

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	UNITED & INFORMED CITIZENS)	
	ADVOCATES NETWORK,)	
4	Complainant,)	
)	
5	vs.)	DOCKET NO. UT-960659
)	Volume IX
6	PACIFIC NORTHWEST BELL)	Pages 243 - 252
	TELEPHONE COMPANY d/b/a U.S.)	
7	WEST COMMUNICATIONS, INC.,)	
	Respondent.)	
8	-----		
	GTE NORTHWEST, INC.,)	
9	Complainant,)	
)	
10	vs.)	DOCKET NO. UT-970257
)	Volume IX
11	UNITED & INFORMED CITIZENS)	Pages 243 - 252
	ADVOCATES NETWORK,)	
12	Respondent.)	

13

14 A hearing in the above matter was held on
15 September 25, 2002, at 9:42 a.m., at 1300 South
16 Evergreen Park Drive Southwest, Olympia, Washington,
17 before Administrative Law Judge MARJORIE SCHAER.

18 The parties were present as follows:
19 QWEST CORPORATION, via bridge line, by ADAM
20 L. SHERR, Attorney at Law, 1600 Seventh Avenue, Suite
21 3206, Seattle, Washington 98191; Telephone, (206)
22 398-2507; Fax, (206) 343-4040; e-mail,
23 asherr@qwest.com.

24 THE WASHINGTON UTILITIES AND TRANSPORTATION
25 COMMISSION, by SHANNON E. SMITH, Assistant Attorney
General, 1400 South Evergreen Park Drive Southwest,
Post Office Box 40128, Olympia, Washington 98504-0128;
Telephone, (360) 664-1192; Fax, (360) 586-5522; e-mail,
ssmith@wutc.wa.gov.
Kathryn T. Wilson, CCR
Court Reporter

0244

1 VERIZON NORTHWEST, INC., via bridge line, by
2 KENDALL J. FISHER, Attorney at Law, Stoel Rives, 600
3 University Street, Suite 3600, Seattle, Washington
4 98101; Telephone, (206) 386-7526; Fax, (206) 386-7500;
5 e-mail, kjfisher@stoel.com.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

2 JUDGE SCHAER: This is a hearing in Docket
3 No. UT-960659, which is a complaint brought by United
4 and Informed Citizens Advocates Network against U S
5 West, now Qwest. Also consolidated with this case is
6 Docket No. UT-970257, which is a complaint by General
7 Telephone Incorporated, now Verizon, against U&I CAN
8 claiming that U&I CAN has improperly avoided paying
9 access charges when using long-distance service on a GT
10 network.

11 This morning, we are here for a status
12 conference to address any issues regarding how this
13 matter should proceed and to attempt to schedule or
14 shape a plan for going forward in this matter. Today
15 is September 25th, 2002, and we are in Room 105 of the
16 Commission's headquarters. We also have two counsel
17 who are appearing by conference call, and that would be
18 Mr. Sherr and Ms. Fisher. Notice of the hearing was
19 provided on July 25th, 2002, to a hearing about a month
20 ago, and then a notice was provided that the hearing
21 had been continued to today, and that notice was
22 provided on August 23rd, 2002.

23 I would like to start at this point by taking
24 appearances of the parties and letting you on the
25 conference bridge also appear. At present, I have not

0246

1 heard from counsel for U&I CAN. The notice that was
2 sent out asked counsel who wanted to appear by
3 telephone to contact my support staff and get scheduled
4 for that. We received no such call, and he is not in
5 the hearing room at this time. So I would like to
6 start then with you, Mr. Sherr, and you and Ms. Smith
7 can just give a short appearance. I would like a
8 longer appearance from the counsel who has not appeared
9 before. Go ahead, please.

10 MR. SHERR: This is Adam Sherr, S-h-e-r-r,
11 and I'm counsel with Qwest on the conference line.

12 MS. FISHER: This is Kendall Fisher on behalf
13 of Verizon Northwest, Inc. My name is spelled
14 K-e-n-d-a-l-l, F-i-s-h-e-r. My address is Stoel Rives,
15 LLP, 600 University Street, Suite 3600, Seattle,
16 Washington, 98101. My telephone number is (206)
17 386-7526, and my fax number is (206) 386-7500, and my
18 e-mail address is kjfisher@stoel.com.

19 MS. SMITH: Shannon Smith representing
20 Commission staff.

21 JUDGE SCHAER: Thank you. I believe at this
22 point that you had offered, Mr. Sherr, to bring
23 Commission up-to-date on the Superior Court actions
24 that the parties have been pursuing.

25 MR. SHERR: Yes, I would be happy to do that.

0247

1 I believe the last time that we convened a status
2 conference was on May 23rd. I could have that date
3 wrong, but I think that's right, and at that time, the
4 parties informed the Commission that Qwest, Verizon,
5 and Commission staff were going to be seeking in
6 Superior Court an order enforcing the subpoena that the
7 three parties had issued to U&I CAN that had not been
8 responded to.

9 We have done that. We had filed with the
10 King County Superior Court on or about July 18 a
11 petition for enforcement of that subpoena. We had
12 sought and received an order to show cause setting up a
13 hearing on our motion and on the petition and on our
14 motion for enforcement of the subpoena. That hearing
15 was originally set for August 23rd. It was served upon
16 U&I CAN, and at U&I CAN's attorney's request, we
17 delayed that hearing until September 18th because
18 U&I CAN attorney Mr. Holcomb sent a letter to Verizon's
19 attorney indicating he was not available at that time
20 of the August 23rd hearing, so we moved the date as an
21 accomodation to September 18th.

