



Christine O. Gregoire

# ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

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May 19, 2003

Carole J. Washburn, Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

Re: *Verizon, et al. v U&ICAN*  
Docket No. UT-960659

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RECORDS MANAGEMENT  
03 MAY 19 AM 11:56  
STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

Dear Ms. Washburn:

Enclosed for your information is a copy of the judgment in the appeal to King County Superior Court of the above referenced docket.

Very truly yours,

SHANNON E. SMITH  
Assistant Attorney General

SES:kl  
Enclosure  
cc: ALJ Schaer



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ATTY GEN DIV  
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KING COUNTY, WASHINGTON

MAR 25 2003

KNT DEPARTMENT OF  
JUDICIAL ADMINISTRATION

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

VERIZON NORTHWEST INC., QWEST  
CORPORATION, and WASHINGTON  
UTILITIES AND TRANSPORTATION  
COMMISSION STAFF,

Petitioners,

v.

UNITED AND INFORMED CITIZEN  
ADVOCATES NETWORK,

Respondent.

No. 02-2-21197-6 KNT

(WUTC Docket No. UT-960659)

(WUTC Docket No. UT-970257)

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

**FINDINGS OF FACT**

1. On May 14, 1996, U&I CAN brought a complaint before the Washington Utilities and Transportation Commission ("WUTC") against Qwest, which was docketed as WUTC docket number UT-960659. Qwest filed a counterclaim that U&I CAN improperly avoided paying access charges to Qwest through an unlawful toll-bridging scheme. That case was consolidated with WUTC docket number UT-970257, which is a complaint by Verizon against

1 U&I Can alleging that U&I CAN improperly avoided paying access charges to Verizon under  
2 the same theory articulated by Qwest in its counterclaim.

3 2. On April 25, 2002, the Joint Petitioners issued a Subpoena Duces Tecum to U&I  
4 CAN pursuant to the subpoena power found in RCW 34.05.446, WAC 480-09-120, 480-09-475  
5 and 480-09-480, and as directed by the WUTC. On April 29, 2002, Petitioners reissued the  
6 Subpoena Duces Tecum to U&I CAN because the April 25 subpoena inadvertently did not  
7 include a copy of an exhibit. U&I CAN's responses were due on May 20, 2002.

8 3. On April 30, 2002, counsel for Verizon received a letter from U&I CAN's  
9 attorney acknowledging receipt of the Subpoena Duces Tecum and refusing to cooperate in the  
10 discovery process. U&I CAN failed to produce any documents.

11 4. On July 18, 2002, Petitioners filed a Petition to Enforce Agency Subpoena  
12 pursuant to RCW 34.05.588 to compel U&I CAN to respond to discovery requests contained in  
13 the Subpoena Duces Tecum. The same day, the *ex parte* commissioner issued an Order to Show  
14 Cause requiring U&I CAN to appear on August 23, 2002 and show cause, if any, why U&I CAN  
15 failed to obey the Subpoena Duces Tecum and refused to produce documents. The show cause  
16 hearing was rescheduled to September 18, 2002, whereupon the Court entered an Order  
17 Enforcing Agency Subpoena, which ordered U&I CAN to comply with the order or else to be  
18 held automatically in contempt of court.

19 5. On December 31, 2002, Verizon filed the Motion for Civil Contempt and  
20 Remedial Sanctions because U&I CAN violated the Court's prior Order Enforcing Agency  
21 Subpoena by failing to comply with the Subpoena Duces Tecum. On February 3, 2003, this  
22 Court heard oral argument and reviewed and considered Verizon's Motion for Contempt and  
23 Remedial Sanctions, the Declaration of Kendall J. Fisher in support thereof, the Declaration of J.  
24 Byron in Response to Petitioners' Motion for Contempt et al., and all responsive pleadings and  
25 declarations, and pertinent records and pleadings on file herein. After hearing argument of  
26

1 counsel on the issue of contempt, the Court held U&I CAN in contempt of this Court pursuant to  
2 RCW 7.21.010(1)(b).

3 6. The Court issued a written order in open court directing U&I CAN to comply  
4 with the Court's Order Enforcing Agency Subpoena dated September 18, 2002 by 4:00 p.m. on  
5 February 3, 2003, which U&I CAN failed to do. U&I CAN also was ordered to pay Verizon  
6 \$2,000 per day for each day of noncompliance after February 3, 2003. Finally, the Court  
7 awarded Verizon \$3050.00 for reasonable attorneys' fees and costs.

