

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of the Review of)
Unbundled Loop and Switching) DOCKET NO. UT-023003
4 Rates and Review of the) Volume V
Deaveraged Zone Rate Structure.) Pages 253 - 266
5 -----

6 A prehearing conference in the above matter
7 was held on July 10, 2003, at 9:30 a.m., at 1300 South
8 Evergreen Park Drive Southwest, Olympia, Washington,
9 before Administrative Law Judge THEODORA MACE,

10

11 The parties were present as follows:

12 THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by MARY M. TENNYSON, Senior Assistant
13 Attorney General, 1400 South Evergreen Park Drive
Southwest, Post Office Box 40128, Olympia, Washington
14 98504; telephone, (360) 664-1220

15 VERIZON NORTHWEST, INC., by WILLIAM R.
RICHARDSON, JR., Attorney at Law, Wilmer, Cutler &
16 Pickering, 2445 M Street Northwest, Washington, D.C.,
20037; telephone, (202) 663-6038.

17 QWEST CORPORATION, INC., by LISA A. ANDERL,
18 Corporate Counsel, 1600 Seventh Avenue, Room 3206,
Seattle, Washington 98191; telephone, (206) 345-1574.

19 MCI/WORLDCOM, by MICHELLE SINGER-NELSON (via
20 bridge line), Senior Attorney, 707 17th Street, Suite
4200, Denver, Colorado 80202; telephone, (303)
21 390-6106.

22 AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST,
INC., PAC WEST, and XO WASHINGTON, INC., by MARY
23 STEELE, Attorney at Law, Davis Wright Tremaine, LLP,
1501 Fourth Avenue, Suite 2600, Seattle, Washington
24 98101; telephone, (206) 628-7692.
Kathryn T. Wilson, CCR
25 Court Reporter

0254

1 ESCHELON TELECOM, INC., by DENNIS D. AHLERS
2 (via bridge line), Senior Attorney, 730 Second Avenue
3 South, Suite 1200, Minneapolis, Minnesota 55402;
4 telephone, (612) 436-6249.

5
6 COVAD COMMUNICATIONS COMPANY, by HARRY
7 PLISKIN (via bridge line), Attorney at Law, 7901 Lowry
8 Boulevard, Denver, Colorado 80230; telephone, (720)
9 208-1014.

10
11 WeBTEC, by ARTHUR A. BUTLER (via bridge
12 line), Attorney at Law, Ater Wynne, LLP, 601 Union
13 Street, Suite 5450, Seattle, Washington 98101;
14 telephone, (206) 623-4711.

15
16
17
18
19
20
21
22
23
24
25

0255

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

2 JUDGE MACE: Let's be on the record in the
3 matter of the review of unbundled loop and switching
4 rates and review of the deaveraged zone rate structure.
5 The docket number is UT-023003. The date today is July
6 10th, 2003. We are convened at the offices of the
7 Washington Utilities and Transportation Commission in
8 Olympia, Washington. My name is Theodora Mace. I'm
9 the administrative law judge who will preside at the
10 hearing today.

11 I would like to have the oral appearances of
12 counsel now in short form, and I will take first the
13 appearances of counsel who are here in the hearing
14 room, and then I will turn to those counsel appearing
15 via the conference bridge.

16 MR. RICHARDSON: William Richardson with the
17 law firm of Wilmer, Cutler and Pickering. I represent
18 Verizon Northwest, Inc.

19 MS. ANDERL: Lisa Anderl representing Qwest
20 Corporation.

21 MS. TENNYSON: Mary Tennyson, senior
22 assistant attorney general, representing Commission
23 staff.

24 JUDGE MACE: Are there any parties on the
25 conference bridge at this point? That's pretty

0256

1 open-ended. Let me ask this question. Mr. Kopta?
2 Mr. Butler? Mr. Harlow? Is the bridge on? Is there
3 anyone for AT&T on the conference bridge?

