

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)	
4 TRANSPORTATION COMMISSION,)	
)	
5 Complainant,)	DOCKET NO. UT-921259
)	
6 vs.)	VOLUME IV
)	
7 THE TOLEDO TELEPHONE CO., INC.,)	PAGES 171-193
)	
8 Respondent.)	
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9)	

10 A hearing in the above matter was continued on
 11 June 10, 1993 at 11:30 a.m., at St. Mary's Convention
 12 Center, 107 Spencer Road, Toledo, Washington before
 13 Administrative Law Judge Elmer E. Canfield.

14
 15 The parties were present as follows:

16
 17 THE TOLEDO TELEPHONE CO. INC., by RICHARD
 18 FINNIGAN, Attorney at Law, 1201 Pacific Avenue, Tacoma,
 Washington 98501.

19
 20 THE WASHINGTON UTILITIES AND TRANSPORTATION
 21 COMMISSION by STEVEN W. SMITH, Assistant Attorney
 22 General, 1400 Evergreen Park Drive Southwest, Olympia,
 23 Washington 98504.

24
 25

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I N D E X

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WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	EXAM
MR. RAMSEY	175	177	184		182
MR. BERGGREN	186	187	190		

EXHIBIT	MARKED	ADMITTED
T-29	173	176
30	173	176
T-31	185	
32	185	

Opening Remarks

1 (Marked Exhibits T-29 and 30.)

2 JUDGE CANFIELD: This hearing will please come
3 to order. The Washington Utilities and Transportation
4 Commission has set for hearing Docket Number UT-921259,
5 Washington Utilities and Transportation Commission,
6 Complainant, versus The Toledo Telephone Co., Inc.,
7 Respondent.

8 The hearing is getting under way at
9 approximately 11:30 a.m. It was scheduled for 10 o'clock
10 a.m. There was some problem with the court reporting
11 firm contacting a court reporter to cover today's
12 session, so we are getting under way just approximately
13 an hour and half after schedule on Thursday, June 10,
14 1993, in Toledo, Washington.

15 The matter was scheduled pursuant to due and
16 proper notice to all interested parties.

17 Elmer Canfield, Administrative Law Judge from
18 the Office of Administrative Hearings is conducting the
19 hearing.

20 To date, the company's direct evidence has been
21 taken and also a commission staff's direct evidence.
22 This hearing was scheduled to receive the company's
23 rebuttal evidence, and that is what we are going to do at
24 this morning's session.

25 There were two further sessions scheduled, one

Opening Remarks

1 at 6 o'clock this evening and another at 10 o'clock
2 tomorrow morning to take testimony from members of the
3 public.

4 I would like to begin the session by taking
5 appearances beginning with the respondent, please.

6 MR. FINNIGAN: Thank you. My name is Rick
7 Finnigan, the address has previously been provided in the
8 record, appearing on behalf of the Toledo Telephone, Co.,
9 Inc.

10 JUDGE CANFIELD: Thank you.

11 MR. SMITH: Your Honor, Steven W. Smith,
12 Assistant Attorney General, my address is the same as
13 noted previously, appearing for the commission staff.

14 JUDGE CANFIELD: Thank you. And I will note
15 that public counsel has not appeared. Has either side
16 been advised from public counsel whether they are going
17 to attend today's session?

18 MR. SMITH: Your Honor, I was contacted by Mr.
19 Adams and he will not be here today or tomorrow.

20 JUDGE CANFIELD: All right. Thank you. And
21 any contacts from intervenor, U.S. West?

22 MR. SMITH: No, Your Honor.

23 MR. FINNIGAN: No.

24 JUDGE CANFIELD: I will note for the record
25 that they are not present at today's session either. Any

Opening Remarks

1 preliminary matters before we proceed?

2 MR. SMITH: Not from me.

3 MR. FINNIGAN: No.

4 JUDGE CANFIELD: Why don't we proceed, then,
5 Mr. Finnigan.

6 MR. FINNIGAN: Thank you. We will call Mr.
7 Ramsey.

8 JUDGE CANFIELD: Mr. Ramsey, can I get you to
9 raise your right hand, please?

10 GLENN RAMSEY,
11 Having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13 JUDGE CANFIELD: Thank you.

14 DIRECT EXAMINATION

15 BY MR. FINNIGAN:

16 Q Mr. Ramsey, do you have before you what is
17 marked as Exhibit T dash 29, that would be your rebuttal
18 testimony?

