



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

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JUDGE BERG: This is a prehearing conference in Docket No. UT-000141 in the case of New Edge Network, Inc., versus U S West Communications, Inc. New Edge Network, Inc., shall also be referred to as New Edge, and U S West Communications, Inc., shall be referred to as U S West. Today's date is April 6th, 2000. This prehearing conference is taking place at the Commission's headquarters in Olympia, Washington, on notice to the Parties served March 31, 2000. As stated in the notice, this prehearing conference is being conducted on shortened notice based on consent of the Parties to today's schedule.

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At this time, we'll go ahead and take appearances of the Parties, beginning with New Edge, then U S West Communications, and then Commission staff. Go ahead, please.

MR. TRINCHERO: This is Mark P. Trincherro on behalf of New Edge.

MS. ANDERL: On behalf of U S West Communications, Inc., Lisa Anderl.

MS. SMITH: Shannon Smith appearing for Commission staff.

JUDGE BERG: Just for the record, I'll

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1 indicate that Mr. Trincherro and Ms. Anderl are  
2 participating in the prehearing conference via  
3 teleconference as permitted in the prehearing  
4 conference notice. Ms. Anderl, Mr. Trincherro, you come  
5 across just fine, and the reporter is also familiar  
6 with both of your voices, so please just feel free to  
7 participate in the conference as if you were present.

8           At this point in time, I'm going to ask the  
9 Parties to report on the status of their discussions  
10 regarding a discovery schedule. As referred to in the  
11 First Supplemental Order, which was served on March 30,  
12 2000, the Parties were directed to confer regarding a  
13 discovery schedule that would provide New Edge with  
14 relevant information and allow U S West to respond in a  
15 reasonable manner. With that, I'll just turn it over  
16 to the Parties, and Mr. Trincherro, why don't you lead  
17 off.

18           MR. TRINCHERO: I will try to sum up where we  
19 are, and then Lisa, if I mischaracterize anything,  
20 please correct me. We have conferred. We've agreed  
21 to, at this point, to continue to hold the notices of  
22 depositions in abeyance pending receipt of the  
23 discovery responses in the hopes that the discovery  
24 responses themselves will eliminate the need for  
25 substantially or substantially decrease the need for

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1 any depositions.

2           We also discussed a number of discovery  
3 questions to which U S West had objections or needed  
4 clarification, and we have provided U S West yesterday  
5 and served on the service list copies of some rewritten  
6 discovery questions that may aid U S West's ability to  
7 respond to those requests. Also, agreed to disagree on  
8 the relevance of a number of other questions, and U S  
9 West will provide objection in its responses to those,  
10 and we will likely end up with a motion to compel on  
11 some of those.

12           As for the timing of responses, it's my  
13 understanding that U S West is going to try to respond  
14 as fully as possible by the 10th, which is next Monday,  
15 but that there will be some questions that they will  
16 need some additional time on, and we discussed an  
17 additional week. That would make those responses due  
18 on the 17th. It's also my understanding that we will  
19 be getting some partial responses on the 10th and that  
20 the completion of those responses will be due on the  
21 17th.

22           To the extent possible where we have a  
23 complete answer on the 13th -- I'm sorry, on the  
24 10th -- we'll try to bring our motion to compel on  
25 anything that deserves such motion by the 13th, as we

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1 had discussed in the first prehearing conference. U S  
2 West has agreed that given the fact that we will not  
3 have a full set of responses until the 17th that if  
4 indeed we find there is something that requires a  
5 motion to compel in the later set of responses that we  
6 would do so after that point, and we may want to talk  
7 about a deadline for that.

8 Then finally, on the status of settlement  
9 discussions, we have tentatively scheduled a meeting  
10 for the 18th of April in Portland, Oregon, and I think  
11 I've covered everything. Have I missed anything, Lisa?

12 MS. ANDERL: No, I don't think so.

13 JUDGE BERG: Have the Parties had an  
14 opportunity to keep Ms. Smith in the loop as they've  
15 discussed the discovery schedule?

16 MS. SMITH: Staff is in the loop, thank you.

17 JUDGE BERG: Thanks. With regards to the  
18 responses to be produced on April the 10th, Ms. Anderl,  
19 is there any reason why U S West could not present all  
20 objections in its responses to be delivered on the  
21 10th?

22 MS. ANDERL: No, there is no reason, and in  
23 fact, we have agreed to do that; although, Your Honor,  
24 on some of the ones where we may object but we'll  
25 provide information without waiver of the objection and

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1 we need more time to provide that information, those  
2 may come in later than the 10th, but those will not be  
3 objections only. Those would be substantive responses  
4 coupled with objections.

5 JUDGE BERG: I appreciate that clarification.  
6 To whatever extent U S West can provide those  
7 substantive responses coupled with objections on the  
8 10th would certainly be appreciated. It would enable  
9 the Commission to address as many potential problems as  
10 early as possible, but I understand that in this case,  
11 it may not be possible for U S West to do that. So  
12 I'll just ask you make your best effort in that regard.

13 With regard to a further schedule for  
14 presentation of motions to compel that may be based on  
15 responses to data requests that are not received until  
16 April 12th, I would just leave it to the Parties to  
17 present those motions; however, I would appreciate a  
18 telephone call as a heads-up that a motion is being  
19 prepared with an anticipated time of filing, and if the  
20 Parties could also share that information with the  
21 other parties, I think that would be very helpful.

22 Particularly in this case where I will be  
23 presiding with the Commissioners, it will be a little  
24 bit more of a challenge for me to make determinations  
25 as to how to present those disputes to the

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1 Commissioners and to get a quick response from the  
2 Commission, so your help in that regard will be  
3 appreciated. The heads-up phone call is for no other  
4 purpose than to just let me know that procedurally  
5 there will be a motion to deal with, and I'm not  
6 looking for any other information as to the background  
7 or the basis for the motion.

8 MR. TRINCHERO: Very good.

9 JUDGE BERG: Is that okay with you too,  
10 Ms. Anderl?

11 MS. ANDERL: Yes.

12 MR. TRINCHERO: I would just request that  
13 when U S West provides its initial set of discovery  
14 responses on the 10th that to the extent an answer is  
15 complete at that point that there be some designation  
16 so that we can know that. Lisa, if you could try to  
17 make it clear which responses are complete on the 10th  
18 and which we should be waiting for additional  
19 information on, that will help in determining what may  
20 need to go into a motion on the 13th.

21 MS. ANDERL: We'll figure out a way to do  
22 that so it's clear in the response.

23 MR. TRINCHERO: Thank you.

24 JUDGE BERG: I'm just looking over my notes  
25 one last time. Ms. Smith, is there anything you want

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1 to add to the record?

2 MS. SMITH: No.

3 JUDGE BERG: I think that covers all the  
4 matters that we have to discuss here today. Thanks to  
5 both you, Mr. Trincherro, and Ms. Anderl, for working  
6 together to produce a discovery schedule, and I  
7 appreciate knowing that the Parties will be meeting on  
8 the 18th for additional settlement discussions. If any  
9 other matters arise, please give me a call as soon as  
10 possible.

11 MS. ANDERL: Okay.

12 JUDGE BERG: With that, the prehearing  
13 conference shall be adjourned.

14 (Prehearing conference adjourned at 10:25 a.m.)

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