SMITH: Her name is Barbara.

22                   JUDGE PRUSIA: For Commission staff.

23                   MS. SMITH: Shannon Smith, assistant  
24 attorney general. My business address is 1400 South  
25 Evergreen Park Drive Southwest, P.O. Box 4012,

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1 Olympia, Washington 98504-0128.

2 JUDGE PRUSIA: Is there anyone else present  
3 in the hearing room who intends to file a petition or  
4 make a motion to intervene in this matter?

5 MS. ANDERL: Yes, Your Honor. Lisa Anderl  
6 on behalf of U S WEST Communications. We'll be  
7 petitioning orally to intervene at the time that you  
8 accept those petitions. My business address is  
9 1600 7th Avenue, Room 3206, Seattle, Washington 98191.

10 JUDGE PRUSIA: Now would be an appropriate  
11 time to consider.

12 MS. ANDERL: That might be good. U S WEST  
13 Communications would petition orally at this time to  
14 intervene in this matter. It appears as though  
15 statutes and rules are going to be involved that the  
16 Commission might be interpreting as a matter of first  
17 impression, specifically RCW 80.36.370, and U S WEST  
18 is very interested in any proceeding in which the  
19 Commission would be looking at the interpretation of  
20 that statute. We don't at this point anticipate  
21 filing any prefiled testimony, but would like to  
22 reserve the right to cross-examine witnesses and file  
23 a brief. We would not expand the scope of the  
24 proceedings in any way.

25 JUDGE PRUSIA: Is there any objection to

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1 the intervention of U S WEST or any comment on the  
2 motion?

3 MR. O'CONNELL: No objection.

4 JUDGE PRUSIA: Let the record reflect that  
5 there are none. The motion to intervene is granted.  
6 I just found out yesterday that I would be presiding  
7 this morning and I don't know a lot about this  
8 proceeding so perhaps Mr. O'Connell could just give us  
9 a thumbnail sketch of what this involves.

10 MR. O'CONNELL: Thank you, Your Honor. I  
11 would be happy to. In a nutshell, Mr. Stephanus, and  
12 he has represented to us, operates four apartment  
13 complexes in Snohomish County. In those apartment  
14 complexes he maintains a private shared  
15 telecommunications service as that is defined in RCW  
16 80.36.010 -- excuse me, 80.04.010. In a series of  
17 communications from Mr. Stephanus he threatened to  
18 disconnect or discontinue service to GTE customers  
19 residing in those apartment complexes who were  
20 receiving service directly from GTE Northwest, the  
21 local exchange company serving that area, rather than  
22 through the shared telecommunications service. The  
23 threat was that this service would be unilaterally  
24 discontinued unless and until GTE made some payment to  
25 Mr. Stephanus in an amount that was not specified.

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1 The threat was that GTE's service to these customers  
2 would be discontinued on November 1 unless GTE had  
3 made payment to him by that date.

4 At that time or rather prior to that time  
5 GTE commenced this proceeding as well as a parallel  
6 proceeding in the Snohomish County Superior Court. In  
7 the Snohomish Superior Court action the judge has  
8 entered a temporary restraining order which by its  
9 terms barred the defendants -- rather directed the  
10 defendants to cease and refrain from disconnecting,  
11 interfering with or discontinuing telephone service  
12 provided by GTE Northwest Incorporated to residents of  
13 the apartment complexes at issue.

14 JUDGE PRUSIA: And you filed the complaint  
15 here at the same time?

16 MR. O'CONNELL: Yes, Your Honor. I believe  
17 timing wise the complaint before the Commission was  
18 filed the day before the complaint was filed in  
19 Snohomish County Superior Court but approximately  
20 contemporaneously.

21 JUDGE PRUSIA: And how we ended up back  
22 here?

23 MR. O'CONNELL: We've ended up here, Your  
24 Honor. Assuming that the Superior Court continues the  
25 restraining order in the form of a preliminary

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1 injunction -- and that motion will come before the  
2 court in approximately two weeks -- the need for  
3 emergency relief from the Commission may be mooted.  
4 The fundamental substantive issue, however, needs to  
5 be resolved by this Commission and that is the  
6 priority under RCW 80.36.370 sub 5 of Mr. Stephanus's  
7 demand that the local exchange company pay him some  
8 amount of money for the privilege of providing local  
9 telephone service to persons who reside in his  
10 apartment complex who desire to obtain that service  
11 from the local telephone company as the statute  
12 indicates they have the right to do.

