BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC., Complainant, vs. VERIZON NORTHWEST, INC., Respondent.	Docket No. UT-020406 Volume I Pages 1-16

A prehearing conference in the above matter was held on June 12, 2002, at 9:37 a.m., at 1300 Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judge MARJORIE R. SCHAER.

The parties were present as follows:

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC., by Gregory J. Kopta, Attorney at Law, Davis, Wright, Tremaine, LLP, 2600 Centure Square Building, 1501 Fourth Avenue, Seattle, Washington 98101.

VERIZON NORTHWEST, INC., by Judith Endejan, Attorney at Law, Williams, Graham & Dunn, 1420 Fifth Avenue, 33rd Floor, Seattle, Washington 98101.

WORLDCOM, INC., and its regulated subsidiaries, by Brooks Harlow, Attorney at Law, Miller Nash, 4400 Two Union Square, 601 Union Street, Seattle, Washington 98101.

Barbara L. Nelson, CCR
Court Reporter

THE COMMISSION, by Shannon Smith (for Gregory J. Trautman), Assistant Attorney General, 1400 Evergreen Park Drive, S.W., P.O. Box 40128, Olympia, Washington 98504-0128.

JUDGE SCHAER: Let's be on the record. We're here this morning for a prehearing conference in Docket Number UT-020406. This is a complaint proceeding brought by AT&T Communications of the Pacific Northwest against Verizon, Inc., arguing that Verizon offers lower retail intrastate toll rates to its local exchange customers than to its competitors.

We are in the Commission's hearing room 108, the Commission Headquarter Building in Olympia, Washington. Today is June 12th, 2002, and I'm Marjorie Schaer, the Administrative Law Judge assigned to this proceeding. Are you having trouble hearing me? Because when I pull the thing closer, I'm getting feedback.

MS. SMITH: I can hear fine.

MR. HARLOW: We can hear you without the sound system, actually.

JUDGE SCHAER: That's not always true, but I'm glad to hear if it is. Okay. I'd like to start this morning by taking appearances from all of the parties. This is the first appearance, so please state for the record all the relevant data, telephone, fax, and e-mail, who you represent, what your address is, your name, those things, and we'll start with you, I think, Mr. Kopta.

MR. KOPTA: Thank you, Your Honor. Gregory J. Kopta, of the Law Firm Davis, Wright, Tremaine, LLP, on behalf of AT&T Communications of the Pacific Northwest, Inc. My address is 2600 Century Square, 1501 Fourth Avenue, Seattle, Washington, 98101-1688. Telephone, 206-628-7692; fax, 206-628-7699; e-mail, gregkopta@dwt.com.

JUDGE SCHAER: Thank you. And then you, Ms. Endejan.

MS. ENDEJAN: Yes, Judith Endejan, appearing on behalf of Verizon Northwest, Incorporated. I'm with the Law Firm of Graham and Dunn. My business address is 1420 Fifth Avenue, Seattle, Washington, 98101-2390. My telephone number is 206-340-9694; my fax number is 206-340-9599; my e-mail is jendejan@grahamdunn.com. Thank you.

JUDGE SCHAER: Thank you. And for Staff, Ms. Smith.

MS. SMITH: Thank you. This is Shannon Smith, with the Attorney General's Office. I'm here this morning entering an appearance for Gregory J. Trautman, Assistant Attorney General. His address is 1400 South Evergreen Park Drive, S.W., P.O. Box 40128, Olympia, Washington, 98504-0128. Mr. Trautman's telephone number is 360-664-1187; fax is

360-586-5522; and my best guess at his e-mail address is gtrautma@wutc.wa.gov.

JUDGE SCHAER: Thank you. And then you, Mr. Harlow.

MR. HARLOW: Thank you, Your Honor. Good morning. My name is Brooks Harlow, appearing on behalf of WorldCom, Inc. and its regulated subsidiaries. My address is Suite 4400, 601 Union Street, Seattle, Washington, 98101. Telephone, direct dial, 206-777-7406; facsimile, 206-622-7485; e-mail address is harlow@millernash.com.

JUDGE SCHAER: Thank you. And has anyone had contact with Public Counsel about this case? Do we know if they're interested?

MS. ENDEJAN: No, Your Honor.

MS. SMITH: I haven't.

JUDGE SCHAER: Thanks. I like to check. Sometimes people know where they are. Okay. At this point, I think that we should take up the motion to intervene, and I'll let you address that, Mr. Harlow.

MR. HARLOW: Thank you, Your Honor. Again, Brooks Harlow, on behalf of WorldCom, Inc. and its regulated subsidiaries. WorldCom petitions to intervene pursuant to WAC 480-09-430. WorldCom does not intend to broaden the issues set forth in the

complaint in this case.

WorldCom's address is 707 17th Street, Suite 3600, Denver, Colorado, 80202. The names and address of WorldCom's attorneys are Michel Singer-Nelson, Senior Attorney, at the address I just stated. Her telephone number is 303-390-6106; her facsimile is 303-390-6333; and her e-mail address is coming up -- why don't I come back to that. Oh, here it is. Her e-mail address is michel.singer nelson@wcom.com. Also attorneys for WorldCom, Brooks Harlow, at the address, the contact information I just gave.

