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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
4 Complainant,) DOCKET NO. UT-941464

5 vs.)

6 U S WEST COMMUNICATIONS, INC.,)

7 Respondent.)

8 -----)

9 TCG SEATTLE and DIGITAL)

10 DIRECT OF SEATTLE, INC.,)

11 Complainant,) DOCKET NO. UT-941465

12 vs.)

13 U S WEST COMMUNICATIONS, INC.,) VOLUME II

14 Respondent.) PAGES 41-55

15 -----)

15 A hearing in the above matter was held on
16 March 3, 1995 at 1:35 p.m. at 1300 South Evergreen
17 Park Drive Southwest, Olympia, Washington, before
18 Administrative Law Judge LISA ANDERL.

19 The parties were present as follows:

20 US WEST COMMUNICATIONS by EDWARD T. SHAW,
Corporate Counsel, P.O. Box 21225, Seattle, Washington
21 98111.

22 TCG SEATTLE and DIGITAL DIRECT OF SEATTLE,
INC. by DANIEL WAGGONER, Attorney, 1501 Fourth Avenue,
23 Seattle, Washington 98101.

24 Lisa K. Nishikawa, CSR, RPR

25 Court Reporter

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1 COMMISSION STAFF by STEVEN W. SMITH,
2 Assistant Attorney General, 1300 South Evergreen Park
3 Drive Southwest, Olympia, Washington 98504, and
4 GREGORY J. TRAUTMAN, Assistant Attorney General, 1400
5 South Evergreen Park Drive Southwest, Olympia,
6 Washington 98504.

7 THE PUBLIC via telephone by ROBERT MANIFOLD,
8 Assistant Attorney General, 900 Fourth Avenue, Suite
9 2000, MS: TB-14, Seattle, Washington 98164.

10 WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION
11 and PTI COMMUNICATIONS by RICHARD A. FINNIGAN,
12 Attorney, 1201 Pacific Avenue, Suite 1900, Tacoma,
13 Washington 98402.

14 AT&T by RICK D. BAILEY, General Attorney,
15 1875 Lawrence Street, Denver, Colorado 80202.

16 INTEREXCHANGE ACCESS COALITION by BRAD
17 MUTSCHELKNAUS, Partner/Attorney, 1776 K Street
18 Northwest, Washington, D.C. 20006.

19 GTE NORTHWEST INCORPORATED by RICHARD E.
20 POTTER, Associate General Counsel, 1800 41st Street
21 (5LE), Everett, Washington 98201.

22 MCI TELECOMMUNICATIONS CORP. and MCI METRO
23 by Sue E. Weiske, Sr. Attorney, 707 17th Street,
24 #3900, Denver, Colorado 80202.

25 SPRINT COMMUNICATIONS COMPANY, L.P. by LESLA
LEHTONEN, Attorney, 1850 Gateway Drive, 7th Floor, San
Mateo, California 94404.

TENINO TELEPHONE COMPANY and KALAMA
TELEPHONE COMPANY by ROBERT S. SNYDER, Attorney, 30th
Floor Key Tower, Seattle, Washington 98104.

ELECTRIC LIGHTWAVE by ARTHUR A. BUTLER,
Attorney, 601 Union Street, Suite 5450, Seattle,
Washington 98101-2327.

UNITED TELEPHONE by SETH M. LUBIN, General
Counsel, 902 Wasco Street, Hood River, Oregon 97031.

TRACER by STEPHEN J. KENNEDY, Attorney, Two
Union Square, Suite 5450, 601 Union Street, Seattle,
Washington 98101.

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1 MFS INTELENET OF WASHINGTON, INC. by CHARLES
H.N. KALLENBACH, Attorney, 3000 K Street Northwest,
2 Suite 300, Washington, D.C. 20007.

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2 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

3 (No testimony.)

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7 EXHIBIT MARKED ADMITTED

8 (None marked.)

