

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	WASHINGTON UTILITIES AND)	
4	TRANSPORTATION COMMISSION,)	DOCKET NO. UT-950200
5	Complainant,)	VOLUME 8
6	vs.)	Pages 440 - 455
7	U S WEST COMMUNICATIONS, INC.,)	
8	Respondent.)	
	-----)	

9 A hearing in the above matter was held
10 at 9:15 a.m. on October 12, 1995, at 1300 South
11 Evergreen Park Drive Southwest, Olympia, Washington
12 before and Administrative Law Judges C. ROBERT WALLIS
13 and TERRENCE STAPLETON.

14
15 The parties were present as follows:

16 U S WEST COMMUNICATIONS, by EDWARD SHAW,
17 Attorney at Law, 1600 Bell Plaza, Room 3206, Seattle,
18 Washington 98191, and SHERILYN PETERSON, Attorney at
19 Law, 411 108th Avenue Southeast, Washington 98122.

20 WASHINGTON UTILITIES AND TRANSPORTATION
21 COMMISSION STAFF, by STEVEN W. SMITH and GREGORY
22 TRAUTMAN, Assistant Attorneys General, 1400 South
23 Evergreen Park Drive Southwest, Olympia, Washington
24 98504.

25 FOR THE PUBLIC, DONALD TROTTER, Assistant
Attorney General, 900 Fourth Avenue, Suite 2000,
Seattle, Washington 98164.

Cheryl A. Macdonald, CSR
Court Reporter

1 APPEARANCES (Cont.)

2 AT&T OF THE PACIFIC NORTHWEST, by GREGORY
3 KOPTA, Attorney at Law, 1501 Fourth Avenue, Suite
4 2600, Seattle, Washington 98101.

5 AT&T, by SUSAN PROCTOR, Attorney at Law,
6 1875 Lawrence Street, Suite 1575, Denver Colorado
7 80202.

8 WITA, by RICHARD A. FINNIGAN, Attorney at
9 Law, 1201 Pacific Avenue, Suite 1900, Tacoma,
10 Washington 98402.

11 TRACER, by ARTHUR A. BUTLER and STEVEN
12 KENNEDY, Attorney at Law, 601 Union Street, Suite
13 5450, Seattle, Washington 98101-2327.

14 ELECTRIC LIGHTWAVE, INC., by SUSAN MCADAMS
15 and BRIAN THOMAS, Company-authorized representatives,
16 8100 NE Parkway Drive, Suite 200, Vancouver,
17 Washington 98662-6401.

18 MCI, by CLYDE MACIVER, Attorney at Law,
19 4400 Two Union Square, 601 Union Street, Seattle,
20 Washington 98101.

21 DEPARTMENT OF DEFENSE/FEDERAL EXECUTIVE
22 AGENCIES, by SHERYL A. BUTLER, Trial Attorney, 901 N
23 Stuart Street, Suite 713, Arlington, Virginia 22203.

24 SPRINT, by LESLA LEHTONEN, Attorney at Law,
25 1850 Gateway Drive, 7th Floor, San Mateo, California
94404-2467.

GTE NW, Inc., by RICHARD POTTER,
Attorney at Law, 1800 41st Street, Everett, Washington
98201.

DEPARTMENT OF INFORMATION SERVICES, by
ROSELYN MARCUS, Assistant Attorney General, 1125
Washington Street Southeast, PO Box 40100, Olympia,
Washington 98504.

NORTHWEST PAYPHONE ASSOCIATION and METRONET
SERVICES CORPORATION, by BROOKS E. HARLOW, Attorney at
Law, 601 Union Street, Suite 4400, Seattle, Washington
98101-2352.

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APPEARANCES (CONT.)

ENHANCED TELEMAGEMENT, INC., by
SARA SIEGLER MILLER, Attorney at Law, 2000 NE
42nd, Suite 154, Portland, Oregon 97213.

AMERICAN ASSOCIATION OF RETIRED PERSONS, by
RONALD L. ROSEMAN, Attorney at Law, 401 Second Avenue
South, Suite 401, Seattle, Washington 98104.

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

2 JUDGE WALLIS: This pre-hearing conference
3 will please come to order. The Washington Utilities
4 and Transportation Commission has set for hearing at
5 this time and place upon due and proper notice to all
6 interested persons a hearing in docket No. UT-950200
7 involving U S WEST Communications. This pre-hearing
8 conference is being held before administrative law
9 judges Terrence Stapleton and Robert Wallis of the
10 Washington Utilities and Transportation Commission.
11 It's being held at Olympia, Washington on October 12,
12 1995. Let's take appearances at this time, please.

