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BEFORE THE WASHINGTON UTILITIES AND

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TRANSPORTATION COMMISSION

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4 In the Matter of the Petition) Docket No. UT-000883
of) Volume II

5) Pages 16-35

6 US WEST COMMUNICATIONS, INC.)

7 for Competitive Classification)

8 of Business Services in 31)

9 Specified Wire Centers.)

10 _____)

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13 A hearing in the above matter was

14 held on July 28, 2000, at 9:34 a.m., at 1300

15 Evergreen Park Drive Southwest, Olympia, Washington,

16 before Administrative Law Judge KAREN CAILLE.

17 The parties were present as

18 follows:

19 QWEST, by Peter Butler, Attorney

20 at Law, 1600 Seventh Avenue, Room 3206, Seattle,

21 Washington 98191.

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27 Barbara L. Nelson, CSR

28 Court Reporter

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1 NEXTLINK WASHINGTON, INC.,
2 ELECTRIC LIGHTWAVE, INC., McLEOD USA
3 TELECOMMUNICATIONS SERVICES, INC., FOCAL
4 COMMUNICATIONS CORP., GLOBAL CROSSING TELEMAGEMENT,
5 GLOBAL CROSSING LOCAL SERVICES, INC., AT&T
6 COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC., TCG
7 SEATTLE, and TCG OREGON, by Gregory J. Kopta,
8 Attorney at Law, Davis, Wright, Tremaine, LLP, 2600
9 Century Square, 1501 Fourth Avenue, Seattle,
10 Washington, 98101 (Via Teleconference Bridge.)

11
12 TRACER, by Arthur A. Butler,
13 Attorney at Law, Ater Wynne, 601 Union Street, Suite
14 5450, Seattle, Washington 98101 (Via Teleconference
15 Bridge.)

16
17 THE COMMISSION, by Sally G.
18 Johnston, Assistant Attorney General, 1400 Evergreen
19 Park Drive, S.W., P.O. Box 40128, Olympia, Washington
20 98504-0128.

21
22 PUBLIC COUNSEL, by Robert W.
23 Cromwell, Jr., Assistant Attorney General, 900 Fourth
24 Avenue, Suite 2000, Seattle, Washington 98164.
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1 METRONET and ATG, by Terry Berman,
2 Attorney at Law, Miller Nash, 601 Union Street, Suite
3 4400, Seattle, Washington, 98101 (Via Teleconference
4 Bridge.)

5
6 ESCHELEN TELECOM OF WASHINGTON, by
7 Dennis Ahlers, Attorney at Law, 730 Second Avenue,
8 Suite 1200, Minneapolis, Minnesota 55402 (Via
9 Teleconference Bridge.)

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1 JUDGE CAILLE: Let's go on the record. We
2 are here today for a continuation of a pre-hearing
3 conference in the proceeding captioned In the matter
4 of the petition of US West Communications, Inc. for
5 competitive classification of business service in
6 specified wire centers. And this is designated
7 Docket Number UT-000883.

8 My name is Karen Caille, and I am the
9 presiding Administrative Law Judge assigned to this
10 case. The Commissioners will be sitting with us, but
11 they won't be joining us today. Today is July the
12 28th, 2000, and we are convened in a hearing room in
13 the Commission's offices in Olympia, Washington.
14 This proceeding is being held to determine whether
15 business services are subject to effective
16 competition in certain wire centers specified by US
17 West.

18 As I stated earlier, this pre-hearing
19 conference is a continuation of the pre-hearing
20 conference held last Friday. We discovered at the
21 11th hour that certain of the telecom companies and
22 interested persons who were not served with the
23 notice of pre-hearing conference, that a new notice
24 of pre-hearing conference was sent out last Friday
25 for today's conference and included those folks who

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1 did not get notice the first time.

2 Because we became aware of the oversight so
3 late, we did not have time to cancel last week's
4 pre-hearing conference, so the Commission addressed
5 some procedural matters last week with the
6 understanding that no party would be prejudiced or
7 any future petitioner for intervention would be
8 prejudiced.

9 So following the taking of appearances and
10 consideration of any other petitions to intervene, I
11 will outline the procedural proposals that we
12 discussed last week and ask for comment from those of
13 you who were not here last week.

14 So let's begin with the appearances. And
15 those of you who were here last week and entered
16 appearances, if you'll just state your name and who
17 you represent. The rest of you, would you please
18 give me your telephone -- well, your address,
19 telephone number, fax number and e-mail address. Why
20 don't we begin with the company.

