

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

2 -----)
 3 In the Matter of:)
 4 CAMELOT SQUARE MOBILE HOME)
 5 PARK, SKYLARK VILLAGE MOBILE)
 6 HOME PARK, BELMOR MOBILE)
 7 HOME PARK)
 8 Petitioners,)
 9 vs.)
 10 US WEST COMMUNICATIONS, INC.)
 11 Respondent.)
 12 -----)

DOCKET NO. UT-960832
 UT-961341
 UT-961342

VOLUME 1
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9 A hearing in the above matter was held on
 10 December 16, 1996, at 9:30 a.m. at 1300 South Evergreen
 11 Park Drive Southwest before Administrative Law Judge
 12 MARJORIE R. SCHAER.

13 The parties were present as follows:

14 FOR THE PETITIONERS, by WALTER H. OLSEN,
 15 JR., Attorney at Law, 999 Third Avenue, Suite
 3000, Seattle, Washington 98104

16 WASHINGTON UTILITIES AND TRANSPORTATION
 17 COMMISSION STAFF, by SHANNON E. SMITH, Assistant
 18 Attorney General, 1400 South Evergreen Park Drive
 Southwest, Olympia, Washington 98504.

19 FOR THE RESPONDENT, LISA ANDERL, Attorney
 at Law, 1600 - 7th Avenue, Room 3206, Seattle,
 Washington 98191.

20 ALSO PRESENT: Vicky Elliot, Tom Speeks, Bob
 21 Fricks, Nancy Evans, Russell Smalley.

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24 Cassandra Ellis, CSR

25 Court Reporter

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I N D E X

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4 WITNESSES: D C RD RC EXAM

5 (No witnesses.)

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8 EXHIBIT MARKED ADMITTED

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

2 JUDGE SCHAER: On the record. The
3 hearing will come to order: This is a hearing in
4 Docket No. UT-960832, Camelot Square Mobile Home
5 Park; Docket No. UT-961341, Skylark Village
6 Mobile Home Park; and Docket No. UT-961342,
7 Belmor Mobile Home Park.

8 This is a pre-hearing conference that
9 was set by a notice of pre-hearing conference
10 dated November 22nd, 1996. It's taking place on
11 December 16th, 1996 at Olympia, Washington. The
12 hearing is being held before Administrative Law
13 Judge Marjorie R. Schaer.

14 We had some discussion off the record
15 and I indicated we would take appearances first
16 and then we will take motions and petitions to
17 intervene, if any, and we will go off the record
18 to discuss scheduling and discovery and other
19 issues.

20 So let's begin with appearances starting
21 with the appearance of petitioners, please.

22 MR. OLSEN: My name is Walt Olsen, and I
23 represent Camelot Square Mobile Home Park,
24 Skylark Village Mobile Home Park, and Belmor
25 Mobile Home Park.

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1 With me today is Nancy Evans, who's the
2 manager of Belmor Mobile Home Park, Russ Smalley,
3 who is the manager of Skylark Village Mobile Home
4 Park, and Bob Fricks who is the manager of
5 Camelot Square Mobile Home Park. Roughly in that
6 order.

7 JUDGE SCHAER: For the respondent,
8 please.

9 MS. ANDERL: Thank you, I'm Lisa
10 Anderl. I'm with US West Inc., as in-house
11 counsel representing US West Communications, Inc.
12 My business address is 1600 Seventh Avenue, room
13 3206, Seattle, Washington 98191.

14 JUDGE SCHAER: And for the commission
15 staff, please.

16 MS. SMITH: Shannon Smith, Assistant
17 Attorney General. My business address is 1400
18 South Evergreen Park Drive SW, Olympia,
19 Washington 98504-0128.

20 JUDGE SCHAER: Okay. Now, is there
21 anyone else in the hearing room that represents
22 someone that wants to be an intervener in this
23 matter who has not spoken up yet? And in looking
24 around I don't see anyone other than the people
25 already identified.

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1 And the next thing I would like to do is
2 confirm that you, Mr. Olsen, and you, Ms. Anderl,
3 and you, Ms. Smith, will be the contact persons
4 for your clients for all distributions?

5 MS. SMITH: That's correct.

6 MS. ANDERL: Yes.

7 MR. OLSEN: Yes, that's correct.

8 JUDGE SCHAER: Okay. And I'm going to
9 ask you if you would, at this time -- there's
10 three of you, I will do this orally, just to give
11 me your FAX numbers so we can have that in the
12 record, also.

