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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,)

5 Complainant,)

6 vs.)

7 QWEST CORPORATION,)

8 Respondent.)

DOCKET NO. UT-091870
Volume I
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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
17 COMMISSION, by JENNIFER CAMERON-RULKOWSKI, Assistant
18 Attorney General, 1400 South Evergreen Park Drive
Southwest, Post Office Box 40128, Olympia, Washington
98504; telephone, (360) 664-1186.

19 QWEST CORPORATION, by LISA A. ANDERL,
20 Attorney at Law, 1600 Seventh Avenue, Suite 1506,
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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