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

2 JUDGE ANDERL: Let's be on the record.

3 We're on the record in consolidated dockets UT-941464
4 and UT-941465. This is a second prehearing conference
5 in this matter. My name is Lisa Anderl and I'm the
6 administrative law judge presiding. Today's date is
7 March 3, 1995 and we are convened in the Commission's
8 hearing room in Olympia, Washington. I would like to
9 briefly take appearances for the record beginning with
10 the company US WEST.

11 MR. SHAW: Ed Shaw for US WEST.

12 JUDGE ANDERL: And for TCG.

13 MR. WAGGONER: Daniel Waggoner, Davis
14 Wright Tremaine.

15 JUDGE ANDERL: Thank you. For the staff of
16 the Commission.

17 MR. SMITH: Steven W. Smith and Gregory
18 Trautman, Assistants Attorney General.

19 JUDGE ANDERL: For public counsel.

20 MR. MANIFOLD: Robert Manifold
21 participating by telephone hookup.

22 JUDGE ANDERL: For WITA.

23 MR. FINNIGAN: Richard Finnigan.

24 JUDGE ANDERL: For AT&T.

25 MR. BAILEY: Rick D. Bailey.

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1 JUDGE ANDERL: For IAC.

2 MR. MUTSCHELKNAUS: Brad Mutschelknaus.

3 JUDGE ANDERL: For GTE.

4 MR. POTTER: Richard Potter.

5 JUDGE ANDERL: For MCI.

6 MS. WEISKE: Sue Weiske. And I'm also
7 appearing for MCI Metro.

8 JUDGE ANDERL: For Sprint.

9 MS. LEHTONEN: Lesla Lehtonen.

10 JUDGE ANDERL: Thank you. For Tenino
11 Telephone Company and Kalama Telephone Company.

12 MR. SNYDER: Robert S. Snyder.

13 JUDGE ANDERL: For Electric Lightwave.

14 MR. BUTLER: Arthur A. Butler.

15 JUDGE ANDERL: For PTI Communication.

16 MR. FINNIGAN: I'm also appearing for PTI
17 today, Richard Finnigan.

18 JUDGE ANDERL: For United Telephone.

19 MR. LUBIN: Seth M. Lubin.

20 JUDGE ANDERL: For Tracer.

21 MR. KENNEDY: Stephen J. Kennedy.

22 JUDGE ANDERL: For the Department of
23 Defense Federal Executive Agencies, Mr. Robert Ganton
24 is the attorney of record. He advised me by telephone
25 he would not be able to attend the hearing today.

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1 And for MFS Intelenet.

2 MR. KALLENBACH: Charles H.N. Kallenbach.

3 JUDGE ANDERL: Okay. Did I leave anyone
4 out? Okay. One of the things that we are here to
5 talk about today is an issues list in the prehearing
6 conference order in this matter. I stated the parties
7 agreed to have started work on an issues list by the
8 time of this prehearing conference and that by this
9 time the parties might also have a better idea about
10 whether they could combine their presentations on
11 direct or cross in order to facilitate the prompt and
12 orderly conduct of the hearings.

13 Those were two of the things that I hope we
14 can talk about, and anything else I would like to take
15 some input from the parties as to what we hope to
16 accomplish today. Let's go ahead and discuss that off
17 the record and then we'll come back on the record and
18 describe what we've done. Is there anything else we
19 need to cover on the record right now? Okay. Let's
20 take a recess then.

21 (Discussion off the record.)

22 JUDGE ANDERL: Let's be back on the record.
23 While we were off the record we had quite an extensive
24 discussion about a number of items. I'll try to
25 summarize as best I can what's been discussed and

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1 decided today so far, and I'll let counsel add
2 anything.