8 7. U&I CAN refused and continues to refuse to provide any documents in response  
9 to the Subpoena Duces Tecum.

#### 10 CONCLUSIONS OF LAW

11 1. This proceeding is based on RCW 34.05.588 and RCW 7.21.010(1)(b).

12 2. Petitioners have a clear legal right to obtain discovery from U&I CAN in response  
13 to the Subpoena Duces Tecum.

14 3. U&I CAN is in contempt of court for failing to comply with the Court's Order  
15 Enforcing Agency Subpoena.

16 4. Pursuant to the Order Finding Contempt and Imposing Remedial Sanctions, U&I  
17 CAN owes Verizon \$2000 for each day of noncompliance after February 3, 2003.

18 5. This judgment is for the amounts due and owing from U&I CAN to Verizon from  
19 February 4, 2003 to the date this judgment is entered.

20 6. This is a final judgment and any appropriate enforcement action may be taken.

21

22 DATED: March ~~28~~, 2003.

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THE HONORABLE LAURA MIDDAGH

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1 Presented by:  
2 STOEL RIVES LLP

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By Kendall J. Fisher

Timothy J. O'Connell, WSBA #15372  
Kendall J. Fisher, WSBA #28855

Of Attorneys for Verizon Northwest Inc.

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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

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10 VERIZON NORTHWEST INC., QWEST  
11 CORPORATION, and WASHINGTON  
12 UTILITIES AND TRANSPORTATION  
COMMISSION STAFF,

13 Petitioners,

14 v.

15 UNITED AND INFORMED CITIZEN  
16 ADVOCATES NETWORK,

17 Respondent.

No. 02-2-21197-6 KNT

(WUTC Docket No. UT-960659)  
(WUTC Docket No. UT-970257)

**FINAL JUDGMENT**

18 **JUDGMENT SUMMARY**

19 Pursuant to RCW 4.64.030, the following information should be entered in the Clerk's  
20 Execution Docket:

- 21 1. Judgment Creditor: Verizon Northwest Inc. ("Verizon")
- 22 2. Judgment Debtor: United and Informed Citizen Advocates Network  
("U&I CAN")
- 23 3. Principal Judgment Amount: \$~~112,000.00~~<sup>98,000</sup> (\$2000.00 per day February 4, 2003  
24 through March 24, 2003)
- 25 4. Attorney Fees: \$3050.00
- 26

1 5. Interest Rate on Post-Judgment Amounts: 12%

2 6. Total: ~~\$115,050.00~~ <sup>101,050.00</sup>

3 7. Attorney for Judgment Creditor: Timothy J. O'Connell, Kendall J. Fisher, Stoel  
4 Rives LLP

5 **JUDGMENT**

6 This matter was heard by the Court without a jury on February 3, 2003, the Honorable  
7 Laura J. Middaugh presiding. Petitioners appeared through their attorney of record. U&I CAN  
8 appeared through its attorney of record. The Court received the evidence and pleadings offered  
9 by the parties and heard the oral argument of the parties' counsel. On February 3, 2003, after the  
10 hearings, the Court rendered a written order finding contempt and imposing remedial sanctions.  
11 The Court made findings of fact and conclusions on March 25, 2005, which were entered on the  
12 same day. A copy of the findings and conclusions is attached as Exhibit A..

13 Consistent with its Order Finding Contempt and Imposing Remedial Sanctions and its  
14 findings and conclusions entered on March 25, 2003, the Court enters final judgment in this  
15 matter as follows:

- 16 1. Verizon is awarded judgment against U&I CAN in the amount of ~~\$112,000~~ <sup>98,000</sup>.  
17 2. Verizon is awarded reasonable attorneys' fees in the amount of \$3050.00.  
18 3. This is a final judgment and any appropriate enforcement action may be taken.

19 DATED: March 25, 2003.

20   
THE HONORABLE LAURA MIDDAUGH

21 Presented by:

22 STOEL RIVES LLP

23 By Kendall J. Fisher  
24 Timothy J. O'Connell, WSBA #15372  
25 Kendall J. Fisher, WSBA #28855  
26 Of Attorneys for Verizon Northwest Inc.