

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

FRONTIER COMMUNICATIONS)	DOCKET UE-151344
NORTHWEST INC.,)	
)	ORDER 01
Complainant,)	
)	
v.)	PREHEARING CONFERENCE
)	ORDER; NOTICE OF HEARING
PUGET SOUND ENERGY,)	(Set for February 23 – 24, 2016, at
)	9:30 a.m.)
Respondent.)	
)	
.....)	

1 **NATURE OF PROCEEDING.** On June 30, 2015, Frontier Communications Northwest Inc. (Frontier) filed with the Washington Utilities and Transportation Commission (Commission) a formal complaint against Puget Sound Energy (PSE) involving a dispute over the proper method for calculating utility pole attachment rates.

2 **CONFERENCE.** The Commission convened a prehearing conference in this docket at Olympia, Washington on August 12, 2015, before Administrative Law Judge Gregory J. Kopta.

3 **APPEARANCES.** George Thomson, Associate General Counsel, Everett, Washington, and Román Hernández, K&L Gates LLP, Portland, Oregon, represent Frontier. James F. Williams and Karen Brunton Bloom, Perkins Coie, Seattle, Washington, represents PSE. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).¹ Contact information provided at the conference for the parties’ representatives is attached as Appendix A to this order.

4 **PETITIONS FOR INTERVENTION.** No party appeared at the conference seeking to intervene.

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See, RCW 34.05.455.

- 5 **CONSENT TO ELECTRONIC SERVICE.** All parties have agreed to service electronically. The Commission, therefore, may serve only electronic copies of notices and orders in this docket to the party and representative email addresses on file with the Commission.
- 6 **DISCOVERY.** The parties asked that the Commission make its discovery rules available in this docket, under WAC 480-07-400. The matter is one that qualifies for discovery, and the discovery rules, WAC 480-07-400 – 425, are available.
- 7 **MOTIONS OR OTHER PROCEDURAL ISSUES.** On August 7, 2015, Frontier filed a motion for summary determination. PSE requested an extension until September 18, 2015, to respond to the motion in light of parallel litigation between the parties in state court and the lack of any prejudice to Frontier. Staff supported having additional time to review the motion. Frontier objected to the extension, stating that the issues in the court proceedings are different and that Frontier believes that the default response time in the Commission’s procedural rules is sufficient.
- 8 Frontier filed its motion prior to the prehearing conference and the availability of the discovery rules, which is much earlier than the Commission’s procedural rules contemplate. Particularly at this early stage of the proceeding, the Commission finds that the extension PSE requests would provide PSE and Staff with the time they need to respond to the motion, and the delay would not result in any prejudice to Frontier. Accordingly, the Commission grants the request. Responses to Frontier’s motion for summary determination are due by September 18, 2015.
- 9 **PROCEDURAL SCHEDULE.** The parties agreed on a procedural schedule during the conference. The Commission adopts this procedural schedule, which is attached to this Order as Appendix B.
- 10 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5:00 p.m. on February 19, 2016**. The Commission requires electronic copies and two (2) paper copies of the fully unredacted version of exhibits. The Commission also requires one paper copy and one electronic copy in .pdf (Adobe Acrobat) format of a redacted set of any confidential exhibits so that these can be made available by the Commission in response to a public records request or posted to the Commission’s website. The paper copies of the exhibits must be organized into sets that are **tabbed, labeled, and grouped** according to the witness the party intends to cross examine with the exhibits. Cross-examination exhibits not conforming to these requirements may be rejected.

- 11 **EXHIBIT LISTS.** Each party must file a list of all exhibits the party intends to introduce into the evidentiary record, including all prefiled testimony and exhibits, as well as cross-examination exhibits. The parties must file and serve their exhibit list by provide a list by **5:00 p.m. on February 19, 2016.**
- 12 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge and the other parties by **5:00 p.m. on February 19, 2016.**
- 13 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter on **February 23 and 24, 2016, at 9:30 a.m.,** in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 14 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus one (1) copy of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 15 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 16 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a flash drive, DVD, or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format except as otherwise provided in this order or the Commission's procedural rules. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 17 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties must submit documents electronically to the Commission on the filing deadline established in the procedural schedule and must file an original, plus one (1) paper copy of the documents with the

Commission by 5:00 p.m. on the first business day following the filing deadline as provided in WAC 480-07-145(6). Parties may submit documents electronically through the Commission's Web Portal (www.utc.wa.gov/efiling) or by e-mail to records@utc.wa.gov. Finally, to perfect filing, parties must simultaneously serve the other parties and provide e-mail courtesy copies of filings to the presiding administrative law judge (gkopta@utc.wa.gov).

18 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.

19 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective August 13, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge

APPENDIX A			
PARTIES' REPRESENTATIVES			
DOCKET UE-151344			
PARTY	REPRESENTATIVE	PHONE	E-MAIL
Frontier	George Thomson Associate General Counsel 1800 41 st Street Everett, WA 98203	425-261-5844	George.thomson@fr.com
	Román Hernández K&L Gates LLP One SW Columbia Street, Suite 1900 Portland, OR 97258	503-228-3200	Roman.hernandez@klgates.com
	Stephanie E. L. McCleery		Stephanie.mccleery@klgates.com
	Philip Van Der Weele		Phil.vanderweele@klgates.com
Puget Sound Energy	Kenneth Johnson Director, State Regulatory Affairs P.O. Box 97034 Bellevue, WA 98009-9734	425-456-2110	Ken.s.johnson@pse.com
	James F. Williams Perkins Coie 1201 Third Avenue, Suite 4900 Seattle, WA 98101-3099	206-359-8000	jwilliams@perkinscoie.com
	Karen Brunton Bloom		kbloom@perkinscoie.com
	Carol Kness		ckness@perkinscoie.com
Commission Staff	Jennifer Cameron-Rulkowski Assistant Attorney General Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504-0128	360-664-1186	jcameron@utc.wa.gov
	Krista Gross		kgross@utc.wa.gov
	Betsy DeMarco		bdemarco@utc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UE-151344

EVENT	DATE
Responses to Motion for Summary Determination	September 18, 2015
Frontier Direct Testimony and Exhibits	November 16, 2015
PSE and Staff Response Testimony and Exhibits	December 16, 2015
Frontier Rebuttal Testimony and Exhibits; Cross-Answering Testimony and Exhibits	January 19, 2016
Cross-Examination Exhibits, Witness Lists, and Time Estimates	February 19, 2016
Evidentiary Hearing	February 23 – 24, 2016
Simultaneous Post-Hearing Briefs	TBD