3 We did talk about the issues lists. We
4 have five of them right now, TCG's, US WEST's, IAC's,
5 Commission staff's, and a combined issue list from ELI
6 and Tracer. I have asked the parties to continue to
7 work together for the balance of this afternoon as
8 necessary to come up with one issues list that they
9 can submit to the Commission, agreeing that the issues
10 contained in that list are the, in their mind, bare
11 bones issues that need to be addressed in this
12 proceeding, recognizing that listing -- that omitting
13 an issue from the list does not preclude a party from
14 raising it or arguing it, to the extent that they feel
15 it is an issue that for whatever reason the parties
16 would not agree to put on the list.

17 There was some discussion about the
18 Commission or I taking the issues lists and doing that
19 for the parties and setting forth a list of some 15 or
20 20 issues in a prehearing conference order to provide
21 the parties with guidance, but in terms of the volume
22 of the material that's been submitted and the time
23 constraints, particularly with regard to the prefiling
24 deadlines for the next round of testimony, I frankly
25 just don't think it's possible and feel that the

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1 parties will probably have more success with coming up
2 with something than I would.

3 There was some discussion about a -- two
4 additional complaints that have been filed, one in
5 which TCG filed a complaint against GTE and GTE then
6 brought US WEST in as a third-party respondent. I
7 believe that complaint has been given a docket number.
8 Mr. Waggoner, what is that docket number?

9 MR. WAGGONER: UT-950146.

10 JUDGE ANDERL: 950146. And that complaint,
11 of course, concerns GTE's proposed interconnection
12 arrangements, is that correct, Mr. Potter?

13 MR. POTTER: Yes.

14 JUDGE ANDERL: All right. And there was a
15 similar complaint then filed by ELI against GTE. My
16 understanding from Mr. Butler is that that was filed
17 yesterday and that does not have a docket number yet.
18 The parties to those complaints have stipulated and
19 agreed that they should be consolidated with the
20 dockets that we're convened in today, and I will, upon
21 receipt of an appropriate docket number for the ELI
22 case and the signed stipulations, include in my second
23 order on prehearing conference an order that those
24 dockets will be consolidated with these two already
25 consolidated dockets.

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1 It's my understanding that TCG is not going
2 to file any additional prefiled testimony in this next
3 upcoming round on April 6. Is that right, Mr.
4 Waggoner?

5 MR. WAGGONER: That is correct.

6 JUDGE ANDERL: And ELI is already scheduled
7 to file something, and so I assume -- well, is that
8 right, Mr. Butler?

9 MR. BUTLER: Yes.

10 JUDGE ANDERL: Okay. And, Mr. Potter, then
11 GTE will be in this upcoming round of prefiled
12 testimony responding to those complaints, is that
13 correct?

14 MR. POTTER: Yes. We'll file testimony
15 that addresses our own complaints and then probably
16 some issues in the ones you're convened in today as
17 well.

18 JUDGE ANDERL: Thank you. My intent is in
19 the next order on prehearing conference to rule that
20 any party who intervened in these two dockets in which
21 we're convened today will be considered as an
22 intervenor with party status in the newly consolidated
23 four-docket proceeding. If anybody feels strongly
24 enough about that to want to argue it on the record
25 today, I'll let them do so, otherwise there's a ten-

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1 day period in which to contest that ruling from the
2 prehearing conference order.

3 And I will also state in that prehearing
4 conference order that the protective order originally
5 issued in these two consolidated dockets is going to
6 cover the newly consolidated four docket numbers.

7 Ms. Weiske raised an issue about US WEST's
8 response to data requests, particularly with regard to
9 cost studies. US WEST has agreed to provide copies of
10 cost studies in response to data requests, and to the
11 extent that one party or consolidated group of parties
12 requests a cost study, that study will be provided to
13 all parties. With regard to the backup information
14 for those cost studies, US WEST has committed to have
15 that information available -- well, let's say to the
16 extent that it's a response to a data request, US WEST
17 will have the information available for inspection and
18 copying in Seattle, Denver, and was it Washington,
19 D.C., Mr. Shaw?

