

00036

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In the Matter of the Petition of)
U S WEST COMMUNICATIONS, INC.,) Docket No. UT-000883
4 for Competitive Classification) Volume 3
of Business Services in 31) Pages 36 - 56
5 Specified Wire Centers.)

6

7

A public hearing in the above matter
8 was held on October 12, 2000, at 4:01 p.m., at 4600
9 Southeast Columbian Way, Vancouver, Washington,
10 before Administrative Law Judge KAREN CAILLE,
11 Chairwoman MARILYN SHOWALTER, Commissioners RICHARD
12 HEMSTAD and WILLIAM GILLIS.

13

14

The parties were present as follows:

15

16 THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by ROBERT D. CEDARBAUM, Assistant Attorney
General, 1400 South Evergreen Park Drive Southwest,
17 Post Office Box 40128, Olympia, Washington 98504.

18 PUBLIC COUNSEL, by ROBERT W. CROMWELL, JR,
Assistant Attorney General, 900 Fourth Avenue, Suite
19 2000, Seattle, Washington 98164.

20

21

22

23

24

Kathryn T. Wilson, CCR
25 Court Reporter

00037

1

P R O C E E D I N G S

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CHAIRWOMAN SHOWALTER: Good afternoon, everyone. I'm Marilyn Showalter, the chairwoman of the Washington Utilities and Transportation Commission, and we are here for a hearing on a petition by Qwest, and we'll hear more particulars in a minute. With me are my fellow commissioners, Commissioner Richard Hemstad and Bill Gillis.

This seems to be an informal gathering since there are so few of us. Actually, the last time the Commission was here was when it sat on the proposed merger between U S West and Qwest, and that merger did go through with conditions, and now, we are here with a petition by Qwest for a change in its practices. It might feel a little informal, but as you can see from the court reporter here, it is a formal hearing being reported, and for that reason, we have to help us through this proceeding Administrative Law Judge Karen Caille who is going to explain further what this proceeding is and how to go about testifying, so I'm going to turn it over to her for a more elaborate explanation.

JUDGE CAILLE: Let me add my welcome, ladies and gentlemen. This is the first of two public comments hearings that are part of the Commission's

00038

1 formal hearing process as it considers whether to
2 classify as competitive U S West business, local
3 exchange services in certain wire centers in Bellevue,
4 Issaquah, Kent, Auburn, Renton, Seattle, Spokane,
5 Tacoma, and Vancouver.

6 The Commission's hearing process is one where
7 we take technical testimony from parties who formally
8 appear in front of us, and those evidentiary hearings
9 will be held in Olympia beginning October 30th. Then
10 we also take public testimony and evidence from members
11 of the public in sessions such as the one we have this
12 afternoon, and there will also be another one scheduled
13 in Olympia on November the 1st.

14 The Washington Utilities and Transportation
15 Commission is a state administrative agency responsible
16 for regulating various public utilities, including
17 telephone companies. When one of these companies asks
18 the Commission to classify a service as competitive,
19 the Commission examines the request to determine
20 whether the services the company offers are subject to
21 effective competition. Effective competition means
22 that the company's customers have reasonably available
23 alternatives and that the company does not have a
24 significant captive customer base.

25 The purpose of the hearing this afternoon is

00039

1 to provide the commissioners with information which
2 they can use to make a decision about whether to
3 classify these business services in the specified wire
4 centers as competitive. The comments this afternoon
5 will be given under oath and recorded just as the
6 testimony during the formal proceedings before the
7 Commission. Your comments will become part of the
8 formal record that will be the basis for the
9 Commission's decision.

10 I'm going to ask counsel who are here to make
11 your formal appearance at this time, which means that
12 you will state your name for the record and whom you
13 represent. I will also ask counsel to introduce any
14 representatives that are here with them tonight, and if
15 there are representatives of the companies without
16 counsel, will you also please introduce yourself as
17 well. Why don't we begin with Qwest.

