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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND )

TRANSPORTATION COMMISSION, )

4 )

Complainant, )

5 )

vs. ) DOCKET NO. UT-091870

6 ) Volume I

QWEST CORPORATION, ) Pages 1 - 12

7 )

Respondent. )

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10 A prehearing conference in the above matter

11 was held on May 25, 2010, at 10:00 a.m., at 1300 South

12 Evergreen Park Drive Southwest, Olympia, Washington,

13 before Administrative Law Judge PATRICIA CLARK.

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15 The parties were present as follows:

16 WASHINGTON UTILITIES AND TRANSPORTATION

COMMISSION, by JENNIFER CAMERON-RULKOWSKI, Assistant

17 Attorney General, 1400 South Evergreen Park Drive

Southwest, Post Office Box 40128, Olympia, Washington

18 98504; telephone, (360) 664-1186.

19 QWEST CORPORATION, by LISA A. ANDERL,

Attorney at Law, 1600 Seventh Avenue, Suite 1506,

20 Seattle, Washington 98101; telephone, (206) 345-1574.

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24 Kathryn T. Wilson, CCR

25 Court Reporter

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

2 JUDGE CLARK: Good morning. It's

3 approximately ten a.m., May 25th, in the Commission's

4 hearing room in Olympia, Washington. This is the time

5 and the place set for a prehearing conference in the

6 matter of the Washington Utilities and Transportation

7 Commission, complainant, versus Qwest Corporation,

8 respondent, given Docket No. UT-091870, Patricia Clark,

9 administrative law judge for the Commission presiding.

10 This matter came before the Commission on

11 April 30th, 2010, when the Commission issued a

12 complaint against Qwest alleging 69 violations of the

13 Commission's rules designed to protect

14 telecommunications consumers. By notice entered on the

15 same date, the Commission set this matter for a

16 prehearing conference at this date and time.

17 At this time, I will take appearances on

18 behalf of the parties. Because this is the first

19 appearance, I need a full appearance, including your

20 name, address, telephone number, e-mail, and fax. I'll

21 commence with you, please, Ms. Cameron-Rulkowski.

22 MS. CAMERON-RULKOWSKI: On behalf of

23 Commission staff, Jennifer Cameron-Rulkowski, assistant

24 attorney general. My address is 1400 South Evergreen

25 Park Drive Southwest, PO Box 40128, Olympia,

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1 Washington, 98504-0128. My telephone number is (360)

2 664-1186. Fax number is (360) 586-5522. My e-mail

3 address is jcameron@utc.wa.gov.

4 JUDGE CLARK: Appearing on behalf of Qwest?

5 MS. ANDERL: Good morning, Your Honor. Lisa

6 Anderl, in-house attorney for Qwest. My business

7 address is 1600 Seventh Avenue, Room 1506, Seattle,

8 Washington, 98101. My phone is (206) 345-1574. My fax

9 number is (206) 343-4040, and my e-mail is

10 lisa.anderl@qwest.com, and if I may note, some people

11 have a default in their computer systems where it

12 populates "landerl" as the address. It still comes to

13 me, but it is more likely to be blocked by our spam

14 filter, so if people could update, that would be great.

15 JUDGE CLARK: And that is the updated address

16 that I have in my record for this docket. I appreciate

17 that clarification. Are there any preliminary matters

18 that we should address?

19 MS. ANDERL: In terms of protective order or

20 discovery matters or before we get to those?

21 JUDGE CLARK: In terms of anything. One

22 thing I might add is that immediately before we went on

23 the record this morning, there was some discussion

24 about whether or not it would be appropriate to have

25 the parties submit prefiled testimony in this

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1 proceeding, and off record, I did indicate the

2 preference, given the number of violations, that there

3 be prefiled testimony in this matter because there were

4 69 violations alleged.

5 Although there are five categories of

6 violations, there is a separate penalty being proposed

7 for each and every violation, so I thought that would

8 be helpful. So when we get to the point of looking at

9 a procedural schedule, we will need to build in some

10 time for that prefiling to occur. Are there other

11 preliminary matters?

12 MS. ANDERL: Your Honor, we would request

13 that a standard form of protective order be issued so

14 that Qwest and Commission staff can provide

15 confidential information in this docket. It may be

16 that none of the complaints are confidential, but it

17 may be that some underlying work papers or notes might

18 be confidential. We might as well have the protection

19 in place.

20 JUDGE CLARK: Ms. Cameron-Rulkowski?

21 MS. CAMERON-RULKOWSKI: We have no objection.

22 I don't see anything immediately that would require a

23 protective order, but Staff has no objection.