19 A Yes.

20 Q And do you have any corrections you would like
21 to offer to that testimony?

22 A Yes.

23 Q You have some corrections?

24 A No, excuse me. I didn't understand your
25 question.

Ramsey - Direct

1 Q All right. If I were to ask you those
2 questions that appear in Exhibit T-29, would your
3 responses as set forth in the exhibit be the same?

4 A Yes.

5 MR. FINNIGAN: We will offer Exhibit T-29.

6 JUDGE CANFIELD: Any objection?

7 MR. SMITH: No objection.

8 JUDGE CANFIELD: Exhibit T-29 is so entered
9 into the record.

10 (Admitted Exhibit T-29.)

11 MR. FINNIGAN: Thank you.

12 Q (By Mr. Finnigan) We have had also pre-marked
13 as Exhibit 30 a document that is called Record
14 Requisition Number 4. Do you have that before you, Mr.
15 Ramsey?

16 A Yes, I do.

17 Q Do you recognize that as the commission staff's
18 response to Record Requisition Number 4?

19 A Yes.

20 MR. FINNIGAN: We will offer Exhibit 30.

21 JUDGE CANFIELD: Any objection?

22 MR. SMITH: No objection.

23 JUDGE CANFIELD: Exhibit 30 is so entered into
24 record.

25 (Admitted Exhibit 30.)

Ramsey - Direct

1 MR. FINNIGAN: Thank you. Mr. Ramsey is
2 available for cross examination.

3 CROSS EXAMINATION

4 BY MR. SMITH:

5 Q Mr. Ramsey, from your rebuttal testimony,
6 Exhibit T-29, I understand that you agree with the
7 commission staff that the EAS routes applied for by your
8 company would be too expensive for your customers; is
9 that correct?

10 A That's correct.

11 Q And when did you first believe the EAS additive
12 was going to be too expensive?

13 A Well, my belief is that if all lost toll for
14 any EAS had to be taken care of by the 1500 Toledo
15 customers, it's been forever that the additive would be
16 too high. When it became really straight-forward is
17 when the community calling fund was denied by the
18 legislature.

19 Q And when the legislature failed to pass the
20 proposed legislation that would authorize the commission
21 to establish a community calling fund, did you consider
22 withdrawing your EAS application at that time?

23 A No.

24 Q And in spite of the fact you believe that the
25 EAS additive is too expensive and the community calling

Ramsey - Cross

1 fund is not available to pick up some of the cost, you
2 have continued to pursue this filing, correct?

3 A Yes.

4 Q So in light of the fact that you think the EAS
5 additives would be too expensive for your customers, I
6 want to clarify whether you are still asking the
7 commission to approve those rates?

8 A No.

9 Q All right. Could you explain why that is?

10 A Well, I am not asking the commission to approve
11 the additional charges to my customers by raising the
12 local rates. Hopefully the implication by the filing of
13 the tariff is to ask the commission to withdraw the EAS
14 rule or to find some other alternative for the community
15 calling fund.

16 Q So the purpose with continuing this proceeding
17 is to encourage the commission to find some alternative
18 to the community calling fund?

19 A That's true.

20 Q And the community calling fund was part of the
21 EAS rule that the commission adopted, was it not?

22 A Yes.

23 Q And you indicate in your testimony that the
24 Thurston County Superior Court determined that it was
25 beyond the commission's statutory authority to create the

Ramsey - Cross

1 community calling fund by rule. Are you aware of that?

2 A That's my understanding, that it did just that.

3 Q And are you aware that the commission
4 participated in that case in Thurston County to defend
5 not only the community calling fund but its authority to
6 adopt, to create that fund by rule?

7 A Yes.

8 Q And you made reference to the legislature
9 denying the community calling fund. Are you aware that
10 the proposal, the request of the legislature was made by
11 the commission itself to grant it the authority to create
12 a community calling fund?

13 A Mr. Smith, would you restate that? I think I
14 understand, but I would like to get that one more time.

15 MR. FINNIGAN: I was going to --

16 Q (By Mr. Smith) All right, I will restate it.
17 Are you aware that the legislation to grant the
18 commission the statutory authority to create a community
19 calling fund was request legislation submitted by the
20 commission itself to the legislature?

21 A Yes.

22 Q And the commission did not pass it -- or excuse
23 me. The legislature, as you indicated, did not pass that
24 legislation?

25 A That's my understanding.

Ramsey - Cross

1 Q So thus far, the commission has done three
2 things, I guess: pass the rule, it's gone to court to
3 defend that rule and it's gone to the legislature to try
4 to resolve this dilemma small exchange companies have of
5 being unable to spread their costs over a large number of
6 customers. Is that fair to say?