13 MR. OLSEN: For the petitioners?

14 JUDGE SCHAER: Yes.

15 MR. OLSEN: Our FAX number "1", area
16 code 206-340-8856, and my business address is 999
17 Third Avenue, Suite 3000, Seattle, Washington
18 98104.

19 JUDGE SCHAER: And that FAX number,
20 again, was 206-340-8856.

21 MR. OLSEN: Yes.

22 JUDGE SCHAER: Thank you. Ms. Anderl?

23 MS. ANDERL: My FAX number is area code
24 206-343-4040.

25 JUDGE SCHAER: 206-343-4040?

1 MS. ANDERL: Yes.

2 JUDGE SCHAER: Thank you. Ms. Smith?

3 MS. SMITH: Mine is on the business card
4 that I gave the court reporter. I don't know it
5 by heart.

6 JUDGE SCHAER: Let's take just a moment
7 to get that from the court reporter, if we could,
8 please.

9 MS. SMITH: My FAX number is
10 360-586-5522.

11 JUDGE SCHAER: So that's 360-586-5522?

12 MS. SMITH: That's correct.

13 JUDGE SCHAER: Thank you. Under the
14 commission rules service by FAX is usually not
15 allowed, but there are times when we're trying to
16 do something in a hurry where the administrative
17 law judge will waive that restriction and allow
18 for certain documents to be filed by FAX.

19 And if you are doing something during
20 this proceeding such as filing a motion that
21 needs to be discussed at a hearing or something
22 else that's going to be on quick turnaround I
23 ask that you do extend the courtesy of the other
24 parties of faxing to them so that they have the
25 greatest amount of time possible to be prepared,

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1 and providing a copy to me as well so that I may
2 be prepared. My FAX in number is area code
3 360-586-1150.

4 The next thing I have on my list of
5 things to talk about today is scheduling. Have
6 the parties discussed scheduling among
7 themselves?

8 MS. SMITH: No.

9 MS. ANDERL: No.

10 MR. OLSEN: No.

11 JUDGE SCHAER: Okay. My suggestion is
12 that we go off the record now to discuss
13 scheduling, discovery, exhibits and that kind of
14 thing, and then come back on the record once we
15 have something to describe on the record. So we
16 will be off the record.

17 [DISCUSSION OFF THE RECORD]

18 JUDGE SCHAER: Let's be back on the
19 record. When we were off the record we had an
20 extensive discussion of scheduling and discovery
21 and future processing of this case, the kinds of
22 motions that may be brought and timing of those.

23 I'm going to go through my notes and put
24 into the record what I have written down about
25 the scheduling, about discovery, about a

1 protective order, and I'm going to ask the
2 parties to listen to what I have to say and be
3 prepared to supplement my recollection with your
4 own to make sure that we have a complete
5 reflection of the off the record discussion.

6 We have decided that the discovery rule
7 in WAC 408-094-08 should be triggered, and
8 determined that this case is one that could set
9 precedent for the commission. And that is our
10 basis for triggering the discovery rule.

11 And the discovery rule will be followed
12 in its usual processes as set out in the rule
13 with the exception that after the staff and US
14 West pre-file their direct testimony the turn-
15 around time on data requests will be shortened
16 from 14 days to 10 days. And that 10 day time
17 will also apply to requests that are sent out
18 after complainants pre-file their rebuttal.

19 As far as the schedule for this
20 proceeding it is agreed that there will be a
21 request for admission sent by the petitioners by
22 January 6th, 1997 and that there will be
23 responses to those by January 21st, 1997. March
24 4th, 1997 will be pre-filing date for the
25 petitioners to file supplemental direct

1 testimony, if any, or to notify the parties that
2 there is not going to be any supplemental direct
3 testimony. April 7th, 1997, will be the
4 pre-filing date for commission staff and US West
5 pre-filing of testimony and exhibits. May 12th,
6 1997 will be pre-filing date for the petitioners
7 rebuttal testimony and exhibits.

8 Cross-examination hearings in this
9 matter will be held on June 10th and 11th, 1997
10 in Olympia. Simultaneous briefs will be due in
11 this matter on July 11th, 1997.

12 So far as a protective order US West has
13 requested that a protective order be issued and
14 commission will issue a protective order in this
15 matter. I hope to have that order issued this
16 week so that the parties may begin the discovery
17 process and respond with information without
18 having concerns about possible confidential
19 nature of that information.