20 MR. SHAW: Yes.

21 JUDGE ANDERL: Okay. That pretty much
22 summarizes the notes of the high points that I wrote.

23 Oh, there was also an issue raised by Mr.
24 Butler about parties who have signed the agreements on
25 the protective orders and the possible issue being

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1 raised as to when those experts are also employees of
2 the party. I don't think anything was necessarily
3 decided off the record, it was just raised as an
4 issue. If it needs to be brought up for formal
5 decision if there is an actual dispute, we can do
6 that.

7 But is there anything else that we talked
8 about off the record that should be memorialized?
9 Mr. Smith?

10 MR. SMITH: Yes, your Honor, the complaint
11 statute requires the Commission to serve the complaint
12 on the respondent. My understanding from our
13 discussions off the record is that Mr. Potter was
14 waiving that requirement of service by the Commission
15 and won't be filing an answer in the ELI complaint.

16 MR. POTTER: We have a copy of the ELI
17 complaint, so there's no need for the Commission to
18 serve it on us. We do not intend to file an answer.

19 JUDGE ANDERL: Okay. Thank you. Anything
20 else? Mr. Finnigan?

21 MR. FINNIGAN: Just a minor item. While
22 we're consolidating these two items and I can imagine
23 what the pleadings say, we haven't seen the pleadings,
24 and to the extent the pleadings might have a surprise
25 in them, I would like the opportunity to see the

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1 pleadings, but to hurry this on, you know, to speed
2 this along, I have no objection unless there's an
3 issue in there that doesn't seem to be within the
4 frame of the proceeding.

5 JUDGE ANDERL: Okay. No objection then to
6 the consolidation itself.

7 MR. FINNIGAN: Subject to being able to see
8 the pleadings.

9 JUDGE ANDERL: Right. Anyone else have
10 anything they want on the record?

11 MR. SNYDER: I suppose I should simply
12 preserve the same caveat there.

13 JUDGE ANDERL: Okay, Mr. Snyder.
14 What seems realistic to the parties in
15 terms of a single issues list to be submitted to the
16 Commission?

17 MR. WAGGONER: Are we off the record now?

18 JUDGE ANDERL: No. We can go off the
19 record if you think we need some informal discussion.
20 Let's do that.

21 (Discussion off the record.)

22 JUDGE ANDERL: Let's be back on the record.
23 While we were off the record we did discuss the issues
24 list a little bit more and the parties -- or Mr.
25 Potter suggested and the other parties agreed, that

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1 perhaps a topics list would be most useful, given the
2 differences amongst the parties, particularly
3 differences in terms of phraseology, not necessarily
4 of the issues themselves, but in how they are stated.
5 And so it is my understanding that the parties are now
6 going to work on a topics list, which if they are able
7 to come to an agreement on one, they will submit to
8 the Commission on Monday and a facsimile transmission
9 will be acceptable on that.

10 Is there anything else we need to talk
11 about? Have any alliances in terms of consolidating
12 for discovery or presentation changed or formed since
13 the last proceeding that we need to talk about? Okay.
14 I don't hear anything.

15 MR. MUTSCHELKNAUS: I will state for the
16 record just that there was some confusion in the last
17 prehearing conference order as to whether the IAC and
18 other interexchange carriers will be able to cooperate
19 in producing discovery. We have done that. We have
20 consolidated our requests and produced them together.
21 I do not think there's any prospect of presenting a
22 joint case, but we can certainly move forward together
23 in discovery, at least at this stage.

24 JUDGE ANDERL: Okay. Mr. Shaw, just out of
25 curiosity, do you think you got fewer discovery

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1 requests?

2 MR. SHAW: Yes. It was helpful. We've got
3 an awful lot, but we probably would have got a lot
4 more.

5 JUDGE ANDERL: Okay. Well, good. All
6 right. If there's nothing else to come before us
7 then, the previous schedule established has not been
8 changed, and I will therefore see you all the last
9 two weeks in June. We'll stand in recess.

10 (Adjourned at 3:24 p.m.)

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