4 MS. STEELE: Yes. This is Mary Steele of
5 Davis, Wright, Tremaine also representing XO and Pac
6 West.

7 JUDGE MACE: Anyone for WebTEC?

8 MR. BUTLER: Yes. This is Art Butler.

9 JUDGE MACE: Anyone for Covad Communications?

10 MR. PLISKIN: Yes. Harry Pliskin.

11 JUDGE MACE: Could you spell your last name,
12 please?

13 MR. PLISKIN: P-l-i-s-k-i-n.

14 JUDGE MACE: Anyone for MCI?

15 MS. SINGER-NELSON: Yes. Michelle
16 Singer-Nelson.

17 JUDGE MACE: Anyone for Eschelon?

18 MR. AHLERS: Dennis Ahlers.

19 JUDGE MACE: Anyone for Allegiance Telecom?
20 Anyone for Public Counsel? Staff is already
21 represented. Are there any other appearances from the
22 conference bridge? Thank you.

23 We have a fairly limited agenda for today's
24 hearing. One item is to deal with the motion to file
25 exhibits that Verizon filed. I received a copy of that

0257

1 motion on July 2nd. I sent out a notice to the parties
2 asking for responses by July 8th. I received no
3 responses from the parties, and on that basis, I would
4 grant the motion at this time.

5 Is there anyone who wishes to address
6 Verizon's motion to file exhibits? Hearing no
7 response, then I will grant the motion, and let's turn
8 next to the question of the joint request for
9 continuance of the nonrecurring costs portion of this
10 case. That portion of the case is scheduled to be
11 heard in January of 2004, and I received within the
12 last two weeks a joint request for continuance. Have
13 the parties discussed a possible alternative schedule?

14 MS. ANDERL: Your Honor, may I be heard on
15 that?

16 JUDGE MACE: Certainly.

17 MS. ANDERL: We haven't discussed it in any
18 detail amongst all the parties, but I have chatted
19 informally with some of the parties, and I did have a
20 proposal to make to at least kick off the discussion.

21 JUDGE MACE: None of the parties on the
22 bridge would be aware of this proposal; is that right?

23 MS. ANDERL: I can't remember if I discussed
24 it with Ms. Singer-Nelson informally or not when we
25 were still formulating the joint request.

0258

1 MS. SINGER-NELSON: Not really.

2 JUDGE MACE: Why don't you tell us what that
3 schedule is.

4 MS. ANDERL: What I would propose is that we
5 file the direct evidence now scheduled for August 7th
6 on or about December 7th, assuming that's a weekday,
7 and actually, I think it's not, so we would have to go
8 with December 6th.

9 JUDGE MACE: It's actually Sunday.

10 MS. ANDERL: 5th or 6th, and that would be
11 the full four-month continuance that was mentioned in
12 the letter where the parties made the request for the
13 two- to four-month continuance, and then we could
14 trigger subsequent filing dates off of that December
15 filing at the same intervals that are currently
16 established.

17 And concurrent with that, I would like to
18 propose something I know I did discuss with the
19 parties. I don't think everyone agreed to it at the
20 time, but I would kind of toss it out there again and
21 see what parties think about it. At this point, if we
22 do file testimony on, say, December 4th or 5th, we
23 should consider moving the currently scheduled
24 recurring cost hearing from December until the now
25 available January hearing dates, since the nonrecurring

0259

1 hearings won't happen in January of '04, and the reason
2 for that is twofold.

3 One is just from, I think, many people's
4 personal standpoint, hearings the second two weeks of
5 December are not ideal. The other standpoint
6 professionally is if you are preparing nonrecurring
7 testimony and cost studies and time and motion studies
8 for filing in December while simultaneously trying to
9 prepare for hearings and cross-examination on an
10 entirely different set of issues, the recurring costs,
11 it makes it more difficult, and since the hearing dates
12 are now available in January, I thought that might
13 work.

14 JUDGE MACE: The one problem that I perceive
15 with that is that to the extent there has been
16 discussion in the Commission generally about
17 continuance of the recurring cost portion, and that was
18 set for hearing in January, I would have to make sure
19 that those dates are still available, actually, the
20 dates in January. Aside from the fact that the
21 commissioners need to address this issue and can't
22 change the schedule unless we do that, that might be an
23 additional problem.