13           We believe that Mr. Stephanus's threats to  
14 discontinue the service will form the basis for a  
15 finding from this Commission that the customers lack  
16 alternative access to the local exchange company as is  
17 called for in that subsection of the statute and  
18 therefore it is the obligation of this Commission to  
19 fix the rates, terms and prices on which those  
20 services are to be offered, and the fundamental  
21 question who is going to pay those rates, terms and  
22 prices. We believe the statute and when it is  
23 interpreted contemporaneously with the other  
24 regulations of this Commission and GTE's tariffs,  
25 which have been approved by this Commission, makes



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1 clear when all of those are viewed as a whole that  
2 whatever those rates are as they are fixed by this  
3 Commission they are to be charged not to the local  
4 exchange company but either borne by the landlord as a  
5 cost of providing rentals or borne by the tenant who  
6 is the renter, so those substantive issues still  
7 remain for resolution by this Commission.

8 JUDGE PRUSIA: Mr. Smith, you are making a  
9 special appearance this morning? Were you going to be  
10 making a sort of motion this morning?.

11 MR. SMITH: I can make that orally this  
12 morning or we can file it at some later point.

13 JUDGE PRUSIA: Did you have a preference on  
14 which?.

15 MR. SMITH: I can make the point right now.  
16 The statute by its terms -- it's subsection 370 sub 5  
17 -- states that the Commission does not have authority  
18 to regulate private shared telecommunications services  
19 except in certain circumstances which don't apply, and  
20 that involves a hearing and a decision by the  
21 Commission as to certain findings which have not taken  
22 place. We have a parallel proceeding going on in  
23 Superior Court. It seems inappropriate for GTE to be  
24 having two bites at the same apple in terms of the  
25 issue that is being raised here and in Superior Court.

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1           Given the limited scope of the Commission's  
2 authority to regulate what is really a dispute between  
3 a private property owner, Mr. Stephanus, and a local  
4 telephone company, that's not something that I believe  
5 the Commission has jurisdiction to consider.

6           JUDGE PRUSIA: Are you going to be filing a  
7 formal motion later on then?.

8           MR. SMITH: I can do that if you would  
9 prefer that.

10          JUDGE PRUSIA: All right. Why don't you do  
11 that then later in writing. Is there a need for  
12 hearings in this proceeding? Is this a matter that  
13 could be -- does everyone agree on the facts? Is this  
14 a matter that can simply be submitted to the  
15 Commission on stipulation?

16          MR. O'CONNELL: Your Honor, I might suggest  
17 in that regard there is a potential that the parties  
18 can resolve some factual disputes. There are some  
19 factual disputes at this point. In conversations that  
20 Mr. Stephanus and I have had, we have mutually agreed  
21 to attempt to work those out. To give Your Honor some  
22 impression of what those concern, Mr. Stephanus  
23 believes that at some point he purchased what we  
24 would refer to as the entrance cable. That is the  
25 cabling which connects from the public right-of-way,

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1 our facilities, to the point of demarcation, which, as  
2 is normal in large complexes or office parks, that  
3 point of demarcation is located somewhere on the  
4 property that is convenient for the landlord. He  
5 believes he purchased that entrance cable, the cable  
6 that connects the cable of demarcation to the point of  
7 right-of-way. We believe that is incorrect and in  
8 fact I have brought with us here printouts from the  
9 company's plant record which indicates that in fact  
10 that is incorrect.

11           Mr. Smith and I have committed that we're  
12 going to try and work through that issue. If we are  
13 -- if we do resolve that issue such that Mr. Stephanus  
14 can agree that GTE does indeed own the cabling up to  
15 the point of demarcation, I think that will resolve  
16 the primary fact dispute. There may be an ancillary  
17 fact dispute because it occurs to me that I neglected  
18 in my initial overview to raise what I think can  
19 fairly be characterized as an ancillary issue.

20           One of the four apartment complexes is  
21 serviced by a conduit; the cabling runs through a  
22 small conduit. Under the tariffs it is the owner's  
23 obligation to maintain that conduit. The conduit to  
24 this one complex has been crushed. The cabling is  
25 still in perfect operation, but the conduit is

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1 crushed. Therefore, we can't place any reinforcing  
2 cable through the conduit, and we have held orders at  
3 that apartment complex.