18 MR. CHAPPELL: George Chappell, regional
19 manager for Qwest.

20 MS. ESPINOSA: I'm Lisa Espinosa, regulatory
21 manager for Qwest.

22 MR. CEDARBAUM: I'm Robert Cedarbaum. I'm an
23 assistant attorney general representing Commission
24 staff. With me today from the Commission staff is
25 Kathy Folsom, who is sitting to my left, and she is

00040

1 available to answer any questions off the record as to
2 the staff case in this proceeding.

3 MR. CROMWELL: My name is Robert Cromwell.
4 I'm with the Public Counsel section of the attorney
5 general's office.

6 JUDGE CAILLE: I'd also like to introduce at
7 the back of room Penny Hansen, who is a member of the
8 public affairs office at the Commission, and she is
9 here to help assist us and answer your questions.

10 As I said, Commission staff and the company
11 representatives are available this afternoon, and along
12 with Mr. Cromwell and Mr. Cedarbaum, they will be
13 available after this hearing to answer questions. If
14 additional questions occur to you later or you cannot
15 get answers tonight, you can call the Commission, and
16 Ms. Hansen can provide you with the number, and they
17 will see that your call is directed to someone who can
18 answer your question.

19 Next, I believe, Mr. Cromwell has some
20 comments for us, and then following his remarks, I will
21 swear all of you in at one time and we will hear your
22 comments. You will be assisted by Mr. Cromwell in the
23 process, and he has a list of those of you who have
24 signed in and indicated a desire to be heard tonight.

25 MR. CROMWELL: Thank you, Judge Caille. As

00041

1 Judge Caille mentioned, my name is Robert Cromwell, an
2 assistant attorney general with the Public Counsel
3 section of the attorney general's office, and my job is
4 to appear before the Washington Utilities and
5 Transportation Commission to represent the citizens of
6 the state, particularly the customers of the regulated
7 telecommunications and energy utilities. Given the
8 small size of the audience and its generally informed
9 nature, I'll skip the review of the case that I'd
10 prepared. I think those of us that are here can speak
11 too after the hearing off the record if you have any
12 questions about its status.

13 At this point, I'm ready to call on the
14 members of the public who have attended tonight and
15 wish to speak. The one thing we do have to do is have
16 you sworn in, so I'll pause at this time for that to
17 occur.

18 JUDGE CAILLE: For those of you who will be
19 speaking this evening, if you will please raise your
20 right hand.

21 (Witnesses sworn.)

22 MR. CROMWELL: Mr. Phillips, would you please
23 step forward? For the record, would you please state
24 your name and spell your last name?

25 MR. PHILLIPS: My name is Mark Phillips,

00042

1 P-h-i-l-l-i-p-s.
2 MR. CROMWELL: Mr. Phillips, where do you
3 live?
4 MR. PHILLIPS: 100 East Columbia Way here in
5 Vancouver, Washington.
6 MR. CROMWELL: Are you a customer of Qwest?
7 MR. PHILLIPS: Yes.
8 MR. CROMWELL: Do you receive business,
9 residential service or both?
10 MR. PHILLIPS: Business.
11 MR. CROMWELL: Are you testifying on your own
12 behalf or on behalf of others?
13 MR. PHILLIPS: I'm testifying on behalf of
14 the Columbia River Economic Development Counsel.
15 MR. CROMWELL: How did you hear about this
16 public hearing?
17 MR. PHILLIPS: I actually read about it in an
18 e-mail that had been circulated and had been contacted
19 by the company.
20 MR. CROMWELL: You are referring to Qwest.
21 MR. PHILLIPS: Yes.
22 MR. CROMWELL: Do you have a statement
23 regarding this case proposal?
24 MR. PHILLIPS: Yes.
25 MR. CROMWELL: Please go ahead and make your

00043

1 statement.

2 MR. PHILLIPS: Actually, I'd like to submit a
3 letter that was also sent to the Commission, but I do
4 have a copy here.