20 I have asked the parties to familiarize
21 themselves with the commission rule on protective
22 orders and confidential treatment of confidential
23 material, and to make sure that anything that is
24 filed be with the commission is filed in
25 compliance with those orders, and that

1 confidential materials are appropriately
2 segregated and identified.

3 I've also informed the parties that we
4 will not need an original plus 20 copies of
5 everything to be filed in this matter, that they
6 may file an original plus 15.

7 Is there anything that we discussed off
8 the record that needs to be placed on the record
9 that I have forgotten to recite at this time?

10 MS. ANDERL: Your Honor, there's
11 something we didn't discuss off the record that
12 has just occurred to me.

13 JUDGE SCHAER: All right.

14 MS. ANDERL: US West may wish to have an
15 opportunity to respond to staff's testimony, and
16 staff, in fact, may wish to have an opportunity
17 to respond to US West's. And I didn't know if we
18 would allow that to happen in writing during the
19 rebuttal round of testimony or if there should be
20 some provision for doing it orally.

21 MS. SMITH: You know, probably to that
22 extent, if there's going to be any responsive
23 testimony by either -- to either, maybe that
24 could be due by the date that the complainants
25 have to have their rebuttal testimony filed so we

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1 just have the one deadline.

2 JUDGE SCHAER: Mr. Olsen, you have a
3 right to kind of the last word in this
4 proceeding. That would not allow you to see that
5 responsive testimony before you filed your
6 rebuttal. Is that acceptable to you or would you
7 like to have that opportunity?

8 MR. OLSEN: I would like to have some
9 opportunity to review at least US West's
10 rebuttal.

11 JUDGE SCHAER: I'm wondering if -- well,
12 let's go off the record again and discuss this
13 wrinkle to the schedule.

14 MS. ANDERL: Sorry.

15 JUDGE SCHAER: We're off the record.

16 [DISCUSSION OFF THE RECORD]

17 JUDGE SCHAER: Let's be back on the
18 record, then. While we were off the record we
19 discussed adding a date to the schedule. After
20 the pre-filing of the commission staff and
21 company cases to allow for the commission staff
22 and US West to have some opportunity to respond
23 to each other and have determined that there will
24 be a second filing for those parties allowed to
25 occur on April 24th, 1997.

1 And that that is going to be a receipt
2 date for them to get copies of their testimony
3 and exhibits, if any, to Mr. Olsen. And then his
4 date for filing rebuttal will continue to be May
5 12th, 1997.

6 Is there anything further about the
7 schedule that we need to discuss or that I
8 haven't said that we need to say?

9 MR. OLSEN: No, not from the
10 petitioner's perspective.

11 JUDGE SCHAEER: We talked about the rule
12 for motion and the filing under that rule that
13 asks that motions be filed in writing to the
14 extent possible, and that they maybe filed
15 keeping in mind a 20 days response time and at
16 least another 10 days of study time for me before
17 I would be called upon to rule.

18 I would like to remind the parties that
19 responses to discovery requests should be sent
20 directly to counsel for the commission staff and
21 should not be sent through the commission
22 secretary but all other pre-file material and
23 case related correspondence does need to be filed
24 through the commission secretary. And if the
25 commission secretary has not logged it in it is

1 not filed under the commission rules.

2 Commission uses its post office address,
3 which is post office box 47250, Olympia,
4 Washington 98504-7250. Copies of data requests
5 responses are not sent to me. I don't see those
6 unless they are placed in the record as an
7 exhibit by the party.

8 So please keep the commission counsel
9 separate in your mind from the commission itself
10 and deal with Ms. Smith on those.

11 Okay, is there anything else that we had
12 talked about that we need to do now other than
13 marking exhibits for identification?

14 MS. SMITH: I have something off the
15 record.

16 JUDGE SCHAER: Okay, let's go off the
17 record for a minute.

18 [DISCUSSION OFF THE RECORD]

19 JUDGE SCHAER: Show us back on the
20 record. While we were off the record we had a
21 brief discussion of how the commission orders
22 transcripts and how parties may obtain
23 transcripts.

24 And at this point, then, I would like to
25 pre-mark the testimony and exhibits that

1 Mr. Olsen has provided. Have you provided copies
2 to all the parties, Mr. Olsen?

3 MR. OLSEN: Yes, I have.

4 MS. SMITH: If I -- if I can -- I didn't
5 receive -- there's a copy for staff of Ms. Evans
6 testimony, and I didn't receive one from you
7 earlier for me. So if you have an extra that's
8 great, if not I can make a copy of staff's.