7 A Yes, that's my understanding.

8 Q In your testimony, you state that the U.S. West
9 EAS matrix is not based on cost, and could you explain
10 what you mean by that?

11 MR. FINNIGAN: Mr. Smith, do you know where in
12 the testimony --

13 MR. SMITH: I believe it's page 3. Well, let
14 me check. I am sorry, page 4. They are not numbered
15 lines, but toward the very bottom.

16 MR. FINNIGAN: May I approach the witness and
17 help him?

18 JUDGE CANFIELD: Sure, go ahead.

19 THE WITNESS: One more time, Mr. Smith, please,
20 your question?

21 Q (By Mr. Smith) My question is simply to
22 clarify when you state that U.S. West's EAS matrix is not
23 cost based, are you saying that on an overall basis,
24 applying to all of U.S. West's EAS routes, it is not cost
25 based or that when you look at any individual route, that

1 route is not cost based?

2 A The latter would be my thinking, that it's my
3 impression that U.S. West averages statewide. They do
4 not average, as an example, Winlock which is about the
5 same size as Toledo. They are able to take the cost of
6 that company and throw it in with the costs of serving
7 their two-and-a-half million other customers. It's my
8 impression they average statewide.

9 Q When you say average on a statewide basis, do
10 you mean that on an overall statewide basis, the matrix
11 would be based?

12 MR. FINNIGAN: I am going to object to the form
13 of the question. I think that you first need to ask if
14 he has an opinion as to whether or not the U.S.
15 West filing as a whole is cost based or not and then ask
16 the question that you have asked. I don't think you
17 laid the foundation for the question.

18 MR. SMITH: Well, I will be happy to do that,
19 but the foundation is in his testimony where he says it's
20 not cost based, but I will ask the question.

21 Q (By Mr. Smith) Mr. Ramsey, do you have an
22 opinion as to whether U.S. West's EAS matrix on an
23 overall basis is cost based?

24 A No, I don't. I have a feeling, but I don't
25 have an opinion. I have a feeling that they probably

Ramsey - Cross

1 didn't because it's my impression they themselves have
2 admitted they are over earnings, and I would guess they
3 probably built the matrix in such a manner that it would
4 take care of some of their over earning problems.

5 Q But do you know that of your own knowledge?

6 A No, I don't.

7 Q When you said "statewide average," then, what
8 did you mean?

9 A Just exactly that, that they are able to look
10 at revenues and expenses from all over the state, from
11 all of their two-and-a-half million customers to present
12 almost any program they perceive they need to present.

13 Q All right. And the EAS matrix applies to all
14 new EAS routes of U.S. West approved under the EAS rule?

15 A I have heard that that is what they use, but I
16 certainly have no knowledge as to where they did their
17 math or what customers they used in putting that matrix
18 together.

19 MR. SMITH: Those are all my questions.

20 EXAMINATION

21 BY JUDGE CANFIELD:

22 Q All right. Maybe you have already answered
23 this to some extent, Mr. Ramsey, but the last response on
24 page 4, you indicate that social programs such as EAS
25 ought to be supported by all customers. Do you have any

Ramsey - By Judge Canfield

1 specific proposals or are you speaking just in a general
2 nature there?

3 A Well, Your Honor, I think it is poor public
4 policy to assume that, even from the start, that Toledo
5 customers should support this incredible amount of lost
6 revenue, so I feel rather than this being a public switch
7 network problem, I see it as being a statewide social
8 problem. When you deal with social problems, there are
9 things you can do and you can do it with changing SPF,
10 the subscriber plant factor; you can do it with universal
11 service funds. There appears to be ways for the policy
12 setters to set social policy, and I think that is kind of
13 what I am hoping we will end up with. Once the social
14 policy is set, certainly the industry can get together
15 and build a business plan around that social policy, and
16 the whole crux of the EAS rule was an implemented social
17 policy, and it fell apart with the absence of the
18 community calling fund, so we now have that hole to fill,
19 and certainly the whole industry is looking at how we go
20 about that, and it is very important to the Toledo
21 customers that that social problem get solved.

22 Q But you are not making any specific proposals
23 for a solution in your testimony, then. You're just
24 alerting and pointing to the problem?

25 A Right. I don't think it would be appropriate

Ramsey - By Judge Canfield

1 for 1500 customers to start suggesting that the policy
2 ought to be here, but there are places -- there are
3 associations and groups in place in the state that
4 certainly would be appropriate to set that policy.