4           And it is the second cause of action on our  
5 complaint. We believe that Mr. Stephanus should be  
6 held to his obligations under tariff which is to  
7 essentially repair that conduit. Assuming that there  
8 are no fact disputes over that issue -- and I don't  
9 know that there are any fact disputes on that  
10 essential question, is there a conduit there and is it  
11 crushed or obstructed such that reinforcement cable  
12 cannot be placed. Assuming that we can resolve that  
13 issue I think that there are not substantial fact  
14 issues on the preliminary substantive issue, the  
15 preliminary substantive issue being is there a charge  
16 for these services, for the local exchange company to  
17 offer local service to the residents living in the  
18 complex. If the substantive issue is decided in  
19 Mr. Stephanus's favor that in fact the landlord is free  
20 to pass that overhead on to the telephone company,  
21 then I think there may be some fact disputes because  
22 then under 370 sub 5 it is subject to the Commission  
23 to establish what the fair rates and prices are for  
24 those services, and I suspect that that process would  
25 involve the same type of a fact issue that the

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1 Commission would go through whenever it is in the  
2 business of setting rates, and having not seen any of  
3 the cost-based documentation that Mr. Stephanus would  
4 produce in order to justify those rates, I don't know  
5 if there are fact disputes or not, but the fact that  
6 that issue is raised suggests to me that it might be  
7 appropriate to conduct this proceeding, if you will,  
8 in a bifurcated manner, which would be to address what  
9 I refer to as the substantive issue first  
10 on the legal issue of whether it is appropriate for  
11 the landlord to charge for this service under the  
12 statutes, regulations and tariffs, and then defer to a  
13 subsequent phase in the proceeding, the question of if  
14 it is, what's an appropriate rate.

15 I think the first set of issues can be  
16 resolved with few or none, I hope, fact disputes. The  
17 second set of issues I think will raise some  
18 substantial issues of fact.

19 JUDGE PRUSIA: We have the additional legal  
20 issue of the Commission's jurisdiction.

21 MR. O'CONNELL: I understand what Mr. Smith  
22 is saying, and I look forward to reading his motion.  
23 It strikes me as a chicken and egg kind of argument to  
24 argue that the Commission does not have jurisdiction  
25 to conduct the hearing that's called for by the

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1 statute in order to determine -- the statute calls for  
2 the Commission to conduct a hearing to make a finding,  
3 and it strikes me as odd that the Commission therefore  
4 does not have jurisdiction to conduct that hearing, so  
5 I look forward to his motion.

6 JUDGE PRUSIA: Looks like then we will be  
7 scheduling a bifurcated proceeding and with some sort  
8 of hearing schedule this morning. Are any of the  
9 parties going to request a protective order in this  
10 proceeding?

11 MR. O'CONNELL: Your Honor, we may. I have  
12 not yet been able to ascertain because, quite frankly,  
13 some of the work orders that are involved and some of  
14 the records related to the placement of our physical  
15 plant may involve issues for which we would seek a  
16 protective order. These days of a more competitive  
17 telecommunications environment we consider the map of  
18 our physical plant a proprietary matter.

19 MR. SMITH: I might note that I think Mr.  
20 O'Connell has practically conceded there is no  
21 emergency which justifies the Commission exercising  
22 its emergency powers here. There is a court order  
23 that prohibits Mr. Stephanus from unilaterally  
24 disconnecting the phone service. It's before a court  
25 that would review this Commission's decisions in any

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1 event. I don't believe on a threshold instance that  
2 that threat alone would have justified exercise of the  
3 Commission's emergency authority. It's not that kind  
4 of immediate threat to public safety and health laid  
5 out in the statute or the regulations, so in terms of  
6 your scheduling I don't think it has to be at any kind  
7 of a basis under the predicate that this is an  
8 emergency or that there is an emergency nature going  
9 on here.

10 JUDGE PRUSIA: Mr. O'Connell, if we follow  
11 our normal hearing procedures is that going to cause  
12 any problem with the court proceedings?

13 MR. O'CONNELL: Your Honor, I frankly don't  
14 disagree with Mr. Smith. My statement, however, is  
15 based on the assumption that the court would continue  
16 what is currently only a temporary restraining order  
17 in the form of a preliminary injunction which would  
18 continue throughout these proceedings. My fear, if  
19 the temporary restraining order expires -- unlike a  
20 preliminary injunction it serves only for a time  
21 certain and then it would expire. If the TRO is  
22 permitted to expire Mr. Stephanus would be free to  
23 carry out the threat that he has made which would be  
24 to unilaterally disconnect or discontinue GTE's  
25 service. I would think that that would raise issues

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1 that this Commission would consider an emergency and  
2 has in the past.

3 JUDGE PRUSIA: But that would be if that  
4 occurred at that point.

5 MR. O'CONNELL: Correct.

6 MR. SMITH: But if the court determines  
7 that there is no legal basis for GTE's claim, how can  
8 they come back here and try a second time to argue  
9 that which a Superior Court has already ruled against  
10 them on? That -- by definition they should not be  
11 permitted to lose in the Superior Court and come back  
12 here and make the same arguments a second time.