WorldCom and its subsidiaries have a substantial interest in this proceeding in that they are both purchasers of the access services that are the subject of this complaint. They are also competitors of the retail toll services that are the subject of this complaint.

WorldCom's interests would appear to be very similar to, possibly even identical to those of the Complainant, AT&T. Accordingly, WorldCom has a substantial interest in the outcome of this proceeding. WorldCom's position will be determined as the issues are developed in this docket, but can be expected to be similar to those of AT&T. So

WorldCom seeks intervention for itself and its regulated subsidiaries.

JUDGE SCHAER: First is just a procedural question about your multitude of attorneys. Which one of you is going to be the contact point?

MR. HARLOW: We would hope in this relatively small docket that we could have service on both, but if not --

JUDGE SCHAER: I like to have one person, and most people, through courtesy, will serve others and can put others on our service list, but --

MR. HARLOW: I didn't have a chance to discuss this with Ms. Singer-Nelson, but if more recent practice is an indication, it would probably be her.

JUDGE SCHAER: Okay.

MR. HARLOW: Her fax and e-mail service. We would appreciate a copy, as well.

JUDGE SCHAER: Okay. Is there any objection to intervention in this matter by WorldCom?

MR. KOPTA: No objection.

MS. ENDEJAN: Much as I'd like to, Your Honor, I have no basis to object.

JUDGE SCHAER: Okay. Ms. Smith.

MS. SMITH: Staff has no objection.

JUDGE SCHAER: Well, then, the intervention of WorldCom will be allowed. Are there any preliminary matters that the parties wish to bring before the bench at this moment?

MS. ENDEJAN: I guess, Your Honor, Verizon is a little puzzled about the purpose of the prehearing today, first, and we'd like to sort of get an idea of what sort of issues you contemplated addressing today. And second, Verizon would like to confirm the date for the oral argument on the motion to dismiss. We haven't received any formal notice, but we've been orally advised that it's currently scheduled for July 3rd. Is that still the case?

JUDGE SCHAER: Okay. Well, those are both topics on my list, so --

MS. ENDEJAN: Okay.

JUDGE SCHAER: -- why don't we start through on that. Anyone else? Is that an ah to the point or did the Mariners just lose something or -- I don't know what you're looking at over there.

MR. HARLOW: I'm just taking notes, Your Honor.

JUDGE SCHAER: Okay. There is pending in this matter a motion to dismiss filed on behalf of Verizon, and Commission Staff and AT&T have answered

that motion and Verizon has been granted permission and has filed a reply.

The purpose of this prehearing conference is very, very simple. It is to find out if there are other parties who believed they had an interest in this issue, wanted to intervene, because we hadn't actually had a face-to-face hearing or anything that would give a time and then cut off interventions. So it appeared to me to be procedurally a cleaner way to go.

And then, as Ms. Endejan has indicated, there has been discussion in this matter about having an oral argument before the Commissioners on the motion to dismiss, and I -- that's still not set in stone, but we are saving dates as if that were going to happen.

The one date we had discussed was July 3rd, and it was a very inconvenient date for Mr. Trautman, who has a hearing on July 2nd. And so we have a lot going on in the building in terms of other cases settling, and right now, we are double booked for July 11th. So if Avista settles this morning or they look like they're going that way, that would free up some time.

So those are the two dates I'd kind of like

to check with everyone here. The timing on this conference was that we could get it in and still give notice of any hearing that the Commissioners will decide to have or not have. And that decision will also be based on what issues are discussed this morning. So I -- does anyone have problems with either of those dates?

MS. SMITH: If I may ask you to repeat, one of them was July 11th. Was the other still July 3rd?

JUDGE SCHAER: Yes.

MS. SMITH: On behalf of Mr. Trautman, I would state that he does have -- well, it looked like he had a hearing. Well, maybe he doesn't.

JUDGE SCHAER: Is your rule waiver hearing still on July 2nd, Ms. Endejan?

MS. ENDEJAN: No. No, Your Honor, that has been shifted. It's still sort of a moving schedule, but it's not that week.

JUDGE SCHAER: Okay. Because I'm no longer involved in that case, so I didn't know.

MS. SMITH: Is it the 15th through the 17th?

MS. ENDEJAN: That's correct. That's currently the situation.

JUDGE SCHAER: What was the date?

MS. SMITH: I believe it's the 15th through the 17th, at least that's what's indicated on Mr. Trautman's calendar.

MS. ENDEJAN: Right, right. Your Honor, Chuck Caruthers, who is one of the vice-presidents for legal affairs for Verizon in Texas wishes to come out and argue the motion to dismiss, so I've asked Ms. Gage to step out in the hall and to call Mr. Caruthers to see if he's available on the 11th. He was available on the 3rd, we know that, but I didn't give him the 11th date, because I didn't know about it.

JUDGE SCHAER: And --

MS. ENDEJAN: So we're going to try and find out if that's a problem.

JUDGE SCHAER: We can take a break if you need for her to be able to find out, because I need to know.