5 JUDGE CAILLE: If you will give that to
6 Mr. Cromwell, Mr. Cromwell will be making an exhibit of
7 any written materials, and for any of the other people
8 in the room, if you do have any written materials, if
9 you will submit those to Mr. Cromwell, they will be
10 included in that exhibit.

11 MR. PHILLIPS: I'll be brief and not repeat
12 the letter. The Columbia River Economic Development
13 Counsel is a private nonprofit corporation. It's a
14 combination of private sector and local government
15 joined together to promote economic development here
16 in Clark County. There are approximately 200 private
17 sector members here, and we are involved in business
18 recruitment and infrastructure development, and we've
19 been in business since 1982.

20 The executive committee and the board has
21 discussed Qwest's request to essentially deregulate or
22 make competitive business services here in the local
23 market, and we are supportive of that. We are not new
24 to the issue. We've considered this over the last year
25 or so, and we continue to be supportive. We believe

00044

1 that additional competition will push out advanced
2 services to the business communities toward their
3 benefit. It will stimulate competition, and we expect
4 to see lower rates.

5 I can tell you just from a personal
6 standpoint I am new to this position. I've been in the
7 job about 14 weeks. I can tell you that during that
8 brief 14-week time here, I've had my business service
9 solicited over five times in that period. We believe
10 that as an example that competition is here in
11 Vancouver and that Qwest be allowed to compete in that
12 competition, and it will be to the benefit of local and
13 business customers. So in summary, we are supportive
14 of the company's request. We think it will be to the
15 benefit of the community, and we are here for support.

16 CHAIRWOMAN SHOWALTER: Were the five times
17 you were solicited by five different outfits?

18 MR. PHILLIPS: Yes. Both in Oregon,
19 Washington, and elsewhere.

20 COMMISSIONER HEMSTAD: What is the size of
21 your operation?

22 MR. PHILLIPS: Very small operation. We are
23 five employees with a \$500,000 budget.

24 COMMISSIONER HEMSTAD: So apparently, you
25 don't see any difference between large business and

00045

1 small business in the sense of access to alternative
2 services.

3 MR. PHILLIPS: No, I don't. I guess in this
4 marketplace -- I will tell you that I have worked in
5 the rural marketplace for the past 10 years, and we
6 were supportive of this business service there also as
7 a policy matter, a little bit different standpoint in
8 that we felt that that was going to provide the
9 competitive impetus for Qwest's regulated utility to
10 push out the advance services. For the more urbanized
11 market, I think it's probably more imperative to see a
12 level of competition for both small and medium. I
13 don't see any difference between the small business and
14 medium.

15 MR. CROMWELL: Were the solicitations you
16 received for business basic service, or long-distance
17 service or both?

18 MR. PHILLIPS: Both, and advanced services,
19 all three.

20 MR. CROMWELL: Mr. Smith? Mr. Smith, please
21 state your name and spell your last name for the
22 record.

23 MR. SMITH: Gary Smith, S-m-i-t-h.

24 MR. CROMWELL: Where do you live, Mr. Smith?

25 MR. SMITH: I live in Redmond, Washington.

00046

1 MR. CROMWELL: Are you a customer of Qwest?

2 MR. SMITH: No.

3 MR. CROMWELL: Tonight, are you testifying on
4 your own behalf or on behalf of others?

5 MR. SMITH: Testifying on behalf of others,
6 independent business associates.

7 MR. CROMWELL: Do you have a statement to
8 make tonight?

9 MR. SMITH: Yes, thank you. We have surveyed
10 our members on this proposal expressing the concept of
11 the proposal and the idea of competition and the
12 ability of competition to control rates. We asked our
13 members if they favored the proposal as presented by
14 Qwest, and our membership responded 86 percent opposed.
15 Our average member has 5.3 employees. The .3 employee
16 is a difficult challenge. Anyway, they have 5.3
17 employees, and most of them have three to four business
18 lines. They do not feel that there is competition for
19 their local business telephone service. Most of them
20 have what I would refer to as POTS, plain old telephone
21 service, not a lot of fancy telephone systems.

