

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION,)	DOCKET NO. UT-950200
4)	
	Complainant,)	VOLUME 10
5)	
	vs.)	Pages 509 - 523
6)	
	U S WEST COMMUNICATIONS, INC.,)	
7)	
	Respondent.)	
8	-----)	

9 A telephonic pre-hearing conference in the
10 above matter was held at 12:07 p.m. on October 19,
11 1995, at 1300 South Evergreen Park Drive Southwest,
12 Olympia, Washington before Administrative Law Judges
13 C. ROBERT WALLIS 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, Seattle, Washington
18 98191.

19 WASHINGTON UTILITIES AND TRANSPORTATION
20 COMMISSION STAFF, by GREGORY TRAUTMAN, Assistant
21 Attorney General, 1400 South Evergreen Park Drive
22 Southwest, Olympia, Washington 98504.

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

AT&T, by DANIEL WAGGONER, Attorney at Law,
1501 Fourth Avenue, Suite 2600, Seattle, Washington
98101.

Cheryl Macdonald, CSR
Court Reporter

APPEARANCES (CONT.)

00510

1

2 WITA, by RICHARD A. FINNIGAN, Attorney at
3 Law, 1201 Pacific Avenue, Suite 1900, Tacoma,
4 Washington 98402.

5 TRACER, by ARTHUR A. BUTLER, Attorney at
6 Law, 601 Union Street, Suite 5450, Seattle, Washington
7 98101-2327.

8 ELECTRIC LIGHTWAVE, INC., by ELLEN DEUTSCH,
9 Attorney at Law, 8100 NE Parkway Drive, Suite 200,
10 Vancouver, Washington 98662-6401.

11 MCI, by CLYDE MACIVER, Attorney at Law,
12 4400 Two Union Square, 601 Union Street, Seattle,
13 Washington and ROBERT NICHOLS, Attorney at Law, 600
14 Pearl Street, Suite B, Boulder, Colorado 80302.

15

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

19

20 SPRINT, by LESLA LEHTONEN, Attorney at Law,
21 1850 Gateway Drive, 7th Floor, San Mateo, California
22 94404-2467.

23

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

28 NORTHWEST PAYPHONE ASSOCIATION and METRONET
29 SERVICES CORPORATION, by BROOKS E. HARLOW, Attorney at
30 Law, 601 Union Street, Suite 4400, Seattle, Washington
31 98101-2352.

32

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

36

37 ENHANCED TELEMAGEMENT, INC., by GENA
38 DOYSCHER, Director External Affairs, 730 Second Avenue
39 South, Minneapolis, Minnesota 55025 and SARA SIEGLER
40 MILLER, Attorney at Law, 2000 NE 42nd, Suite 154,
41 Portland, Oregon 97213.

42

43

00511

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

2 JUDGE WALLIS: Let's be on the record,
3 please. This is a continuation of a pre-hearing
4 conference of the Washington Utilities and
5 Transportation Commission being held before
6 administrative law judges Terrence Stapleton and Bob
7 Wallis. This is a pre-hearing conference in docket
8 No. UT-950200 involving U S WEST Communications, Inc.
9 This is being held at Olympia, Washington via
10 telecommunications on Thursday, October 19, 1995.

