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BEFORE THE WASHINGTON

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UTILITIES AND TRANSPORTATION COMMISSION

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4 In the Matter of the )  
 Petition of: )  
 5 )  
 King County, Washington; )  
 6 BNSF Railway; Frontier ) Docket UE-141335  
 Communications Northwest, )  
 7 Inc.; Verizon Wireless; and )  
 New Cingular Wireless PCS, )  
 8 LLC )  
 )  
 9 For a Declaratory Order )

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PREHEARING CONFERENCE - VOLUME I

11

Pages 1 - 11

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ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

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1:39 P.M.

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AUGUST 27, 2014

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1 OLYMPIA, WASHINGTON; AUGUST 27, 2014

2 1:39 P.M.

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5 JUDGE KOPTA: Let's be on the record in  
6 Docket UE-141335, captioned "In the Matter of the  
7 Petition of King County, Washington; BNSF Railway;  
8 Frontier Communications Northwest, Inc.; Verizon  
9 Wireless; and New Cingular Wireless PCS, LLC, For a  
10 Declaratory Order." I am Gregory J. Kopta, the  
11 administrative law judge who will be presiding this  
12 proceeding. We are here today on Wednesday,  
13 August 27th, for a prehearing conference to discuss  
14 procedural issues arising out of the Commission's  
15 consideration of the petition.

16 So we will begin by taking appearances. I  
17 have, I believe, notices of appearances from all  
18 counsel, so you just need to give your name, law firm  
19 affiliation, and the parties you represent when giving  
20 your appearance here today.

21 Let's begin with the petitioners.

22 MR. STOKES: Good afternoon. My name is  
23 Chad Stokes from the Cable Huston law firm. I  
24 represent King County, BNSF Railway, Frontier and  
25 Verizon in this matter.

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1 JUDGE KOPTA: Thank you.

2 And for Puget Sound Energy?

3 MS. BARNETT: Donna Barnett with Perkins  
4 Coie representing Puget Sound.

5 JUDGE KOPTA: And for Commission Staff?

6 MR. OSHIE: Pat Oshie representing  
7 Commission Staff.

8 JUDGE KOPTA: Cindy Manheim has entered  
9 a notice of appearance on behalf of AT&T. We had some  
10 technical problems with the bridge line and the  
11 microphones earlier. She may call in later, but we  
12 will reserve that for now.

13 Is anyone else wishing to make an appearance?

14 Hearing none. All right. Well, the order of  
15 the day is to talk about procedure. This was filed as  
16 a petition for declaratory order. The Administrative  
17 Procedure Act sets forth certain timelines under which  
18 the Commission must consider the petition. Right now  
19 the Commission has issued a notice that it will  
20 entertain the petition. Under the statute, it has 90  
21 days to conduct a hearing from the date that the  
22 petition was filed. That's a deadline that can be  
23 extended for good cause and I would anticipate that we  
24 will need to do that. Another option would be to  
25 convert this proceeding to an adjudication, depending

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1 on what needs to be done.

2 We have at least two different options and so  
3 I wanted to discuss with the parties what they think  
4 is needed by way of process to ensure that we have an  
5 adequate factual record for the Commission to render a  
6 decision on this petition.

7 So I will open it up to the parties to give me  
8 your suggestions on how we proceed. And why don't we  
9 start with the petitioners.

10 MR. STOKES: Thank you. We actually had  
11 the chance to talk before, with Puget Sound and Staff,  
12 about a proposed schedule in this case and what was  
13 appropriate. I think that we have consensus from the  
14 parties, that it would be appropriate to convert this  
15 to an adjudication and have some discovery process  
16 built in, testimony and briefing, with the hearing.  
17 We just need to come up with an appropriate schedule,  
18 if that is consistent with your thoughts as well.

19 JUDGE KOPTA: I think that makes sense.  
20 It would be rather cumbersome to try and -- unless we  
21 were just going to be able to stipulate to facts or do  
22 it on a paper record, I think trying to develop a  
23 factual record in a petition for declaratory order  
24 doesn't really work very well. I think that makes  
25 sense, to convert this to an adjudication, and we will

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1 enter an order accordingly.

