

JAN - 9 1996

NOTE! An important notice to parties about administrative review appears at the end of this order.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

TCI CABLEVISION OF WASHINGTON, INC.,))	DOCKET NO. UT-950806
)	
Complainant,))	THIRD SUPPLEMENTAL
v.))	ORDER DISMISSING COMPLAINT
)	
U S WEST COMMUNICATIONS, INC.))	
)	
Respondent.))	
.....))	

PREHEARING CONFERENCES: A prehearing conference was held in Olympia on Wednesday, November 15, 1995. A second pre-hearing conference was held on December 13 and 18, 1995. The conferences were held before Administrative Law Judge Marjorie R. Schaer of the Washington Utilities and Transportation Commission.

PARTIES: Complainant TCI Cablevision of Washington, Inc. (TCI) and intervenor Washington State Cable Communications Association (WSCCA) were represented by Gregory J. Kopta, attorney, Seattle. Respondent U S WEST Communications, Inc. (USWC) was represented by Lisa A. Anderl, attorney, Seattle. The Staff of the Washington Utilities and Transportation Commission (Commission Staff) was represented by Shannon E. Smith, Assistant Attorney General, Olympia. Intervenor MCI Metro Access Transmission Services, Inc. (MCI Metro) was represented by Brooks Harlow, attorney, Seattle. Intervenor Electric Lightwave, Inc. (ELI) was represented by Ellen Deutsch, vice-president and general counsel, Vancouver.

INTERVENTIONS: The petitions of WSCCA, MCI Metro, and ELI to intervene were granted, without objection.

MOTION TO DISMISS: At the outset of the second prehearing conference on December 13, 1995, TCI moved to dismiss the counterclaim of USWC or, in the alternative, to bifurcate the hearing. A discussion followed regarding TCI's goal in this complaint proceeding. TCI wants the Commission to adopt a policy for pole attachment rates applicable to poles which are jointly owned by two or more utilities. It wants the Commission to require that the co-owners of the poles charge a proportionate amount of their single pole charge which matches their proportion of pole ownership.

TCI, USWC and the Commission Staff held a lengthy off-the-record discussion regarding means for reaching TCI's goal. TCI decided to seek to dismiss its complaint if USWC would agree to dismiss its counterclaim. At the December 18, 1995 session of the second prehearing conference, TCI moved to dismiss its complaint and USWC moved to dismiss its counterclaim. The Commission Staff agreed that dismissal is appropriate. TCI may later seek a Commission policy change through a motion for declaratory order or a petition for rulemaking. The undersigned administrative law judge agrees that these would be better avenues for the Commission to consider the issues raised in the formal complaint, and agrees that it is in the public interest to allow the complaint and counterclaim to be dismissed.

ORDER

The formal complaint by TCI Cablevision of Washington, Inc. against U S WEST Communications, Inc. is dismissed. The counterclaim by U S WEST Communications, Inc. against TCI Cablevision of Washington, Inc. is dismissed. This docket is closed.

DATED at Olympia, Washington, and effective this 9th day of January 1996.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



MARJORIE R. SCHAER
Administrative Law Judge

NOTICE TO PARTIES:

This is an initial order only. The action proposed in this order is not effective until a final order of the Utilities and Transportation Commission is entered. If you disagree with this initial order and want the Commission to consider your comments, you must take specific action within a time limit as outlined below.

Any party to this proceeding has twenty (20) days after the service date of this initial order to file a Petition for Administrative Review, under WAC 480-09-780(2). Requirements of a Petition are contained in WAC 480-09-780(4). As provided in WAC 480-09-780(5), any party may file an Answer to a Petition for Administrative Review within ten (10) days after service of the Petition. A Petition for Reopening may be filed by any party after the close of the record and before entry of a final order, WAC 480-09-820(2). One copy of any Petition or Answer must be served on each party of record and each party's attorney or other authorized representative, with proof of service is required by WAC 480-09-120(2).

In accordance with WAC 480-09-100, all documents to be filed must be addressed to: Office of the Secretary, Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P. O. Box 47250, Olympia, Washington, 98504-7250. After reviewing the Petitions for Administrative Review, Answers, briefs, and oral arguments, if any, the Commission will by final order affirm, reverse, or modify this initial order.