13 MR. SHAW: Ed Shaw for U S WEST together
14 with Sherilyn Petersen of the law firm of Perkins
15 Coie.

16 MS. MARCUS: Roselyn Marcus, assistant
17 attorney general representing Department of
18 Information Services.

19 MR. FINNIGAN: Richard A. Finnigan
20 appearing on behalf of the Washington Independent
21 Telephone Association.

22 MR. POTTER: Richard E. Potter for GT
23 Northwest, Incorporated.

24 MR. MACIVER: Clyde H. MacIver for MCI
25 Telecommunications Corporation.

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1 MR. KOPTA: Gregory J. Kopta for AT&T.

2 MR. TROTTER: Donald T. Trotter, assistant
3 attorney general for the public counsel section of the
4 attorney general's office.

5 MS. MILLER: Sara Siegler Miller for
6 Enhanced TeleManagement, Inc.

7 MR. SMITH: Steven W. Smith, assistant
8 attorney general and Gregory J. Trautman assistant
9 attorney general for the Commission staff.

10 JUDGE WALLIS: And now on our bridge line.

11 MR ROSEMAN: Excuse me, Mr. Wallis. Ronald
12 Roseman.

13 MR. BUTLER: Art Butler for TRACER.

14 JUDGE WALLIS: On the bridge line for
15 TRACER.

16 MR. BUTLER: Arthur A. Butler and Steven J.
17 Kennedy for appearing for TRACER.

18 JUDGE WALLIS: For ELI?

19 MS. MCADAMS: Authorized representatives
20 for ELI, Susan McAdams and Brian Thomas.

21 JUDGE WALLIS: For AT&T.

22 MS. PROCTOR: Susan Proctor.

23 JUDGE WALLIS: For Department of Defense.

24 MS. BUTLER: Cheryl Butler.

25 JUDGE WALLIS: For the Northwest Payphone

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1 Association and Metronet.

2 MR. HARLOW: Brooks Harlow.

3 JUDGE WALLIS: Is there any other person on
4 the bridge line now who is appearing in a
5 representative capacity?

6 MS. LEHTONEN: This is Lesla Lehtonen for
7 Sprint.

8 JUDGE WALLIS: Could you repeat your name,
9 please.

10 MS. LEHTONEN: Lesla, L E S L A, Lehtonen,
11 L E H T O N E N, appearing for Sprint.

12 JUDGE WALLIS: Thank you. Any other person
13 on the bridge line?

14 Now, there is a person who has joined us in
15 the hearing room.

16 MR. ROSEMAN: Ronald Roseman representing
17 AARP.

18 JUDGE WALLIS: Let me ask at this time, is
19 there any other person either present in this room or
20 on the bridge line who is appearing in a
21 representative capacity?

22 Let the record show that there is no
23 response.

24 As our first order of business we've been
25 informed that U S WEST requests that the pre-hearing

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1 conference be recessed briefly while it discusses with
2 the parties the possibility of engaging in settlement
3 discussions. Mr. Shaw, would you describe your
4 proposal for the record, please.

5 MR. SHAW: Yes, thank you. As I indicated
6 prior to going on the record, the company has had some
7 discussions with representatives of the staff about
8 possible concepts to settle this case in broad
9 outline, and I want to emphasize that there is not a
10 settlement between the company and the staff. The
11 preliminary discussions were undertaken with the staff
12 because of their primary role in this case to see
13 whether or not there could be some agreement on some
14 principles that would -- that could lead to a
15 settlement.

16 We've also had a meeting with most of the
17 parties where a possible settlement was discussed
18 where all of the major parties at least were
19 represented a couple of weeks ago, and we there
20 expressed that we were going to continue to work on a
21 possible settlement of the case. At this juncture it
22 would appear that there may be enough agreement on
23 some principles that settlement discussions in earnest
24 and in detail would be fruitful.

25 As I say, I apologize for the late notice

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1 of these developments. It's just simply unavoidable
2 in a case of the complexity of this sort and with all
3 of the effort that's had to go in for preparing for
4 the case, filing rebuttal testimony and so forth that
5 we've just now had this possibility. We do not have
6 to present to the parties today an elegant detailed
7 package, but we do have some outline of some concepts
8 which we can fax to the parties that are not
9 physically present in the hearing room so that they
10 can follow the discussion.