11 I'm going to ask that the parties on the
12 bridge line identify themselves, please.

13 MR. SHAW: Ed Shaw for U S WEST
14 Communications.

15 MR. TROTTER: Donald T. Trotter, assistant
16 attorney general public counsel section.

17 MR. ROSEMAN: Ron Roseman, AARP.

18 MR. HARLOW: Brooks Harlow for Northwest
19 Payphone Association and Metronet Services
20 Corporation.

21 MS. DOYSCHER: Gena Doyscher for
22 Enhanced Telemanagement Company.

23 MS. MILLER: Sara Siegler Miller, ETI.

24 MR. WAGGONER: Dan Waggoner for AT&T
25 Communications.

00512

1 MS. DEUTSCH: Ellen Deutsch for Electric
2 Lightwave.

3 MR. FINNIGAN: Rick Finnigan for
4 the Washington Independent Telephone Association.

5 MS. LEHTONEN: Lesla Lehtonen, Sprint.

6 MS. BUTLER: Sheryl Butler for the
7 Department of Defense.

8 MR. BUTLER: Arthur A. Butler for TRACER.

9 MS. MARCUS: Roselyn Marcus for DIS.

10 MR. MACIVER: Clyde MacIver for MCI.

11 MR. NICKEL: Robert Nichols for MCI.

12 MR. TRAUTMAN: Gregory J. Trautman,
13 assistant attorney general for Commission staff.

14 JUDGE WALLIS: The purpose for the recess
15 was to allow the parties to engage in discussions as
16 to whether settlement discussions and a delay of the
17 hearing previously scheduled would be advantageous or
18 not. Have the parties reached a conclusion as to
19 that?

20 MR. SHAW: Yes. Maybe I should go first.
21 This is Ed Shaw.

22 JUDGE WALLIS: Mr. Shaw.

23 MR. SHAW: U S WEST is the only party that
24 can insist upon --

25 JUDGE WALLIS: We can't hear you.

00513

1 MR. SHAW: U S WEST is the only party that
2 can insist that we stay on the current schedule. The
3 issue really seems to be whether U S WEST continues to
4 want to waive its right to have this case and an order
5 filed in 11 months. And I don't want to characterize
6 anybody else's position in my remarks, but I will just
7 simply say that U S WEST believes that it could settle
8 this case with the majority of the parties but that it
9 does not appear that we can get unanimous agreement
10 among all parties on the settlement of the case. So
11 unless the Commission is going to request that the
12 parties settle on less than a unanimous basis in order
13 to limit issues and proceed to hearing on issues that
14 cannot be settled or on parties' issues that cannot be
15 settled, it appears that we will go to trial as
16 scheduled.

17 U S WEST is willing to waive its right to
18 an order in this case in 11 months given the
19 Commission resolves to order the parties to settle
20 what issues they can settle and/or the parties have
21 settled between each other to the extent they can.
22 Other than that we seem to be at an impasse.

23 JUDGE WALLIS: Mr. Trautman. Let's move to
24 public counsel.

25 MR. TROTTER: We tried very hard but I

00514

1 don't see a consensus forming. In terms of going
2 forward to settle what issues we can settle, for us
3 we've always viewed this as a package type deal and
4 it's going to be difficult for us to settle on some
5 without knowing what the package looks like, so I am
6 just not (inaudible) about the prospects of wanting
7 additional time to do more in that area. I believe
8 that's unfortunate but with the numerous issues and
9 numerous parties in this case it's made it very
10 difficult, so from my perspective the only recourse at
11 this point is to either have the parties work
12 informally together to see if anything more can
13 happen -- I'm not optimistic there at all, but I think
14 the only, really, alternative at this point is to
15 proceed to hearing.

16 JUDGE WALLIS: So let me understand, do
17 you oppose the motion?

18 MR. TROTTER: Yes --

19 JUDGE WALLIS: Commission staff?

20 MR. TROTTER: -- for reasons stated.

21 MR. TRAUTMAN: Commission staff has
22 believed throughout this case that the case could be
23 settled if there were an attempt to get agreement
24 among the parties. In light of the current posture of
25 the case, staff's position would be neutral on the

00515

1 question of a continuance.

2 JUDGE WALLIS: Mr. Roseman.

3 MR. ROSEMAN: AARP's position is similar to
4 Mr. Trotter's. I mean, through Mr. Trotter and
5 thereby through the company we have agreed to some
6 serious movement in residential rates, an increase in
7 (inaudible). We believe that the settlement is not
8 possible without including the other major parties and
9 they are not on board so therefore we would oppose a
10 continuance at this time.

11 JUDGE WALLIS: ETI. Does anyone wish to
12 speak on behalf of ETI? Ms. Miller.

13 MS. MILLER: Yes. ETI also opposes the
14 continuance.

15 JUDGE WALLIS: Mr. Waggoner.

16 MR. WAGGONER: AT&T opposes the
17 continuance. We have sought to engage in additional
18 discussions with the company and unfortunately it
19 appears that a settlement is not feasible.