24 JUDGE CLARK: I don't see anything that

25 appears immediately to need protection either, but an

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1 ounce of prevention is worth a pound of cure, and the

2 Commission will issue its standard protective order in

3 this matter in conjunction with the order governing the

4 prehearing conference. Any other?

5 MS. ANDERL: Would the discovery rule be

6 available to parties in this case?

7 JUDGE CLARK: If the Commission wishes it, I

8 can certainly invoke the Commission's discovery rules.

9 MS. CAMERON-RULKOWSKI: Staff would wish to

10 have discovery rules invoked.

11 MS. ANDERL: Qwest would also.

12 JUDGE CLARK: Based on the concurrence of the

13 parties, the Commission will invoke its standard

14 discovery rules in this matter. Since we are talking

15 simply about procedural matters of this kind, I want to

16 jump in before I forget and let you know that I need an

17 original and three copies of all documents that are

18 filed in this case.

19 MS. ANDERL: Your Honor, we were discussing

20 before we went on the record as well whether public

21 counsel usually participated in these types of matters,

22 and Ms. Cameron-Rulkowski indicated no, not in her

23 experience, but I was wondering if we could have a

24 statement for the record as to whether the Commission

25 had received any petitions to intervene in this matter.

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1 JUDGE CLARK: The Commission has not received

2 any formal petitions to intervene, and in formal

3 complaints, typically the only two parties are the

4 Commission as complainant and then the respondent in

5 the respective complaint. It is unusual to have any

6 other participants in this type of proceeding.

7 MS. ANDERL: That was my working theory, but

8 I wanted to be sure.

9 JUDGE CLARK: Your working theory panned out.

10 So I think the only thing we need to address then is a

11 procedural schedule to get this matter to hearing. Do

12 the parties have a proposed procedural schedule for me

13 to consider, or would you like me to take a few moments

14 to allow you to confer off record?

15 MS. CAMERON-RULKOWSKI: Your Honor, we would

16 need a few moments. We were working forward on the

17 premise of having a hearing with live testimony.

18 JUDGE CLARK: With no prefiled.

19 MS. CAMERON-RULKOWSKI: Correct.

20 JUDGE CLARK: We will be at recess until

21 further call, but I'm happy to confirm any dates with

22 you before I vacate. We are at recess until further

23 call.

24 (Recess.)

25 JUDGE CLARK: We are back on the record.

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1 Have the parties had an adequate opportunity to confer

2 regarding a procedural schedule in this matter?

3 MS. CAMERON-RULKOWSKI: Yes, we have, Your

4 Honor.

5 JUDGE CLARK: Have you come up with a

6 procedural schedule with which the parties concur?

7 MS. CAMERON-RULKOWSKI: We have.

8 JUDGE CLARK: If you could give me that now,

9 please, I would appreciate it.

10 MS. CAMERON-RULKOWSKI: We will be having an

11 informal settlement conference, so we don't need that

12 on the schedule, but we did want to alert you to that

13 fact. Then the date for filing Staff's direct

14 testimony would be July 21. The Company's direct

15 testimony would be filed August 18. Staff's rebuttal

16 testimony would be filed September 15, and we would

17 hold a hearing on September 24. I just realized we

18 didn't talk about a date for any exhibit exchange

19 before then, so if you would like to suggest any other

20 procedural things that you might need.

21 JUDGE CLARK: You mean in terms of

22 cross-examination exhibits?

23 MS. CAMERON-RULKOWSKI: That's correct, Your

24 Honor.

25 JUDGE CLARK: It would probably be a good

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1 idea to build in a deadline for the distribution of

2 cross-examination exhibits, which are also prefiled,

3 and ordinarily what I do is schedule a prehearing

4 conference to mark those exhibits. I'm going to waive

5 the requirement that we do that as long as the parties

6 can provide me with those cross-examination exhibits

7 via e-mail, which a courtesy copy normally happens

8 anyway. I should be able to do that without building

9 another procedural deadline into the schedule, so I

10 don't think it's necessary to do that.

11 I will note that there is not a significant

12 amount of time in between the rebuttal testimony date

13 and the hearing date, and so I guess I'm just curious,

14 and I'm going to ask Ms. Anderl, if that's enough time

15 for the Company to be able to prepare examination on

16 that rebuttal testimony.

17 MS. ANDERL: You know, Your Honor, we did

18 talk about this, and it should be. It's nine days. It

19 depends, of course, on what the extent, depth, and

20 breadth of the rebuttal testimony is, but when I just

21 spoke with Ms. Cameron-Rulkowski five minutes ago, we

22 didn't have any concerns about that.