22 We have members who have told us that they
23 have contacted other providers, and other providers
24 have said that -- in fact, there is a gentleman here
25 tonight that will tell you a little bit more about it

00047

1 -- that they have been refused service because they did
2 not have enough volume. Many of them said they are not
3 aware of any alternative competitors for their local
4 business service and believe that if there was truly
5 competition out there, they certainly would have been
6 approached by these firms soliciting their business.

7 They fear the potential of increasing rates
8 because of an insufficient competitive market that they
9 will be left primarily with one carrier, and they are
10 also concerned about the fact that if they sign up with
11 an alternative carrier, especially with what's going on
12 in the dot com industry right now, if they sign up with
13 an alternative carrier and that carrier doesn't make
14 it, they are going to end up having to deal essentially
15 with one carrier, which would be the incumbent.

16 So for those reasons, our members have asked
17 us to come before you tonight and express their
18 opposition to the proposal that extends down to the
19 very small businesses.

20 CHAIRWOMAN SHOWALTER: Mr. Smith, is the 86
21 percent or the 100 percent population that you are
22 speaking of in your membership, is that limited to the
23 areas that are proposed to be made competitive here or
24 is it the broader --

25 MR. SMITH: That was a statewide survey. We

00048

1 have not broken it out that way. We could do that
2 appearing again in Olympia, so I will try to get that
3 data for you by the areas that are affected by the
4 petition.

5 CHAIRWOMAN SHOWALTER: That would probably be
6 more relevant to the question before us, which is
7 whether these particular areas should be declared
8 competitive.

9 COMMISSIONER HEMSTAD: Pursuing that, the
10 company has a longer list of the proposed wire centers
11 established proposing a shorter list in Seattle,
12 Bellevue, Vancouver, and Spokane, so particular wire
13 centers will be of interest.

14 MR. SMITH: We have asked members in the
15 various cities to advise us of their willingness for us
16 to go out and basically shop for them a little bit, and
17 we have attempted in some areas -- I called one
18 salesperson, and the salesperson said, "We can hook up
19 anybody anywhere," and I said, "Well, can you hook them
20 up here," and he says, "Well, I have to check," which
21 sort of gave me the indication right off the bat that
22 everybody wasn't exactly right, and he had to check and
23 he never got back to me, so whether they could or
24 couldn't -- but I've tried to go out and do some
25 checking around. If you look real hard, you can find

00049

1 people. They are there in some case and not in others.
2 Unfortunately, I haven't had time to spend on
3 this full time, so my comments are anecdotal, but I can
4 just tell you there is a strong concern from small
5 businesses that there is not active competition. There
6 are two small business owners I know who were actually
7 going to be here and a couple of other folks too, so
8 hopefully they make it.
9 MR. CROMWELL: Thank you, Mr. Smith.
10 Ms. Johnson?
11 MS. JOHNSON: Doris Johnson, J-o-h-n-s-o-n .
12 MR. CROMWELL: You've anticipated my
13 question. Are you a customer of Qwest?
14 MS. JOHNSON: Yes, I am.
15 MR. CROMWELL: Do you receive business,
16 residential service or both?
17 MS. JOHNSON: Both.
18 MR. CROMWELL: Are you here tonight to
19 testify on your own behalf or on behalf of others?
20 MS. JOHNSON: On behalf of our company. I am
21 a small business owner.
22 MR. CROMWELL: What is the name and nature of
23 your business?
24 MS. JOHNSON: Vancouver Bolt and Supply,
25 Incorporated. We have three stores, one in Vancouver,

00050

1 one in Longview, and one in Chehalis.