MS. ENDEJAN: Right.

MR. KOPTA: Well, we may be be able to somewhat short-circuit this, because the 11th, right now I'm supposed to be in Minnesota in hearings. Now, there's a motion pending before the Minnesota Commission to start those hearings the following week, so it might be that I would be available on the

11th, but right now, I am not. But the 3rd, I am. So sounds like, as long as Mr. Trautman's schedule allows, the 3rd seems to be the date that everybody's available.

MS. SMITH: I believe that, judging by his calendar, if I were him, I would agree to do it on the 3rd. So I'll just go ahead and commit him to do it.

JUDGE SCHAER: Well, Mr. Trautman had spoken to me -- he was very upset about the date on the 3rd, but it was based on, I believe, the hearing in the case I asked you about on the 2nd, which is why I asked you about an unrelated case.

MS. ENDEJAN: Right, and the 2nd is clear from that case, so --

JUDGE SCHAER: So I think that it's sounding to me like we'd actually do well just to stick with the 3rd.

MS. SMITH: Okay. And if push came to shove, I would argue it on behalf of Mr. Trautman, if that became necessary, so Staff can commit to July 3rd.

MS. ENDEJAN: Okay. Well, that was easy.

MR. HARLOW: It's better for me, as well, Your Honor.

JUDGE SCHAER: Okay.

MS. ENDEJAN: Can we take just a minute so I can call -- tell Ms. Gage to not --

JUDGE SCHAER: Yeah, why don't we take about a 10-minute break, so the court reporter knows when to come back.

MS. ENDEJAN: Okay.

JUDGE SCHAER: And I will do some calendar discussion with my staff, as well, make sure someone didn't grab the 3rd when we grabbed the 11th.

MS. ENDEJAN: Thank you. It is sort of a bingo game down here, isn't it?

(Recess taken.)

JUDGE SCHAER: Let's be back on the record after a lengthy discussion of procedural matters on how we're going to go forward in this case. We have decided that if there is going to be an oral argument regarding dismissal of the case before the Commissioners, we will attempt to have that scheduled for the morning of July 3rd, had rather extensive discussion of what topics might be included in the case and what a schedule would be to address those, and the parties have agreed to file by June 21st a statement of the issues that they see in the proceeding.

WorldCom, who joined us today as an intervenor, is going to file by June 19th any answer it may want to make to Verizon's motion to dismiss, and if such an answer is filed, then Verizon is going to be allowed to reply by June 26th.

I've checked with the Records Center. We're going to need an original plus 14 copies of all things that are filed in this matter. Parties have asked and I have agreed that we should have a protective order issued. The parties have also asked to have the discovery rule, WAC 480-09-480, triggered so that they may use the discovery tools that are available under that order.

Parties had fairly extensive discussion of the issues, but beyond what is going to be filed on June 21st, have not agreed to at this point put down a more detailed issues list, I believe wish to wait for the ruling that will come out of the July 3rd hearing before making that list available.

Is there anything that I have -- is there anything that we discussed off the record that I did not reflect that the parties would like to have reflected on the record?

MR. KOPTA: I would just add that there was some discussion of scheduling issues and the most, at

this point, that there seemed to be a consensus on was the need for a second prehearing conference. If Verizon's motion to dismiss is denied, there would be a notice of that and the scheduling of that as quickly as possible after the Commission's decision, if that is the Commission's decision, to deny Verizon's motion.

JUDGE SCHAER: Okay. And I believe that the parties had contemplated that that notice might include descriptions of the issues they see framed so that -- and it might allow a second date for either statutory parties, like Public Counsel or other intervenors, to participate in the case. Is that your understanding, as well?

MR. KOPTA: Yes, that is -- it is my understanding, as well as the fact that the parties will try and have some informal discussions to at least get an idea what a rough schedule might look like if the motion is dismissed and the complaint proceeds.

JUDGE SCHAER: Okay. Anything else? Ms. Endejan, did you have anything in your notes that you'd like to have on the record that I haven't remembered to say?

MS. ENDEJAN: No. I just would like to

have the record reflect that I am filing and I have provided a copy to all counsel here of a statement of additional authority in support of its motion to dismiss, and it's a decision of the Public Utilities Commission of Hawaii in Docket Number 7702.

JUDGE SCHAER: Thank you. Mr. Harlow, anything further?

MR. HARLOW: No, thank you, Your Honor.

JUDGE SCHAER: Ms. Smith.

MS. SMITH: No, thank you.

JUDGE SCHAER: Well, thank you all for coming. I think it was a worthwhile discussion. I certainly learned some things I didn't know before and find that knowledge useful. At this point, we are going to adjourn the hearing and a notice of hearing will issue before any further stage of the proceeding. I still don't know for certain whether we're going to be meeting on July 3rd, but as soon as I do, I will let you know.

MR. KOPTA: Thank you, Your Honor.

MS. ENDEJAN: Thank you, Your Honor.

MS. SMITH: Thank you.

JUDGE SCHAER: We're off the record.

(Proceedings adjourned at 11:09 a.m.)