11 So the proposal is to recess the
12 pre-hearing conference and have that discussion and
13 see if we can get some general consensus that it does
14 look like further settlement discussions would be
15 beneficial and fruitful, and if that is the case, in
16 recognition of the reality that it's virtually
17 impossible to devote the attention to settlement at
18 the same time as preparing for a very complex and
19 difficult hearing only two weeks away, the company is
20 willing to waive its right to have this case decided
21 within the statutory time frame and extend it
22 sufficient enough to reschedule the hearings in case
23 the settlement negotiations ultimately prove to be
24 unsuccessful.

25 So the concept is that we would take this

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1 time to focus on settlement and see if we could
2 accomplish that, propose to defer decision of the
3 pending motions that are scheduled in this pre-hearing
4 conference on the basis that they would be mooted out
5 if settlement could be arrived at. If we can spend a
6 few hours and make some progress and then report back
7 to the bench that further discussions are indicated,
8 we would propose to schedule by concurrence, you know,
9 in a immediate follow-on meeting that everybody would
10 attend. We're not contemplating that there's going to
11 be agreement today and that the people on by phone
12 will be prejudiced by decisions being made today.
13 What we wanted to explore was conceptually whether all
14 the parties thought that it would be fruitful to
15 continue it with the settlement discussions based upon
16 the principles that the staff and the company would
17 present to the parties here today.

18 So that is the request. It is a pragmatic
19 one. It seems preferable for all concerned to settle
20 the case if that is possible. We understand the
21 Commission is interested in settlements and it seems
22 worthwhile to take some time to see if that could be
23 accomplished.

24 JUDGE WALLIS: Thank you, Mr. Shaw. Does
25 anyone in the hearing room wish to speak in opposition

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1 to taking a recess of the pre-hearing conference at
2 this time?

3 MR. MACIVER: I guess I don't understand
4 the length of the recess. Are we going to report back
5 at 1:00 today or just abort this entire pre-hearing
6 conference?

7 JUDGE WALLIS: Mr. Shaw, what time frame
8 would you suggest?

9 MR. SHAW: I believe that it would be
10 beneficial at least a couple of hours, and I think
11 that we could be loose on that and agree to report
12 back before noon or by 11:00 or whatever just to see
13 whether that would be beneficial to remain in recess.
14 I think it will take a couple of hours at least to
15 kind of kick the concepts around.

16 JUDGE WALLIS: I will suggest then that we
17 look at the proposal as one to recess until 11:30 and
18 that we would resume discussions on the record at
19 11:30 and first ask whether more time would be needed.
20 Does anyone on the bridge line wish to speak in
21 opposition to taking a recess at this time?

22 MS. LEHTONEN: Yes. This is Sprint, Lesla
23 Lehtonen on behalf of Sprint Communications Company.
24 Despite what Mr. Shaw claims, we have not been
25 provided with any information regarding a settlement.

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1 We have absolutely no idea what his sketchy outline
2 involves. We were not present today on the basis that
3 we thought we would have been properly notified of
4 what was going to be scheduled in this pre-hearing
5 conference and had no knowledge of a settlement
6 conference. Mr. Shaw claims that it was a time factor
7 in not notifying us yet he admits that he met with
8 several parties two weeks ago. Sprint believes it has
9 a substantial interest as one of U S WEST's largest
10 customers in this proceeding, and we feel it would be
11 unduly prejudicial for us -- for this pre-hearing
12 conference to be dismissed and for settlement
13 discussions to ensue without our presence.

14 JUDGE WALLIS: Is there anyone else on the
15 bridge line who wishes to speak in opposition to the
16 recess?

17 MS. MCADAMS: This is from Electric
18 Lightwave. This is Sue McAdams. Just to clarify, a
19 question, would the bridge continue to be on and
20 available during the negotiations?

21 JUDGE WALLIS: Yes.

22 MS. MCADAMS: In that case we have no
23 objection.

24 JUDGE WALLIS: Very well. Ms. Lehtonen, no
25 one in the room, to my knowledge, has any materials

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1 from U S WEST at this point. Mr. Shaw, is that
2 correct?

3 MR. SHAW: That's correct. What the
4 proposal was, and perhaps she misunderstood, that we
5 would be willing to take a brief recess and get things
6 faxed out to the absent parties so they will have the
7 same paper in front of them that the people in the
8 hearing room will have in front of them, and we have
9 not predistributed to anybody else either.

10 JUDGE WALLIS: Very well. On that basis we
11 will be in recess until 11:30. Just one moment,
12 please.

13 JUDGE STAPLETON: Before we go in recess,
14 may I poll the people on the telephone line for a fax
15 number so that we can get this into your hands as soon
16 as possible. Mr. Butler, is it 467-8406?

