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BEFORE THE WASHINGTON

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UTILITIES AND TRANSPORTATION COMMISSION

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4 AT&T COMMUNICATIONS OF THE ) DOCKET NO. UT-991292  
PACIFIC NORTHWEST, INC., ) VOLUME I

5 Complainant, ) Pages 1 - 13

6

v. )

7 US WEST COMMUNICATIONS, INC., )

Respondent. )

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10 A hearing in the above matter was held  
11 on September 2, 1999, at 1:33 p.m., at 1300 Evergreen  
12 Park Drive Southwest, Olympia, Washington, before  
Administrative Law Judge ROBERT WALLIS.

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The parties were present as

14 follows:

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US WEST COMMUNICATIONS, INC., by  
16 Lisa A. Anderl, Attorney at Law, 1600 Seventh Avenue,  
Room 3206, Seattle, Washington 98191.

17

AT&T CORPORATION, by Mary Tribby,  
18 Attorney at Law, 1875 Lawrence Street, Denver,  
Colorado 80202.

19

THE COMMISSION, by Shannon E.  
20 Smith, Assistant Attorney General, 1400 South  
Evergreen Park Drive, S.W., Olympia, Washington  
98504.

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TRACER, by Arthur A. Butler,  
22 Attorney at Law, Ater Wynne, 601 Union Street, Suite  
5450, Seattle, Washington 98101.

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24 BARBARA L. SPURBECK, CCR  
25 Court Reporter

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1 JUDGE WALLIS: The hearing will please come  
2 to order. This is a prehearing conference in the  
3 matter of Commission Docket Number UT-991292, which  
4 is a complaint by AT&T Communications of the Pacific  
5 Northwest, Inc. against US West Communications, Inc.  
6 This matter is being heard pursuant to due and proper  
7 notice to all interested persons on September 2,  
8 1999, at Olympia, Washington, in the offices of the  
9 Commission.

10 Let us take appearances at this time,  
11 beginning with the Complainant.

12 MS. TRIBBY: Thank you. Mary Tribby, on  
13 behalf of AT&T Corporation.

14 JUDGE WALLIS: The Respondent.

15 MS. ANDERL: Lisa Anderl, representing US  
16 West Communications, Inc.

17 JUDGE WALLIS: Commission Staff.

18 MS. SMITH: Shannon Smith, representing  
19 Commission Staff.

20 JUDGE WALLIS: Is my understanding correct  
21 that Public Counsel intends to participate in this  
22 proceeding?

23 MS. SMITH: That's correct.

24 JUDGE WALLIS: And is unable to attend  
25 today?

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1 MS. SMITH: That's also correct.

2 JUDGE WALLIS: Very well. Is there anyone  
3 present who would like to petition for intervention?

4 MR. BUTLER: Yes, Arthur A. Butler,  
5 appearing on behalf of Tracer.

6 JUDGE WALLIS: Mr. Butler, have you  
7 previously presented your request to intervene in  
8 writing?

9 MR. BUTLER: No, I have not.

10 JUDGE WALLIS: Would you state it at this  
11 time?

12 MR. BUTLER: Yes. Tracer, which is an  
13 association of large business users, major customers  
14 of US West, customers of AT&T for interexchange  
15 services, potential customers of AT&T and others for  
16 other services, seeks to intervene in this  
17 proceeding. Tracer's address is the same as that of  
18 its attorney. My address is 601 Union Street, Suite  
19 5450, Seattle, Washington, 98101-2327.

20 Our interest in the proceeding is as end  
21 user customers of US West desiring high-quality  
22 services and potential customers of other providers  
23 of local exchange and other services and as customers  
24 of interexchange carriers, such as AT&T, for  
25 interexchange services.

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1           We do not intend to broaden the issues of  
2 this proceeding. We see our interest as end users  
3 impacted by the matters which are alleged in the  
4 complaint of AT&T. A number of those allegations go  
5 to service quality, availability of facilities used  
6 to provide service, the timeliness in which those  
7 services are available, and the potential impact on  
8 whether meaningful choices will be available to end  
9 users.

10           JUDGE WALLIS: And any responses to the  
11 petition? For the Complainant?

12           MS. TRIBBY: AT&T would support Tracer's  
13 request for intervention.

14           JUDGE WALLIS: Respondent.

15           MS. ANDERL: Us West opposes Tracer's  
16 petition to intervene. I do not believe that Mr.  
17 Butler's or his client's interests, as stated, are  
18 appropriately represented in a private complaint  
19 proceeding such as this one, between two businesses,  
20 AT&T and US West. I do not believe that he stated  
21 any sort of a special interest in the proceeding.  
22 Perhaps a general interest, but not one which rises  
23 to the level upon which an intervention can be  
24 granted, and we oppose that.