2 MR. CROMWELL: Do you have a statement to
3 make tonight?

4 MS. JOHNSON: I would just like to affirm
5 what Gary has said, and I'm also a member of his
6 association, and thank goodness, because without his
7 help, small business doesn't get these kinds of
8 messages. Even though you think you notify us well, if
9 you were in my seat and realized how much paper crosses
10 my desk -- I don't have a private secretary, and when
11 we get so much, I call it almost -- well, I don't want
12 to say it because it's going to go on the record, but
13 the mail I get, it's very difficult for small business
14 owners to sort out and decide whether it's going to
15 hurt us or help us, but I'm very adamant that this
16 particular deregulation is wrong.

17 We have never been contacted by another firm.
18 We have been the victim of nowhere to go for rates
19 because of our size. Now, I don't consider ourself
20 that small. We pay Qwest thousands of dollars. We
21 have 22 lines, and we service Southwest Washington,
22 Portland, Salem, and up to Olympia, so we have a lot of
23 calls and a lot of business systems, and all I can say
24 is if you deregulate this -- I've seen other industries
25 deregulated, and all it does is hurt the small business

00051

1 owner because it just takes away our competitiveness.
2 We cannot compete with the big folks that can get
3 better rates, and I have gone out and looked, and they
4 don't respond. In fact, I'd dearly love to see a Qwest
5 member in my office, but we can't see those either. We
6 don't have any salesmen out there to talk to small
7 business and help guide small business. I finally by
8 accident when we opened our third store found out about
9 Centrex 21 system, and that was wrong that I didn't as
10 a small business owner have that opportunity to know
11 about that much sooner.

12 I really, really urge you to not hurt small
13 business. We have been here since 1979. I have
14 watched this city grow, and I've watched the state
15 grow, and we should have been contacted many times
16 considering the size of our company. We have a nice
17 little operation, between 45 and 50 employees, so it's
18 very important to me that you consider leaving it
19 alone. I just can't say enough about that. I just
20 affirm what Gary has said, and what he's saying is
21 correct. The small business owners, number one, don't
22 have time now, and with 10 days notice, you can say,
23 "Sorry, your rates are going up," and if you were
24 behind my desk, that would be very frightening, because
25 I haven't got the time or the people to go out and

00052

1 start spending days on the telephone trying to find
2 somebody to talk them into rates, and why fix something
3 that's not broken. Leave it alone. Thank you.

4 COMMISSIONER HEMSTAD: When you say you have
5 22 lines and 45 to 50 employees, is that all three of
6 your offices?

7 MS. JOHNSON: Yes.

8 COMMISSIONER HEMSTAD: What do you have in
9 Vancouver?

10 MS. JOHNSON: I think I have four Portland
11 lines, and I think I have 16 or 18 -- the majority of
12 them are here in Vancouver.

13 COMMISSIONER HEMSTAD: How many employees
14 here?

15 MS. JOHNSON: Probably a little over 30.

16 COMMISSIONER HEMSTAD: From what you've said,
17 you haven't been solicited in Vancouver. Is there any
18 difference between Vancouver and Longview and Chehalis?

19 MS. JOHNSON: None. In our three stores, we
20 have million and a half dollars of inventory tied
21 together over the phone system, and we tie the stores
22 together, and we are very dependant on a fair rate, and
23 that kind of rate can really hurt us if there was a
24 rate increase because everything is kind of put
25 together via the communities.

00053

1 COMMISSIONER HEMSTAD: Are you located in, I
2 would describe it as a core area of Vancouver?

3 MS. JOHNSON: We are right near the
4 courthouse, right in what they now consider -- it used
5 to be the industrial area but is now considered
6 downtown Vancouver, and I was very shocked when Gary
7 pointed this out to me because I had never been
8 contacted by anyone. There is no one out there selling
9 telephone lines, I can guarantee you.