5 Q You do make reference in your testimony to the
6 efforts of WETA in that regard?

7 A Yes.

8 JUDGE CANFIELD: All right. Mr. Finnigan, any
9 further questions for Mr. Ramsey?

10 MR. FINNIGAN: One brief one.

11 REDIRECT EXAMINATION

12 BY MR. FINNIGAN.

13 Q Mr. Smith asked you a series of questions about
14 why you are pursuing this filing and you responded to
15 him. Is another reason that you are still pursuing this
16 filing to get the routes approved?

17 A Yes, Mr. Finnigan, that's -- it so imperative
18 that we at least get the routes approved, and the numbers
19 seem to match the rule as far as the routes go, so I
20 would like to proceed with that, and I feel it's
21 extremely important that the routes be approved, be
22 approved immediately.

23 Q And that would be, are you then suggesting that
24 the routes be approved even if the rates are not
25 approved?

Ramsey - Redirect

1 A Absolutely.

2 MR. FINNIGAN: Thank you. That completes the
3 redirect.

4 JUDGE CANFIELD: Anything further, Mr. Smith.

5 MR. SMITH: If I may think for a minute about
6 the last answer.

7 JUDGE CANFIELD: All right.

8 MR. SMITH: No, I don't have any further
9 questions.

10 JUDGE CANFIELD: All right. Thank you, then,
11 Mr. Ramsey.

12 (The witness was excused and withdrew from the
13 stand.)

14 MR. FINNIGAN: We will call Mr. Berggren.

15 PHIL BERGGREN,
16 having been first duly sworn, was called as a witness
17 herein and was examined and testified as follows:

18 JUDGE CANFIELD: Let me assign numbers to the
19 rebuttal testimony of Mr. Berggren. It was pre-filed as
20 PB space RT dash 1, and I will assign Exhibit Number T-31
21 to the rebuttal testimony of Mr. Berggren and the one
22 accompanying exhibit pre-filed as PRG space R dash 2 I
23 will assign the number of Exhibit 32 to that document, so
24 those are so marked for identification. Okay, Mr.
25 Finnigan.

Ramsey - Redirect

1 (Marked Exhibits T-31 and 32.)

2 DIRECT EXAMINATION

3 BY MR. FINNIGAN:

4 Q Mr. Berggren, you have previously testified in
5 this proceeding?

6 A Yes.

7 Q And do you have before you what has been marked
8 as Exhibit T-31 and what has also been marked as Exhibit
9 32?

10 A Yes, I do.

11 Q Do you have any changes or corrections to
12 either of those exhibits?

13 A No, I do not.

14 Q If I were to ask you the questions that appear
15 in Exhibit T-31 today, would your responses be the same?

16 A Yes, they would.

17 Q And was Exhibit 32 prepared by you or under
18 your supervision and direction?

19 A Yes.

20 MR. FINNIGAN: We will offer Exhibits T-31 and
21 32.

22 JUDGE CANFIELD: Any objections, Mr. Smith?

23 MR. SMITH: None.

24 JUDGE CANFIELD: All right. Exhibits T-31 and
25 32 are so entered into the record.

Berggren - Direct

1 (Admitted Exhibits T-31 and 32.)

2 MR. FINNIGAN: Mr. Berggren is available for
3 cross examination.

4 CROSS EXAMINATION

5 BY MR. SMITH:

6 Q Mr. Berggren, on page two of your testimony you
7 indicate that Winlock, Curtis and Pe Ell all have EAS to
8 Chehalis. Do you know when those EAS routes were
9 approved?

10 A No, I do not.

11 Q Do you know whether that was prior to the
12 adoption of the EAS rule?

13 A No, I do not.

14 Q Do you know when Pe Ell and Curtis were granted
15 EAS between each other?

16 A No, I do not.

17 Q So again you wouldn't know whether that was
18 prior to the adoption of the EAS rule?

19 A No, I don't.

20 Q Now, you indicate in your testimony that Vader,
21 Curtis, Pe Ell and Winlock are U.S. West Communications
22 exchanges and they are all in rate group 1 and that if
23 the EAS routes proposed for those exchanges under the
24 rule are granted, their monthly rate for residential
25 service would be \$9.50; is that correct?

Berggren - Cross

1 A That is my understanding, yes.

2 Q And would you agree that that's a reasonable
3 rate for the local calling capability they would receive
4 if those routes were approved?

5 A Yes, I would.

6 Q And that rate is possible because of the size
7 of U.S. West. It can spread its costs over a large
8 customer base; is that accurate?