20 JUDGE WALLIS: ELI.

21 MS. DEUTSCH: ELI opposes the motion.

22 JUDGE WALLIS: WITA.

23 MR. FINNIGAN: Our position is still the
24 same. If U S WEST believes there's a chance of
25 settlement that opportunity should be given.

00516

1 JUDGE WALLIS: Sprint.

2 MS. LEHTONEN: Sprint opposes the motion.

3 JUDGE WALLIS: Department of Defense.

4 MS. BUTLER: We're neutral.

5 JUDGE WALLIS: TRACER.

6 MR. BUTLER: TRACER opposes the motion. As
7 has been indicated, we've all tried hard but there are
8 issues remaining between the parties that are simply
9 not negotiable, so we firmly believe that no
10 settlement is possible in this case and therefore we
11 oppose the motion.

12 JUDGE WALLIS: DIS.

13 MS. MARCUS: DIS opposes the motion.

14 JUDGE WALLIS: MCI.

15 MR. NICHOLS: MCI opposes the motion given
16 the status of negotiation.

17 JUDGE WALLIS: Did I leave anyone off? Who
18 was that?.

19 MR. HARLOW: Brooks Harlow for the
20 Northwest Payphone Association opposes the motion.

21 JUDGE WALLIS: Let's take just a minute
22 off the record, please.

23 (Recess.)

24 JUDGE WALLIS: Let's be back on the record,
25 please. We feel that it's important for the

00517

1 commissioners themselves to consider the posture of
2 the parties and to make the determination as to the
3 continuance, and consequently we intend to consult
4 with the commissioners and to fax out an order most
5 likely this afternoon on the motion.

6 I do think it's necessary to let the
7 parties know, and particularly the company, that the
8 Commission likely will have some limitations as to
9 what it would or would not accept in terms of a
10 settlement. The Commission would have grave
11 reservations about accepting a settlement that is
12 what's termed a black box regarding all the issues in
13 the proceeding.

14 The Commission has on many occasions, most
15 recently in the term loops order, expressed its
16 frustration with its inability to penetrate the
17 company's manner of calculating costs and its ability
18 to control cost information. The Commission in
19 looking at a potential settlement would require that
20 any full settlement either include a transparent,
21 rational, consistent, stable and understandable
22 approach to costing of services or not preclude the
23 Commission from determining one on a sufficient record
24 in this proceeding. This would include agreement as
25 to modeling costs, understanding assumptions that are

00518

1 used in any costing methodology, ability to verify
2 inputs and outputs, and to run alternative scenarios
3 on the cost model in a practical manner.

4 Now, Mr. Shaw, I don't know that on short
5 notice this would change your perspectives on
6 settlement discussions. The Commission has
7 consistently taken the position, and most recently is
8 expressing that in its process inquiry, that it
9 encourages parties to engage in open, frank, honest
10 discussions with one another to arrive at agreements
11 that are mutually beneficial to all the affected
12 interests.

13 I guess that concludes what I might say at
14 this time. Mr. Shaw, do you have a response now?

15 MR. SHAW: If I could ask some clarifying
16 questions. I'm not sure I follow your statement. Let
17 me present a hypothetical. Let us assume that parties
18 in a telecommunications company, rate case such as
19 this --

20 JUDGE WALLIS: Mr. Shaw, I'm going to
21 interject for a minute and ask if you could get closer
22 to your speaker phone because we're still having
23 difficulty hearing you.

24 MR. SHAW: It's in the ceiling and I can't
25 get any closer to it.

00519

1 JUDGE WALLIS: Sounds much better.

2 MR. SHAW: In a hypothetical where parties
3 compromise, came up with rate levels in a
4 telecommunications company rate case that were
5 necessarily a result of compromise, are you saying the
6 Commission would want in examining whether those rates
7 were in the public interest cost studies that show a
8 relationship between cost and the rate levels that
9 were arrived at through compromise? Is that all
10 you're saying?

11 JUDGE STAPLETON: Mr. Shaw, this is Terry
12 Stapleton. I don't think that the Commission would
13 necessarily want cost studies that supported the
14 precise rate level that may have been set for any
15 service to achieve the revenue requirement that the
16 parties agreed upon, but there has to be TSIC or TS
17 LRIC underlying cost methodology that is developed
18 that would show what the cost for that service is.