22 The counsel for Commission staff, for Qwest
23 and Verizon attended the hearing at King County
24 Superior Court in Kent on September 18th. Mr. Holcomb
25 did not appear at that time, and the Superior Court

0248

1 entered our order enforcing the subpoena. It's
2 actually entitled Order Enforcing Agency Subpoena.
3 That ordered U&I CAN within 20 days to produce the
4 documents requested in the subpoena duces tecum that
5 was served by the parties in the Commission's
6 proceedings, and at its failure to do so, U&I CAN would
7 automatically be in contempt of court.

8 It's my understanding that Verizon's counsel
9 has mailed or otherwise provided a copy of the order to
10 U&I CAN's counsel, and to my knowledge, that's the end
11 of the update. We have not, to my knowledge, received
12 any documents or other response from U&I CAN, and if
13 within that 20-day period, which I believe runs on
14 October 8th, we have not received full and complete
15 responses to the subpoena duces tecum, then we will
16 have to take further enforcement action at the Superior
17 Court.

18 JUDGE SCHAER: What would that action be?

19 MR. SHERR: We believe we need to go file an
20 application with the chief civil judge. I have yet to
21 fully research what we need to do to further enforce
22 that, but we believe we need to bring the matter back
23 to either an assigned judge or to the chief civil judge
24 before the King County Superior Court and seek
25 additional remedy.

0249

1 JUDGE SCHAER: So acting on the assumption
2 that you do not receive answers, when do you think that
3 might be accomplished?

4 MR. SHERR: Judge, again, the date, the
5 20-day date runs on October 8th. Depending on the
6 exact process specifically provided and governed by
7 King County Superior Court local rules, it may be
8 something that we can do on an ex parte basis, but it
9 may be something that requires a hearing. If it
10 requires another hearing upon notice, then we may have
11 to schedule that with the assigned judge, so providing
12 an exact time line is difficult at this point.

13 It may be best if we can reconvene briefly
14 shortly after October 8th to provide an update, but at
15 this point, we are not exactly sure what the process is
16 in King County or upon understanding the process, how
17 much time it's going to require to get on the calendar
18 of a judge in King County.

19 JUDGE SCHAER: We are going to be off the
20 record for just a second.

21 (Discussion off the record.)

22 JUDGE SCHAER: While we were off the record,
23 the court reporter plugged in her machine, and the
24 administrative law judge encouraged counsel to keep
25 moving at a pace as quickly as they could reasonably

0250

1 do. You were suggesting, I believe, before we went off
2 the record that there should be some other kind of
3 status conference somewhat close to and after October
4 8th. Is that correct?

5 MR. SHERR: That's correct, and I would say
6 leaving a week to ten days after that date, that amount
7 of time would probably be appropriate, so I would say
8 sometime in mid October would be appropriate so that we
9 can give the Commission an update as to where we are
10 and what we need to do and how long it's going to take.

11 MS. FISHER: Judge Schaer, I would also add
12 that we later received a phone call from Mr. Holcomb,
13 who represents U&I CAN, saying that he has shown up at
14 the courthouse at 1:30, and he had somehow gotten the
15 time wrong for our hearing, and we responded to him and
16 responded to his phone call and pointed out to him that
17 the renote had specifically identified the change of
18 the time as well as the change of the date and that we
19 had obtained an order, and we did send the order to him
20 the same date it was entered, which was September 18th,
21 and we, to date, have not heard back from him
22 subsequently. So Mr. Holcomb is aware that we did
23 obtain an order.

24 JUDGE SCHAER: Do the parties think it would
25 be appropriate to put a copy of that order in the

0251

1 record of the Commission proceeding, or does that more
2 appropriately stay in a court file from the Commission
3 and not in this case?

4 MS. SMITH: I believe that it would be
5 appropriate to provide a copy of that order on this
6 docket. This is a status conference in the Commission
7 docket. The purpose of the discussion at this
8 morning's status conference was, indeed, a Superior
9 Court order and the process that the parties intend to
10 follow to bring this matter to conclusion before the
11 Commission, so I believe a copy of the order would be
12 appropriate, and I will see that one is mailed to the
13 administrative law judge through the appropriate
14 channels so it gets put into the record of this case.

15 JUDGE SCHAER: Thank you. Do the other
16 parties agree with Ms. Smith?

17 MS. FISHER: Yes. We think that would be
18 appropriate.

19 MR. SHERR: I have no problem with that and
20 appreciate Ms. Smith taking care of that.

21 JUDGE SCHAER: So I'm going to look for a mid
22 October date when we can do another status conference,
23 and it will probably be as informal as this one and
24 something where we can get together by phone or in
25 person and see where we are and talk about how to get

0252

1 to the end of the path if we ever do.

2 I thank you all for your work and your work
3 in the Superior Court. Feel free to contact me if
4 there are any concerns, if there is any engagement
5 regarding discovery that the Commission can assist with
6 by rulings or anything else in this proceeding, and
7 certainly make sure you are getting the help you need.
8 Is there anything further to come before the Commission
9 this morning?

10 MS. SMITH: No, Your Honor.

11 MS. FISHER: No, Your Honor.

12 MR. SHERR: No, Your Honor.

13 JUDGE SCHAER: With that, I will conclude the
14 hearing, and we are off the record.

15

16 (Hearing concluded at 9:56 a.m.)

17

18

19

20

21

22

23

24

25