13 JUDGE PRUSIA: Well, they haven't lost at  
14 this point.

15 MR. SMITH: No. Right now there is a TRO  
16 in place. We received 24 hours notice of that.

17 JUDGE PRUSIA: Is the court expecting to  
18 receive anything from the Commission?

19 MR. O'CONNELL: I can't answer on behalf of  
20 the court whether the court is expecting to. If it is  
21 --

22 MR. SMITH: I don't recall that the court  
23 --

24 MR. O'CONNELL: Can I finish, Counsel? I  
25 would anticipate that if the Commission concurs that



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1 the status quo should be maintained and that the  
2 telephone service offered to these individuals should  
3 be maintained without disruption or discontinuance, I  
4 would hope that the Commission would express that in  
5 some form to the Superior Court. The TRO that is in  
6 place and the preliminary injunction which we would  
7 seek to replace it is merely just that, an attempt to  
8 maintain the status quo while this issue is worked out  
9 by the body that has the jurisdiction to do so, which  
10 is this Commission.

11           And as counsel notes, I mean, this  
12 Commission and a Superior Court are different bodies  
13 that have different bases for jurisdiction, so whether  
14 the court is expecting anything the court did not  
15 indicate to us when we were on the hearing on the TRO  
16 that it anticipated receiving something. I would  
17 think that that would be an appropriate piece of  
18 information to put before the court.

19           JUDGE PRUSIA: Mr. Smith, did you have  
20 something you wanted to say?.

21           MR. SMITH: I would just agree with Mr.  
22 O'Connell the court did not request or we didn't talk  
23 about the proceeding before the Commission. I don't  
24 believe the court is expecting the Commission to  
25 advise it on what the law is in this area.

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1                   JUDGE PRUSIA: Still have the matter of the  
2 protective order which no one has requested at this  
3 point. You indicated you might request it.

4                   MR. O'CONNELL: Your Honor, to be safe I  
5 would at this time move for the Commission's standard  
6 protective order.

7                   JUDGE PRUSIA: Are there any comments on  
8 that motion?

9                   MS. ANDERL: No.

10                  JUDGE PRUSIA: Let the record reflect that  
11 there are none. I grant the request for a protective  
12 order and one will be issued as soon as possible in  
13 the usual format and that format is patterned on the  
14 protective order in the Electric Lightwave case  
15 UT-901029. Remember that any protected materials  
16 need to be segregated. You should not distribute  
17 anything that is protected material to anyone who has  
18 not signed a protective order.

19                  Do the parties wish to invoke the  
20 Commission's discovery rule which is WAC 480-09-480  
21 related to the methods for obtaining data in  
22 adjudicative proceedings?

23                  MR. O'CONNELL: Your Honor, in light of the  
24 commitment that Mr. Smith and I have made to one  
25 another to attempt to work through the potential fact

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1 dispute on this first phase of the proceeding, we have  
2 not had the opportunity to do that because it involves  
3 pulling some of our records, but if it is possible to  
4 defer a decision whether discovery should be made  
5 available in this first phase of the proceeding until  
6 after we have enough time to pull the relevant records  
7 and determine whether we can resolve those facts and  
8 come up with an agreed version of what those facts  
9 are. So if we can defer that ruling on that issue, I  
10 would suggest that that would be an appropriate  
11 conservation of our resources.

12 JUDGE PRUSIA: The parties are always free  
13 to use informal discovery methods if they want to. Do  
14 you feel it would be an impediment if the Commission  
15 actually entered an order invoking the discovery rule  
16 at this time?

17 MR. O'CONNELL: I don't know that it would  
18 be an impediment, Your Honor. My hope is just that if  
19 we can work this out informally it may not be  
20 necessary.

21 JUDGE PRUSIA: Any other comments?

22 MR. SMITH: Our intention is to work it  
23 out. I don't think it would be a problem if the court  
24 entered the standard discovery order, and our intent  
25 is not to invoke that and we'll get all the issues

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1 worked out. I think an order will be there and as you  
2 note we can simply try to engage in our informal  
3 discovery. There really isn't a whole lot of facts  
4 at dispute and he's got some information here that  
5 we're going to talk about afterwards.

6 MR. O'CONNELL: I have no substantial  
7 disagreement with that.

8 JUDGE PRUSIA: Any other comments?  
9 At this time I will invoke the Commission's discovery  
10 rule which is WAC 480-09-480 and again emphasize that  
11 the parties are free to use informal methods as well  
12 as the formal discovery rule. We will discuss  
13 discovery schedule and cutoff dates when we discuss  
14 the scheduling later on. Keep in mind that responses  
15 to discovery requests need to be sent directly to the  
16 attorney general and not through the Commission's  
17 secretary. All of the case-related matters and  
18 correspondence filings must be sent through the  
19 secretary of the Commission. His address is P.O. Box  
20 47250, Olympia, Washington 98504. Do not send any  
21 correspondence or filings to the street address.