24 So have you worked out actual dates, for
25 example, for responsive filing and rebuttal filing and

0260

1 hearing on the nonrecurring cost portion? You
2 indicated you would only have proportional periods of
3 time between the direct response rebuttal that would
4 correspond to what's currently in effect, but it would
5 be helpful if we could have some actual dates to work
6 with.

7 MS. ANDERL: Let's make the filing in
8 December on December 5th, which is a Friday, and that
9 would put response or rebuttal testimony either on
10 January 30th or February 6th, depending on whether you
11 wanted eight weeks or nine.

12 MS. TENNYSON: January? We had from
13 August 7th through October 2.

14 MS. ANDERL: That was eight weeks.

15 MS. TENNYSON: So December to January is not
16 eight weeks.

17 MS. ANDERL: To the 30th of January, it
18 actually is, but I'm happy to say February 6th. That
19 makes it sound more evenly spaced, and then I think we
20 had six weeks after that, so March 19th, and then we
21 had like seven weeks before the hearings, but part of
22 that, I think that big space was to accommodate the
23 fact that the recurring hearings were taking up most of
24 December, so from March 19th, you could probably do
25 hearings the third or fourth week in April.

0261

1 JUDGE MACE: The problem with that is that
2 the Commission is in hearing from the 19th to the 28th
3 of April in the Verizon generally available terms case,
4 so it would probably move into May.

5 MS. ANDERL: I wouldn't know what to do if my
6 May didn't have three weeks of hearings in it. It
7 always has.

8 JUDGE MACE: So let's say May 3rd.

9 MS. ANDERL: Let's say the 10th, because if
10 they've been on the Bench for two weeks.

11 JUDGE MACE: So May 10th to the 28th or
12 thereabouts. Are the parties still thinking they are
13 going to need three weeks for the presentation of that
14 nonrecurring cost portion? The reason we talked about
15 three weeks was because there may not be two full weeks
16 of hearings when the commissioners preside. There are
17 open meetings that would interfere with part of the
18 hearing schedule, and sometimes, the commissioners are
19 simply unavailable for periods of time.

20 MS. ANDERL: It's hard for me to envision we
21 would need three weeks. I think seven or eight
22 business days would be enough, which is normally what
23 you get out of a two-week chunk of time, but that's
24 just based on my prior experience in these dockets, and
25 there will be new issues this time around, so that's

0262

1 just my best guess.

2 MS. TENNYSON: In terms of that timing, those
3 of us involved in the Verizon terms and conditions
4 case, I'm wondering, would we then have briefing going
5 on at the same time as the hearings? MCI is involved
6 in that. I'm handling that part of the case for the
7 Commission.

8 JUDGE MACE: Let me suggest this. Perhaps it
9 would be beneficial for me to allow the parties who are
10 on the bridge to discuss with you all who are here in
11 the hearing room this proposed schedule and see if it's
12 acceptable and what other adjustments to it might need
13 to be made in order to accommodate the different
14 interests of the parties.

15 Again, I can't guarantee this would be the
16 schedule. I would have to discuss this with the
17 commissioners since they are presiding, but it would be
18 helpful to have an idea of what would be a good
19 schedule for the parties. Is there anything else that
20 we need to address before I adjourn to allow you to
21 discuss scheduling? If not, then I'll come back in
22 about 15 minutes, and hopefully, that will be enough
23 time. If not, I will let you have a little bit more.
24 We are off the record at this point.

25 (Discussion off the record.)

0263

1 JUDGE MACE: Let's be back on the record in
2 UT-023003. The parties have spent some time discussing
3 an alternative schedule for the recurring cost portion
4 of this case, and they've come up with two
5 alternatives. One is called Plan A, and it would
6 require the same December hearing dates as are
7 currently in effect for the recurring cost portion.
8 The nonrecurring cost portion dates would change. The
9 direct filing date for that portion would be January
10 23rd. Responses would be due on March 26th and
11 rebuttal on May 7th of 2004, and hearings would
12 commence on May 24th.