17 MR. BUTLER: Yes, that's correct.

18 JUDGE STAPLETON: For ELI, 253-4425?

19 MS. MCADAMS: Yes, that is correct.

20 JUDGE STAPLETON: And for DOD/FEA,
21 696-2960?

22 MS. BUTLER: That's correct.

23 JUDGE STAPLETON: And for NPA and Metronet,
24 622-7485?

25 MR. HARLOW: Yes.

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1 JUDGE STAPLETON: And for Sprint, Ms.
2 Lehtonen, 513-2737?

3 MS. LEHTONEN: Yes.

4 JUDGE STAPLETON: And Susan Proctor for
5 AT&T, may I have your fax number.

6 MS. PROCTOR: Yes. It's 303-298-6301.

7 JUDGE STAPLETON: Thank you. We'll put
8 this on the machine immediately.

9 JUDGE WALLIS: Very well. Is there
10 anything else before we recess?

11 MS. PROCTOR: Mr. Wallis, this is Susan
12 Proctor.

13 JUDGE WALLIS: Ms. Proctor.

14 MS. PROCTOR: If we're going to have the
15 conference bridge available I wonder if the parties
16 could use the same sort of procedure that Mr.
17 Stapleton had been suggesting of using the microphones
18 because otherwise those of us on the bridge are not
19 going to be able to hear.

20 JUDGE WALLIS: Yes. We understand that and
21 we do request that during the discussions if anyone is
22 speaking that they use the microphone. Also, it's
23 been my experience in these proceedings that because
24 we have persons who aren't present it's important for
25 everyone to introduce themselves every time they say

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1 something. Is there anything else?

2 Very well. We will be in recess.

3 (Recess as 9:30 a.m.)

4 JUDGE WALLIS: Let's be back on the record,
5 please. Mr. Shaw, do you have a report on the
6 discussions?

7 MR. SHAW: Yes. We had fruitful
8 discussions, and what was concluded by the majority of
9 the parties is that they wanted a bit of time to
10 reflect on what has been proposed before they indicate
11 whether or not they want to continue with detailed
12 settlement discussions, and so we recommend that this
13 pre-hearing conference be recessed until next Tuesday
14 morning. Prior to that time the parties will
15 communicate with each other informally on whether they
16 want to continue, and we will be able to advise your
17 office before that whether or not we would continue
18 that pre-hearing conference as well as the primary
19 hearing or whether we wish to take up the litigation
20 schedule as currently set.

21 JUDGE WALLIS: Does any other party wish to
22 comment?

23 MR. SMITH: Yes, Your Honor. Steve Smith
24 for the Commission staff.

25 JUDGE WALLIS: Mr. Smith, I'm not certain

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1 your microphone is working. If you would just boom it
2 out then we'll hope that everyone can hear including
3 people on the bridge line.

4 MR. SMITH: I just want to clarify that if
5 the negotiations should break down by Tuesday that we
6 would be prepared to argue the two dispositive motions
7 that were to be argued today.

8 MR. SHAW: Yes. That was the company's
9 intent also.

10 JUDGE WALLIS: Very well. Would the
11 parties be available at 8:00 on Tuesday morning?

12 MR. BUTLER: How about 9:30?

13 MR. TROTTER: Thanks, Art.

14 MR. MACIVER: Parties have discussed among
15 themselves that 9:30 would be good for them subject of
16 course to your agreement.

17 JUDGE WALLIS: I am beginning a two-week
18 hearing on Tuesday that's scheduled to start at 9:00
19 a.m., and I can make arrangements for the initial part
20 of that and make arrangements to be here at least
21 until about 10 if needed, so my preference would be,
22 so that all of us can participate, would be that we
23 begin at 8:00, if that's something that the parties
24 have any ability to comply with.

25 MR. MACIVER: If we proceed with the

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1 pre-hearing conference on Tuesday, would that allow
2 you enough time to prenumber exhibits and hear
3 arguments on motions and all that which we would have
4 done today?

5 JUDGE WALLIS: I believe it would allow for
6 everything but prenumbering and that's not something
7 that I think would require all of us to be present
8 for. Is that acceptable to the parties? I understand
9 that it does impose some hardships and apologize for
10 that.

11 MR. TROTTER: That's fine.

12 JUDGE WALLIS: Very well. We will be in
13 recess then until 8:00 on Tuesday morning next. Thank
14 you all very much.

15 (Hearing adjourned at 11:40 a.m.)

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