9 A That is my understanding, yes.

10 Q That option is not available to Toledo because
11 it has less than 1500 access lines.

12 A That is correct.

13 Q And in your Exhibit 32, you calculated that
14 Toledo's rate would be \$45.80, if the routes in this
15 filing are approved; is that correct?

16 A That is correct.

17 Q That would be slightly less than 5 times what
18 the exchanges of Curtis, Pe Ell, Vader and Winlock are
19 paying; is that correct -- would pay; is that correct?

20 A That is correct.

21 Q And are you also aware that the commission has
22 attempted to address the inability of small local
23 exchange companies to spread these EAS costs among their
24 customers?

25 A That is my understanding, yes.

Berggren - Cross

1 Q And would you agree that without the community
2 calling fund or some other similar intercompany pooling
3 mechanism, that the commission and the small LECs are
4 really in a dilemma in providing expanded local calling
5 capability at least at reasonable rates?

6 A Yes, I think that's very true.

7 Q On page 3 of your testimony, you referred to
8 various U.S. West Communications EAS routes that are on
9 the engineering study including Vader, Curtis, Pe Ell and
10 Winlock. Do you see that?

11 A Yes.

12 Q Now, none of those rates have been approved --
13 excuse me. None of those routes have been approved by
14 the commission, have they?

15 A Not to my knowledge.

16 Q And none have even been applied for yet, have
17 they?

18 MR. FINNIGAN: Could you clarify what you mean
19 "applied for"?

20 MR. SMITH: No tariffs have been filed by U.S.
21 West Communications for those routes.

22 MR. FINNIGAN: Well --

23 A I don't believe I could answer that question
24 yes or no. I don't know.

25 Q (By Mr. Smith) All right. That solves that.

Berggren - Cross

1 MR. SMITH: That's all my questions.

2 JUDGE CANFIELD: All right. I think that
3 covered the few areas that I had to ask about as well, so
4 Mr. Finnigan, any additional questions?

5 MR. FINNIGAN: Two items. Actually this first
6 item is probably something I should have asked of Mr.
7 Ramsey as well.

8 REDIRECT EXAMINATION

9 BY MR. FINNIGAN:

10 Q Mr. Berggren, Mr. Smith asked you if you were
11 aware of commission efforts to try and address, through
12 the community calling fund and legislation, the issue of
13 the high additives for smaller exchanges and you
14 indicated you were aware of those efforts. Do you
15 believe the commission should continue those efforts?

16 A Yes, I do.

17 Q You were asked on a couple of occasions to
18 discuss, or whether you agreed with the rate level as
19 being a reasonable rate. Did you -- and you responded
20 that you did agree that the rate was a reasonable rate
21 for Curtis, Pe Ell, Vader and Winlock. Were you, by
22 agreeing to the term "reasonable rate," were you talking
23 about rates in an absolute sense or were you talking
24 about rates that are fair, just and reasonable as that
25 term is used technically for rate making purposes?

Berggren - Redirect

1 A Would you repeat the question, please?

2 Q If I can. I am trying to figure out what we
3 mean by "reasonable" in terms of your response to the
4 questions that you were asked by Mr. Smith. Were you
5 talking about the rate as reasonable in an absolute sense
6 in its value or were you drawing a conclusion that the
7 rate, as proposed, is fair, just and reasonable from a
8 technical rate-making standpoint?

9 A I was talking more from an absolute sense, that
10 it sounds from a community-interest, it would be a fair
11 and reasonable rate.

12 MR. FINNIGAN: Thank you.

13 JUDGE CANFIELD: Mr. Smith, any additional?

14 MR. SMITH: Nothing further.

15 JUDGE CANFIELD: Thank you, Mr. Berggren, you
16 are excused.

17 (The witness was excused and withdrew from the
18 stand.)

19 JUDGE CANFIELD: Does that conclude the
20 company's rebuttal presentation, Mr. Finnigan?

21 MR. FINNIGAN: Yes, it does.

22 JUDGE CANFIELD: All right. With that, we will
23 adjourn this portion of the proceeding. I will note, as
24 I did at the outset that we do have a public hearing
25 scheduled to begin at 6 o'clock this evening in this same

Berggren - Redirect

1 location, so with that in mind, we will adjourn and pick
2 it up then, so this session is adjourned.

3 (The hearing was adjourned at 12:00 noon,
4 June 10, 1993.)

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As Court Reporter, I hereby certify that the
foregoing transcript is true and accurate and contains
all the facts, matters and proceedings of the hearing
held on:

June 10, 1993

THOMAS E. ARCHER
CSR # ARCHETE732PN