19 Now, commissioners are aware that there's a
20 level of contribution that's added to that price
21 floor, but the commissioners would insist on being
22 able to identify what that price floor is for services
23 based upon this agreed cost modeling system.

24 MR. SHAW: As Your Honors know, there are
25 as many versions of cost studies as there are

00520

1 economists. I suggest that the parties in the
2 negotiated settlement of the case would have to also
3 agree on the cost methodology to be used.

4 JUDGE WALLIS: I think the Commission
5 would see that as one option. It may also be an
6 option that the hearing proceed as to cost
7 methodology and allow the Commission hearing the
8 economic testimony to make a decision.

9 MR. TROTTER: This is Don Trotter. From
10 our perspective, I think I understand the last point
11 you made, but from a settlement basis we may disagree
12 a great deal on what the underlying cost is and how it
13 should be measured, so what you might get is a range
14 of TS LRICs pursuant to everyone's individual view of
15 cost, and the Commission can get a sense of what that
16 is, but I think if the Commission is going to require
17 as a condition of settlement that everyone agree to a
18 particular cost methodology in support of a
19 settlement, that is probably impossible.

20 JUDGE WALLIS: I think the Commission is
21 more concerned with the long-term lack of a cost
22 methodology that is, as we've indicated,
23 understandable, stable, consistent, rational and
24 transparent, and I cannot speak for the commissioners,
25 but I believe that if the settlement or partial

00521

1 settlements did not preclude the Commission from
2 exploring costing methodology on the record that that
3 would meet the Commission's interests.

4 MR. SHAW: I understand what you're saying.
5 My understanding is that if there were a settlement
6 if asked by the bench the party would be expected to
7 supplement that settlement with some explanation of
8 how the settled upon rates related to the cost end of
9 it was achieved. Is that reasonable?

10 JUDGE WALLIS: Well, the short answer is I
11 don't know that the Commission would insist upon the
12 methodology being used to determine rates in this
13 proceeding. The Commission, as you know, has some
14 discretion in terms of application of cost analysis.
15 But the Commission does very much want the ability to,
16 if the parties do not agree on a costing methodology
17 meeting the Commission's standards, wants the ability
18 to pursue cost methodology on the record.

19 MR. SHAW: I understand that except I do
20 not understand the Commission to have ever issued any
21 standard. That's my only reservation.

22 JUDGE WALLIS: Just what I have indicated
23 here, which I believe expresses the Commission's
24 concern, that it be understandable, transparent,
25 consistent, rational and stable. And we're talking

00522

1 about the methodology here and not the application
2 necessarily of that methodology.

3 UNIDENTIFIED VOICE: Thank you. Is there a
4 transcript of this, Judge Wallis?

5 JUDGE WALLIS: Yes. It is being
6 transcribed.

7 UNIDENTIFIED VOICE: We'll be hearing back
8 this afternoon, the parties?

9 JUDGE WALLIS: Yes, that's correct.

10 Also, for the parties' information, again as to the
11 cost studies, the Commission is concerned about a
12 forward looking costing consistently applied to
13 matters in the future, something that it can look to
14 until it's convinced that another methodology is
15 appropriate. The Commission would, if a continuance
16 is granted, would like the parties to meet the
17 deadline of December 8 for submission of settlements
18 or stipulations giving other parties the opportunity
19 to look at those and understand them and respond to
20 them prior to the beginning of hearings. Hearings
21 would begin on approximately January 8th and would
22 take place over the two weeks beginning January 8th
23 and January 15th. The Commission would expect that
24 the current intervals for -- or between the end of the
25 hearings and the due dates for briefs and the

00523

1 suspension period would be maintained.

2 Are there any questions or would anyone
3 like to add something for the record?

4 MR. BUTLER: Yes, Your Honor. This is Art
5 Butler for TRACER. I just want to reiterate that we
6 believe there will be no unanimous settlement or
7 unanimous stipulations in this case.

8 JUDGE WALLIS: Yes, we understand that that
9 is your observation and your position.

10 Is there anything further? It appears
11 that there's not. Thank you all very much and we'll
12 be off the record.

13 (Hearing adjourned at 12:35 p.m.)

14

15

16

17

18

19

20

21

22

23

24

25