22 Anything else we need to discuss before we  
23 discuss scheduling?

24 Let the record reflect that there is no  
25 response. First we should set a schedule for

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1 dispositive motions and the first part of the  
2 proceeding, the legal issues.

3 MS. ANDERL: Excuse me.

4 JUDGE PRUSIA: Perhaps we should go off the  
5 record and discuss the scheduling. Let's be off the  
6 record.

7 (Recess.)

8 JUDGE PRUSIA: Let's be back on the record.  
9 While we were off the record we discussed scheduling,  
10 and I will attempt to summarize what we've agreed  
11 upon. The proceeding will be divided into three  
12 phases. The first will be the issues of the  
13 Commission's jurisdiction. The respondent will file a  
14 motion by November 27th. Answers to that motion will  
15 be due by December 13. The Commission will have an  
16 order on the jurisdictional issue by December 22nd.  
17 The second phase will be all of the issues in  
18 80.36.370 subsection 5 except the how much issue. The  
19 complainants will prefile testimony by January 16.  
20 Respondents, staff and intervenor will prefile by  
21 January 31st, 1996. The complainant -- or I guess all  
22 parties can file -- complainant would file rebuttal by  
23 February 9, 1996. Hearing is scheduled for February  
24 22nd, 1996. And the third phase, which would be the  
25 how much phase of the proceeding, if we get to that,

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1 will be scheduled after the Commission enters an order  
2 on the second phase of the proceeding.

3 MS. ANDERL: Excuse me, Your Honor. I may  
4 have misheard two of those dates. What's the second  
5 prefiling date in January? Is that the 30th or the  
6 31st?

7 JUDGE PRUSIA: I had the 31st. Well, it  
8 could be the 30th or the 31st.

9 MS. ANDERL: We talked about both.

10 MR. O'CONNELL: We're going to be the 31st.

11 MS. ANDERL: And then, I'm sorry, again  
12 what date did you say for the hearing? 22nd?

13 JUDGE PRUSIA: 22nd of February.

14 MS. ANDERL: I would just like to add, and  
15 I mentioned this off the record, that perhaps, to the  
16 extent that U S WEST would be filing any testimony in  
17 this matter, we would like to reserve the opportunity  
18 to file during the rebuttal stage. I don't think we  
19 will really be aware of what the respondent's position  
20 is until we get their testimony on the 31st, and at  
21 this point looks like our interests would be more  
22 aligned with GTE and might be appropriate for us to  
23 prefile at that time. I believe that's the only round  
24 we would file if in fact we do file anything.

25 JUDGE PRUSIA: And staff, did you prefer to

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1 file prefiled during the rebuttal phase also?

2 MS. SMITH. Yeah.

3 JUDGE PRUSIA: Very well. I will change  
4 that then and the 31st will be the prefiling date for  
5 respondent's testimony and the 9th will be -- February  
6 9th will be the prefiling date for complainant's  
7 rebuttal and staff and intervenor testimony.

8 MS. ANDERL: Thank you. One other  
9 question, Your Honor, is on the first set of motions,  
10 the motion and the answer on the jurisdictional issue,  
11 there is a provision in the WAC that allows a party to  
12 file a request for leave to file a reply to an answer.  
13 By setting this schedule and the order date of the  
14 22nd of December, are we deciding at this point that  
15 that's not going to happen?

16 JUDGE PRUSIA: Let's be off the record.

17 (Recess.)

18 JUDGE PRUSIA: Let's be back on the record.  
19 While we were off the record we discussed the possible  
20 deadlines for filing replies to the jurisdictional --  
21 to the answers to the jurisdictional motion that will  
22 be filed. The deadline we have set is that any  
23 motions for leave to file a reply to the answers must  
24 be filed with the Commission by the 15th of December.  
25 That is, the motion must be filed by that date.

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1                   Is there anything else that we need to  
2 cover this morning?

3                   Let the record reflect that there is no  
4 response. I will issue a prehearing conference order  
5 as a result of this pre-hearing conference. The  
6 pre-hearing conference rule states that if you do not  
7 object to a portion of the prehearing conference order  
8 within 10 days then those are the rules that we go  
9 under for the case. If there's nothing else to come  
10 before us then I will close the hearing. Let's be off  
11 the record.

12                   (Hearing adjourned at 10:30 a.m.)

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