25           In addition, some of the grounds that he

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1 states as a basis for intervention, including his  
2 customers' or clients' interests in whether  
3 meaningful choices will be available to end users, do  
4 not seem to be issues impacted by the complaint or  
5 raised in this proceeding, and I therefore suspect  
6 that their participation would broaden the scope of  
7 the issues raised in this docket and will be  
8 inappropriate.

9 JUDGE WALLIS: Commission Staff.

10 MS. SMITH: Staff supports the  
11 intervention.

12 JUDGE WALLIS: I'm going to take the motion  
13 under advisement and will rule on it by letter or  
14 order at an early time. In the meantime, I'm going  
15 to allow Mr. Butler to participate today. A couple  
16 of matters before we engage in some informal  
17 discussion. First, do the parties seek discovery in  
18 this proceeding?

19 MS. ANDERL: Yes, US West does.

20 MS. TRIBBY: Your Honor, AT&T, as well,  
21 would like to conduct some discovery, but certainly  
22 is not interested in delaying the resolution of this  
23 proceeding at all in doing so.

24 JUDGE WALLIS: Very well. Discovery will  
25 be permitted under WAC 480-09-480(c). And we will

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1 discuss, as we discuss schedule, processes for and  
2 potential limitations upon discovery. Is there  
3 desire for a protective order?

4 MS. TRIBBY: I don't know at this point,  
5 Your Honor, if that will be necessary or not. I  
6 suspect that it may be in the future. Without having  
7 posed to US West at this point any discovery, I can't  
8 say at this point that it certainly is on AT&T's  
9 behalf.

10 MS. ANDERL: I think it's certainly likely  
11 that the questions we will ask AT&T might request  
12 information that AT&T will consider proprietary, as  
13 well as vice versa, so I think one would be  
14 necessary.

15 JUDGE WALLIS: Would it serve the interests  
16 of the parties in the proceeding if we entered a  
17 protective order immediately, so that the lack of an  
18 order is not a barrier to the exchange of  
19 information?

20 MR. BUTLER: Having participated in the  
21 MCImetro complaint case and expecting that some of  
22 the discovery materials will be similar in this case  
23 as to that, it seems to me that there were  
24 considerable and legitimate interests in protecting  
25 the confidentiality of that information. We would

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1 support the entry of a protective order to facilitate  
2 the discovery.

3 MS. TRIBBY: AT&T would support that at  
4 this point, as well.

5 MS. ANDERL: Yes, as would US West.

6 JUDGE WALLIS: Very well. We will do so.  
7 At this point, what I would like to do is go off the  
8 record for an informal discussion of process, and we  
9 will return to the record when we have something to  
10 say.

11 (Discussion off the record.)

12 JUDGE WALLIS: Let's be back on the record,  
13 please. We have engaged in some discussion about  
14 process and schedule, and I'm going to summarize our  
15 discussion for purposes of the record.

16 First, the Respondent has committed to  
17 filing an answer not later than September 16, 1999.  
18 We will schedule a teleconference, prehearing  
19 conference on September 22, 1999, beginning at 12:15  
20 p.m., for the purpose of assessing where parties are  
21 at the time and to inquire into success in achieving  
22 stipulations and other matters.

23 The Company has advised us that it will be  
24 filing a motion to dismiss along with its answer.  
25 The answer to that motion is due in the Commission no

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1 later than September 29, 1999. Discovery, that is,  
2 data requests may be submitted up to September 24th,  
3 which is a cutoff for that sort of discovery without  
4 a showing of good cause. Answers are to be provided  
5 within the ten business days. And in light of the --  
6 again, the nature of the issues, the expected  
7 availability of information and the schedule, we are  
8 expecting that parties will comply with that  
9 ten-business-day requirement. The date for those  
10 responses is October 8th.

11 The Complainant's prefiled testimony will  
12 be due in the Commission offices and in the offices  
13 of the other parties no later than October 25, 1999,  
14 and answering testimony on November 17, 1999.

15 We understand that US West has some concern  
16 about this. Again, given the nature of the matter  
17 and the issues and looking at the holiday schedule  
18 and availability of witnesses as a potential concern,  
19 we believe that this is a reasonable deadline.  
20 Rebuttal testimony will be due in the Commission  
21 offices by December 1, 1999, and we will block off  
22 three days to be available for hearing during the  
23 week of December 13, 1999. That does not, of course,  
24 mean that we are asking the parties to fill all of  
25 those days.



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1           We are of a belief that stipulations of  
2 factual matter are possible, and I'd ask the parties  
3 to pursue such stipulations. And that's one of the  
4 matters that we will be inquiring into at the  
5 prehearing conference. We will schedule other  
6 conferences to discuss matters that may arise,  
7 including the ongoing success at achieving  
8 stipulations. We will not commit at this point to  
9 whether briefs will be required or not, but we'll  
10 make that ruling later in the proceeding.

11           We do ask that parties prepare an opening  
12 statement. We will set a limit on the time available  
13 for that statement in a later prehearing conference,  
14 and we have asked, but not required the parties to  
15 have the witnesses specify what elements of the  
16 complaint or answer, et cetera, that they are  
17 addressing.