9 JUDGE SCHAER: It's my understanding
10 that you would like to have Mr. Frick's testimony
11 placed as an exhibit, is that correct?

12 MR. OLSEN: Yes.

13 JUDGE SCHAER: So I'm going to mark that
14 testimony as Exhibit T-1 for identification. And
15 attached to his testimony are several exhibits
16 that you've lettered, A through --

17 MR. OLSEN: F.

18 JUDGE SCHAER: -- F. And I will mark --
19 let's identify it as Exhibit A, as Exhibit 2, for
20 identification. I will mark what's identified as
21 Exhibit B as Exhibit 3 for identification. I
22 will mark what's identified as Exhibit C, which
23 is a letter from Dewey Johnson of US West to
24 Mr. Fricks as Exhibit 4 for identification. I
25 will mark what's been identified as Exhibit D,

1 which is a letter to Dear Property Owner, from
2 Maectse, M-a-e-c-t-s-e, US West, as Exhibit 5 for
3 identification. I will mark a letter dated
4 January 16th, 1996, from Evergreen Utility
5 Contractors to Mr. Fricks, it's identified as
6 Exhibit F, as Exhibit 6 for identification.

7 MR. OLSEN: Was there an Exhibit E?

8 JUDGE SCHAER: Excuse me, I do not have
9 Exhibit E in my set. I'm going to mark -- I am
10 not marking what I just identified as Exhibit 6.
11 I am marking instead as Exhibit 6 I am marking a
12 handwritten letter to Bob Fricks from -- would
13 you read the name, please?

14 MR. OLSEN: Yes Loren L. Romanoff,
15 L-o-r-e-n, Romanoff, R-o-m-a-n-o-f-f.

16 JUDGE SCHAER: It's identified as
17 Exhibit E, and I will mark it as Exhibit 6 for
18 identification. As Exhibit 7 for identification
19 I will identify what's marked as Exhibit F, which
20 is the letter from Evergreen Utility Contractors,
21 Inc., to Mr. Frick's, dated January 16th, 1996.

22 MR. OLSEN: There are three letters from
23 three different contractors that I've designated
24 as Exhibit F to Mr. Frick's testimony.

25 JUDGE SCHAER: Okay. So the first of

1 those three letters in Exhibit 7 is from --

2 MR. OLSEN: Evergreen Utility

3 Contractors.

4 JUDGE SCHAER: Okay.

5 MR. OLSEN: And mark that as Exhibit 7

6 for identification. I would suggest that --

7 JUDGE SCHAER: Let's go off the record

8 for a moment.

9 [DISCUSSION OFF THE RECORD]

10 JUDGE SCHAER: Show us back on the

11 record. While we were off the record the judge

12 obtained some information about what is in

13 Exhibit 7. First page of Exhibit 7 is the letter

14 I have identified previously. The second page of

15 Exhibit 7 is a letter from National Electrical

16 Services to Bob Fricks dated January 16th, 1996.

17 And the third page is a letter from Glenco,

18 G-l-e-n-c-o, Inc., to Bob Fricks dated January

19 9th, 1996.

20 And Mr. Olsen I will need another

21 complete set of these for the official record at

22 the end of the hearing, if that can be provided.

23 I'm going to identify as exhibit T-8 the

24 testimony of Nancy L. Evans, and as Exhibit T-9

25 the testimony of Russ Smalley, S-m-a-l-l-e-y.

1 (Marked Exhibits T-1, 2-7, T-8 and T-9.)

2 JUDGE SCHAER: And are those all of the
3 exhibits that you are pre-filing at this time?

4 MR. OLSEN: Yes, Your Honor.

5 JUDGE SCHAER: Okay. I will be issuing
6 a pre-hearing conference order after today's
7 pre-hearing conference. I have a hearing this
8 Wednesday that is pretty time consuming right now
9 so I will probably not issue that order until
10 after I receive the transcript. And that will be
11 coming out probably the first week or so of January.

12 After that order is issued there are 10
13 days provided under the commission rules for you
14 to object to any portion of the order. If no
15 objections are received then that order will
16 provide the rules under which we conduct this
17 proceeding. Is there anything else that needs to
18 come before us this morning?

19 MR. OLSEN: No.

20 MS. ANDERL: No.

21 MS. SMITH: No.

22 JUDGE SCHAER: Thank you all for your
23 cooperative attitude in working together on this
24 and we will be off the record.

25 (Proceedings adjourned at 11:05 a.m.)