2 Have you talked among yourselves and reached  
3 agreement on a schedule?

4 MR. STOKES: We have some ideas about a  
5 schedule. I guess we wanted to see what hearing dates  
6 were available for the Commission before we kind of  
7 backed into the hearing date. I think we were talking  
8 about a hearing in late January or February. I think  
9 that's the timeline that we agreed would be  
10 appropriate, and that would build in enough time to  
11 get everything else done.

12 JUDGE KOPTA: Okay. Well, let's do  
13 this. We'll go off the record in a moment. I will  
14 check the commissioners' calendars and see what kind  
15 of dates we are looking at in January and February.

16 MR. STOKES: Okay.

17 JUDGE KOPTA: In the meantime, if you  
18 all would kind of rough out what the schedule would be  
19 if there were going to be hearings at that time, then  
20 we can go back on the record once there's an agreement  
21 among the parties of those dates and memorialize it  
22 and we will be done.

23 MS. BARNETT: I think we agreed that a  
24 one-day hearing is probably all that's necessary.

25 JUDGE KOPTA: Okay. That makes it

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1 easier. Trying to coordinate commissioners' calendars  
2 is always a challenge.

3 Let's be off the record.

4 (A brief recess.)

5 JUDGE KOPTA: Let's be back on the  
6 record. After taking our break we have a schedule.  
7 Also we have corrected our technical difficulties with  
8 the Commission bridge line. I understand Ms. Manheim  
9 is available. I would ask you to make your appearance  
10 at this point.

11 MS. MANHEIM: Hi. Cindy Manheim for  
12 AT&T.

13 JUDGE KOPTA: Thank you.

14 So let's start with the schedule that you all  
15 have worked up. Mr. Stokes, if you would like to give  
16 a recitation of that for the record.

17 MR. STOKES: Thank you, Your Honor. We  
18 have agreed on November 19th for direct testimony, all  
19 party. December 11th would be cross-answering  
20 testimony, all party. January 20th would be the due  
21 date for cross-examination exhibits and the witness  
22 statements. The hearing would be scheduled on  
23 January 27th, but in the event it runs over we would  
24 also like to reserve the 28th. February 12th would be  
25 the due date for the posthearing brief.



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1                   JUDGE KOPTA: All right. That schedule  
2 should work based on my examination of the Commission  
3 calendar.

4                   One clarification. On the January 20th date,  
5 the cross-examination exhibits and witness lists,  
6 I'm --

7                   MR. STOKES: I'm sorry, yes, witness  
8 lists.

9                   JUDGE KOPTA: I just wanted to make sure  
10 no one was anticipating we were going to have  
11 something more by way of testimony.

12                   MR. STOKES: No.

13                   JUDGE KOPTA: So I think that will be  
14 fine. That will be reflected in the prehearing  
15 conference order that is issued as a result of our  
16 hearing today.

17                   So since we are dealing with an adjudication,  
18 a couple of other matters. Do the parties want to  
19 make them have discovery rules available?

20                   MR. STOKES: Yes, Your Honor.

21                   JUDGE KOPTA: I think this is an  
22 appropriate proceeding for that. We will make the  
23 discovery rules available.

24                   Is there a need for a protective order?

25                   MS. BARNETT: Yes, Your Honor. A

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1 standard protective order should suffice.

2 JUDGE KOPTA: All right. Again, I think  
3 we've got dollars involved, that tends to be  
4 confidential information, so we will issue the  
5 standard protective order in conjunction with this  
6 proceeding.

7 That is everything on my list. Is there  
8 anything else that we need to address at this point?

9 Hearing nothing, we are adjourned. Thank you.

10 (Prehearing Conference concluded 2:13 p.m.)

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STATE OF WASHINGTON

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COUNTY OF KING

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I, Sherrilyn Smith, a Certified

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Shorthand Reporter in and for the State of Washington,

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and ability.

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