23 I wasn't thinking at that time about

24 distributing cross-exhibits though. That kind of does

25 add a little bit of a wrinkle. If Staff is willing to

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1 push the hearing date out a week and Your Honor is

2 available, that might be better.

3 JUDGE CLARK: Is Staff willing to do that?

4 MS. CAMERON-RULKOWSKI: Staff is willing to

5 do that. We could push that to perhaps Wednesday the

6 29th, which isn't quite a full week out but leaves us a

7 full two weeks between the rebuttal testimony and

8 hearing.

9 JUDGE CLARK: The calendar is also available

10 on that day. I just want to say two things with

11 respect to your comment on rebuttal testimony. I am

12 assuming, of course, that the direct testimony filed by

13 the Staff, the responsive testimony filed by Qwest, and

14 the rebuttal testimony filed by Staff would conform

15 with the title of those categories of testimony, and I

16 expect to see true rebuttal testimony just as I expect

17 to see true responsive testimony, which will probably

18 alleviate some concern about the time as well, both for

19 Staff and for the Company, and so the proposed hearing

20 date of the 29th of September I think would accommodate

21 that. Then of course I need a deadline for the

22 submission of cross-examination exhibits.

23 MS. ANDERL: If we have them to you by Monday

24 the 27th, is that early enough or...

25 JUDGE CLARK: That would be very difficult

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1 for me to come up with the exhibit list and actually

2 review the cross-examination exhibits as well prior to

3 hearing on Wednesday, so I think it might be better if

4 we propose Friday the 24th of September. Can the

5 parties accommodate that?

6 MS. CAMERON-RULKOWSKI: That's fine from

7 Staff.

8 MS. ANDERL: Yes, Your Honor.

9 JUDGE CLARK: I think that would give me

10 enough time to do what I need to do. I'm just going to

11 read the schedule back to you to confirm I have the

12 correct dates. I have prefiled direct testimony from

13 Commission staff on July 21, 2010; prefiled responsive

14 testimony by Qwest on August 18, 2010; prefiled

15 rebuttal testimony, September 15, 2010; deadline for

16 cross-examination exhibits by both parties, September

17 24, 2010, with a hearing September 29th, 2010, and I'm

18 assuming that we only need to set aside one day for

19 hearing; is that correct?

20 MS. CAMERON-RULKOWSKI: I believe so, Your

21 Honor.

22 MS. ANDERL: Yes, we agree with that at this

23 point.

24 JUDGE CLARK: Ordinarily when we have a party

25 or parties who have to travel to the hearing, I would

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1 be inclined to start the hearing a little bit later,

2 like this prehearing conference, at perhaps ten a.m.

3 Do the parties have a preference regarding the hearing

4 start time?

5 MS. CAMERON-RULKOWSKI: No preference from

6 Staff, Your Honor.

7 MS. ANDERL: No. We can do a 9:30 or ten

8 o'clock.

9 JUDGE CLARK: Do you have a preference?

10 MS. CAMERON-RULKOWSKI: None from Staff, Your

11 Honor.

12 JUDGE CLARK: Then I'm inclined to probably

13 start it at ten a.m. just to insure that everyone has

14 an adequate opportunity to travel depending on what

15 traffic would be on that particular day. Hopefully we

16 can accommodate any exigent circumstances.

17 I understand the parties are going to have

18 informal settlement negotiations. The Commission does

19 have a limited ability in ALD, Administrative Law

20 Division, to offer mediation services or settlement

21 judge services if the parties are inclined to pursue

22 that. The details about pursuing the settlement

23 options will be in the prehearing conference order.

24 MS. CAMERON-RULKOWSKI: I would ask one other

25 question, and this is mostly for the benefit of the

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1 Company. Will parties be able to electronically file

2 testimony and then follow that up by mail?

3 JUDGE CLARK: Yes. The Commission's rules

4 have been revised regarding the electronic submission

5 of documents. Parties no longer require approval of

6 the tribunal; that you have the right now to

7 electronically file documents.

8 They are, however, electronically due by

9 three p.m. on the due date with a paper copy to follow

10 by noon the following day, and because the time frames

11 are relatively abbreviated between the electronic

12 version and the paper version, we do enforce those.

13 Any other matters we need to discuss this

14 morning?

15 MS. ANDERL: No. Thank you, Your Honor.

16 MS. CAMERON-RULKOWSKI: Not from Staff,

17 thanks.

18 JUDGE CLARK: We are adjourned.

19 (Prehearing adjourned at 10:38 a.m.)

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