18           Let me ask if parties believe that I have  
19 omitted anything or if there's anything further that  
20 you would like to say about any of these issues?

21           MS. TRIBBY: Your Honor, AT&T believes that  
22 you have accurately stated everything that was  
23 discussed. One additional issue which I failed to  
24 bring up when we were off-line is if US West would  
25 also hand deliver to us on November 17th its

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1 responsive testimony, since our testimony is due two  
2 weeks following that, AT&T would appreciate that.

3 MS. ANDERL: We'll make sure that AT&T  
4 receives it on the same day that it's due.

5 MS. TRIBBY: Your Honor, the only other  
6 thing on AT&T's behalf is AT&T believes the  
7 allegations in this complaint are very serious. We  
8 believe that our customers are currently being  
9 affected by being left out of service or having calls  
10 held due to lack of facilities. We appropriate Your  
11 Honor and US West's attempts to expedite this  
12 schedule.

13 This obviously is not a petition for  
14 enforcement of an interconnection agreement under WAC  
15 480-09-530, which would allow for this issue to be  
16 resolved within 90 days from the date the petition  
17 was filed. Again, we appreciate all parties' efforts  
18 to expedite. We would certainly object to any  
19 additional moving out of this schedule, given that,  
20 at this point in time, it looks like it will be about  
21 a 150-day period before AT&T and its customers can  
22 expect resolution of this issue.

23 JUDGE WALLIS: I would like to offer for  
24 the record my thoughts in the schedule, and that is  
25 that I believe it is an appropriate schedule and not

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1 one that is either unduly rushed or inappropriately  
2 delayed. So I believe that it does offer sufficient  
3 time.

4 Now I would like to call on Ms. Anderl, who  
5 may also have views on the sufficiency of all of the  
6 scheduled elements. Ms. Anderl.

7 MS. ANDERL: Thank you, Your Honor. We do  
8 have to register an objection to the schedule the way  
9 it's currently structured. I don't believe AT&T has  
10 made any showing of a need for expedited handling of  
11 this complaint, and in fact, their complaint itself  
12 alleges that the issues that AT&T has have been  
13 ongoing for literally years. And now to say that  
14 because AT&T somehow decided, for whatever motives it  
15 had on August 18th as a matter of selecting a date to  
16 file the complaint, that now everyone should snap to  
17 attention and jump to AT&T's schedule is, to me,  
18 absurd.

19 I think a normal docket takes nine to ten  
20 months. I don't think that that's an unusually long  
21 period of time. You know, certainly, in other  
22 dockets, parties other than US West have requested up  
23 to four months to have an opportunity to do discovery  
24 and prepare their rebuttal testimony and have been  
25 granted that. We asked for only four weeks to read

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1 AT&T's opening testimony and file our responsive  
2 testimony, and we were not even granted that four  
3 weeks.

4 I understand you believe that the three and  
5 a half weeks that we are granted will be sufficient.  
6 I don't know at this point whether that will be or  
7 not. It seems to me to be an unreasonably short  
8 amount of time to set up at the beginning of the  
9 docket, not knowing what things are going to look  
10 like down the road.

11 So we understand that petitions for a  
12 continuance or extensions of time can be brought at  
13 any time for a showing of good cause. Obviously, if  
14 we feel the need to bring such a request to you, we  
15 will do that. I simply have to state for the record  
16 that AT&T's made no showing of a need for expedited  
17 treatment and I do believe the schedule is  
18 optimistic, at best.

19 JUDGE WALLIS: Thank you, Ms. Anderl. I  
20 would merely observe that the nine to ten-month  
21 schedule is common in large rate cases, but in many  
22 other proceedings before the Commission, they are  
23 conducted on a much faster schedule, which is not  
24 deemed an expedited schedule, but merely one that's  
25 appropriate for the issues that are raised and the

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1 circumstances in which they are raised. Does anyone  
2 wish to respond to Ms. Anderl?

3 MR. BUTLER: I would just say, from the  
4 standpoint of end user customers, that it is our  
5 belief that time is of the essence in resolving any  
6 issue involving inadequate service quality or damage  
7 to the competition.

8 JUDGE WALLIS: Any other comments? Again,  
9 I do believe that the Company has much of the  
10 information that it will need, that the issues in  
11 this proceeding are relatively limited, that  
12 resources of the Company beyond this jurisdiction  
13 will be available. Under all of the circumstances at  
14 this juncture, I believe that the schedule is  
15 appropriate, and of course that does not foreclose  
16 the filing of a motion showing good cause for an  
17 extension of time.

18 Is there anything further to come before  
19 the Commission at this time? Let the record show  
20 that there is no response. Thank you all, and this  
21 matter is adjourned.

22 (Proceedings adjourned at 2:36 p.m.)

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