13 My understanding from Qwest is that Qwest
14 thinks that seven or eight business days would be
15 enough to accomplish the nonrecurring cost phase of the
16 hearing. Are there parties who feel it would take
17 longer than that to finish that segment of the hearing?

18 MS. TENNYSON: For the nonrecurring costs?

19 JUDGE MACE: For the nonrecurring costs. I
20 thought that I heard Qwest say that seven or eight
21 business days might be sufficient.

22 MS. ANDERL: I think I did say that without
23 any knowledge about what people could be filing other
24 than some knowledge about our own direct case, but
25 based on past experience...

0264

1 MR. RICHARDSON: I think I would agree.

2 JUDGE MACE: Anyone on the conference bridge
3 have any comments on that time frame? Thank you.

4 The second alternative the parties have is
5 called Plan B, and in Plan B, the recurring cost
6 evidentiary hearing would move to the dates we have
7 currently scheduled for the nonrecurring cost portion
8 of the case. Those dates are in January of 2004. The
9 case is currently scheduled to be heard January 5th
10 through the 23rd. The parties have asked that the
11 recurring cost case, if it moves to January, would be
12 heard beginning on January 6th. The nonrecurring cost
13 filing date would then become December 5th for direct
14 testimony. The responsive testimony would be due
15 January 30th; rebuttal, March 19th, and hearings
16 commencing on May 15th. The December 5th date is in
17 2003, and the rest of the dates are in 2004.

18 What I need to do is, number one, I need to
19 hear from AT&T and MCI about the availability of their
20 witnesses for the Plan B change to the recurring cost
21 schedule, and I would like to hear from them by e-mail
22 by close of business tomorrow, and then I need to check
23 with the commissioners to make sure that -- well, just
24 to address the question of a change of schedule.

25 MR. RICHARDSON: Verizon would need to check

0265

1 too, Your Honor.

2 JUDGE MACE: Whatever party needs to check
3 with regard to availability of witnesses, please advise
4 me one way or the other by e-mail tomorrow, by the
5 close of business tomorrow. Is there anything else
6 that we need to address at this point?

7 MS. ANDERL: Your Honor, I had a
8 recommendation just from an administrative standpoint.
9 With as separated as these dockets are now becoming, I
10 was going to recommend that the nonrecurring part of
11 this proceeding might benefit from having a separate
12 docket number. Just administratively, it might be
13 easier to track documents and supplemental orders in
14 terms of what issues are being addressed.

15 JUDGE MACE: I'll take that under advisement.
16 I wanted to add with respect to the discussion about
17 scheduling, Staff has indicated it would prefer Plan A
18 but that its witnesses would be available under either
19 plan or schedule. MCI also expressed a preference for
20 Plan A, and as Qwest indicated, I will address the
21 question of whether or not there will be a separate
22 docket number for the nonrecurring cost portion in the
23 order that results from this hearing.

24 MS. TENNYSON: Your Honor, in terms of the
25 Plan B hearings, I as counsel for staff have a

0266

1 potential issue with that because the hearings start
2 May 10th, and I have a daughter graduating college in
3 Minnesota on the 16th of May so that I would be
4 traveling a weekend away from the -- I might be looking
5 for a hearing to start in the afternoon if we continued
6 into the second week on May 17th just to accommodate
7 travel.

8 JUDGE MACE: My sense is we will make every
9 effort to accommodate your scheduling needs.

10 MS. TENNYSON: In the alternative, I could
11 have another attorney work with me on the case and
12 handle that.

13 JUDGE MACE: Does anyone wish to raise any
14 other issue regarding scheduling or anything else
15 regarding this case? If not, then we are adjourned,
16 and I hope to hear from the parties about the witness
17 availability forthwith. Thank you.

18 (Prehearing conference adjourned at 10:20 a.m.)

19

20

21

22

23

24

25