10 CHAIRWOMAN SHOWALTER: You said that you have
11 not been solicited, but I thought you also said you had
12 gone out and looked a little bit. Can you amplify on
13 that? Did you try to contact any --

14 MS. JOHNSON: I asked who could I go to, and
15 no one really knew that there was any competition I
16 could contact. I didn't call Gary, but how do I find
17 out? If I really don't know what the name of the
18 people that are competing, how do I find out, so I gave
19 up. The one company that I did talk with was the one
20 that, I believe it was GST. They filed bankruptcy, and
21 I was very nervous about what they had. I'm not sure
22 of that company name, but it was one in Vancouver that
23 filed bankruptcy and has been bought by a very large
24 company. It's not out there. Trust me, it's not
25 there. I've been here 23 years.

00054

1 MR. CROMWELL: Thank you, Ms. Johnson.

2 Mr. Day?

3 MR. DAY: My name is David Day, D-a-y. I'm
4 here on behalf of my company, K-M Services, and I've
5 been solicited once by an alternative dial tone
6 provider, told I was not big enough, and never heard
7 from anyone again. I had a Portland line provided by
8 an alternative company from 1988 to 1991. When they
9 went out of business, I was left scrambling for an
10 alternative carrier and ended up with U S West. I was
11 unable to find anyone else at the time that could do it
12 and guarantee any sort of service or anything.

13 Letters I do get from Qwest are normally
14 relating to my Portland line. They are not written in
15 English, and I have no idea what they say. Nine times
16 out of ten they are talking about trunk lines and sub
17 trunk service and nontrunk service and this and that
18 and the other thing. So I'm pretty much in the dark as
19 to who I would go to and where I would go and what it
20 would cost. Basically, I feel that this is a valid
21 idea, but it's like five to ten years ahead of its
22 time. Nobody else has lines in my company. Nobody
23 else has solicited my company for dial tone service,
24 and I'm not prepared to go out on the open market and
25 try to get it yet.

00055

1 MR. CROMWELL: Mr. Day, could you tell us
2 where your business is located.

3 MR. DAY: 2501 Southeast Columbia Way, about
4 six blocks that way. (Witness indicating.)

5 MR. CROMWELL: How many lines do you have?

6 MR. DAY: Seven Vancouver, one Portland.

7 MR. CROMWELL: How many employees?

8 MR. DAY: I've got, including my mother who
9 is a co-owner, five in office, and between 60 and 90
10 outside the office. We are a temporary service, so by
11 far, the majority of our employees do not work
12 in-house.

13 MR. CROMWELL: Thank you.

14 MR. DAY: One other thing. If Gary hadn't
15 told me about this, there is no way I would have known.
16 There was nothing in my phone bill. There was nothing
17 I saw in the paper, and there was no separate letters
18 from Qwest. You can tell by the turnout here that this
19 isn't widely known about.

20 MR. CROMWELL: Mr. Day, just for the record,
21 I can't recall if you stated affirmatively whether you
22 are in favor or opposed.

23 MR. DAY: Opposed.

24 MR. CROMWELL: I believe that's all the
25 people that have signed up to testify this evening.

00056

1 Was there anyone else? That appears to complete the
2 public testimony portion. If anyone wishes to, I
3 should remind you that the Commission does accept
4 written comments and that the case is not yet complete.
5 There will be evidentiary hearings held the week of
6 October 30th. The parties involved in the case will be
7 filing briefs on November 14th, and the Commission will
8 be issuing its decision at some point prior to, I
9 believe, December 14th, and I believe public comments
10 would probably be taken up until -- the November 14th
11 briefing date would probably be a good deadline for
12 that. If you have any other questions about contacting
13 the Commission, Ms. Hansen in the back of the room can
14 help you.

15 JUDGE CAILLE: Is anything else to come
16 before the Commission this afternoon? Then I thank you
17 for coming this afternoon. We appreciate your
18 comments, and we will take them into consideration, and
19 this hearing is now adjourned.

20 (Public Hearing concluded at 4:30 p.m.)

21

22

23

24

25