21 MR. PETER BUTLER: Good morning, Your
22 Honor. Peter Butler, on behalf of the Petitioner,
23 Qwest Corporation, formerly known as US West
24 Communications, Inc. I'm appearing as a substitute
25 for Lisa Anderl, who was not available to be here. I

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1 don't know if you want me to go through all my own
2 personal information, because I do believe that Lisa
3 Anderl probably will be handling this docket.

4 JUDGE CAILLE: All right, thank you. It's
5 not necessary. Staff.

6 MS. JOHNSTON: Sally G. Johnston, Assistant
7 Attorney General, appearing on behalf of Commission
8 Staff.

9 MR. CROMWELL: Robert Cromwell, on behalf
10 of Public Counsel.

11 JUDGE CAILLE: And on the bridge line?

12 MR. KOPTA: Greg Kopta, of the Law Office
13 of Davis, Wright, Tremaine, on behalf of AT&T,
14 Nextlink, ELI, Focal, McLeod USA, and Global
15 Crossing.

16 MR. ARTHUR BUTLER: Arthur A. Butler, from
17 the Law Firm of Ater Wynne, on behalf of Tracer.

18 MS. BERMAN: Terry Berman, of the Law Firm
19 Miller Nash. And I'm here on behalf of Advanced
20 TelCom Group and MetroNet Services Corporation.

21 JUDGE CAILLE: All right. Correct me if
22 I'm not, but everybody who was here last week is here
23 -- there aren't any other new people; is that
24 correct?

25 MS. JOHNSTON: I believe that's correct.

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1 JUDGE CAILLE: Well, I don't know that I
2 need to -- well, let me just, for the record, go
3 through this.

4 As I stated earlier, I would go through
5 what we accomplished last week, but now that I'm
6 thinking of it, if all the same people are here, it
7 doesn't seem like we should take that time.

8 There are a couple matters, though, that I
9 do want to address.

10 MR. AHLERS: Hello?

11 JUDGE CAILLE: We did not -- yes, is there
12 somebody new on the bridge line?

13 MR. AHLERS: Yes, I'm sorry. I apparently
14 called the wrong number, so I just got in late.

15 JUDGE CAILLE: All right. And would you
16 please state your name for the record?

17 MR. AHLERS: Yes, this is Dennis Ahlers,
18 and I'm with Eschelon Telecom.

19 JUDGE CAILLE: What was the name of the
20 telecom company again?

21 MR. AHLERS: It's Eschelon,
22 E-s-c-h-e-l-o-n, Telecom of Washington.

23 MS. JOHNSTON: Would you please spell your
24 last name for the record?

25 MR. AHLERS: Sure. It's A-h-l-e-r-s.

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1 JUDGE CAILLE: All right, then.
2 MS. JOHNSTON: Well, Your Honor, would it
3 be helpful to get his address and --
4 JUDGE CAILLE: Yes, Mr. -- is it Ahlers?
5 MR. AHLERS: Yes.
6 JUDGE CAILLE: Mr. Ahlers, would you please
7 give your address, telephone number, fax number, and
8 e-mail address?
9 MR. AHLERS: Oh, sure. My address is 730
10 Second Avenue South, Suite 1200, Minneapolis,
11 Minnesota 55402. Phone number is 612-436-6249, and
12 the fax number is 612-436-6349. E-mail address is
13 ddahlers@eschelon.com.
14 JUDGE CAILLE: I'm sorry, was that dd?
15 MR. AHLERS: Yes, D, as in dog, twice.
16 JUDGE CAILLE: Thank you. Could you spell
17 Eschelon for the record, please?
18 MR. AHLERS: Sure, it's E-s-c-h-e-l-o-n.
19 JUDGE CAILLE: All right. Did you just
20 join us, Mr. Ahlers?
21 MR. AHLERS: Yes.
22 JUDGE CAILLE: All right. Let me just
23 paraphrase what we've done so far. This pre-hearing
24 conference actually began last week, and we
25 discovered that we hadn't noticed a group of people

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1 that we intended to notice, so we renoticed it for
2 today. But since it was so late, I didn't have a
3 chance to cancel that, and the parties were already
4 here, so we tried to cover as much of the procedural
5 stuff we needed to do, with the understanding that
6 there would be no prejudice to any of the parties or
7 future petitioners to intervene.

8 So what I'm going to do is go over what we
9 covered last week and just ask for your comments and
10 any further discussion from any of the parties who
11 are here in the hearing room. When you do speak,
12 because there are other folks on the bridge line,
13 too, will you please identify yourself before
14 speaking so the parties in the hearing room and the
15 court reporter know who is talking? I assume you are
16 -- are you going to petition to intervene?

17 MR. AHLERS: Yes.

18 JUDGE CAILLE: All right. Why don't I
19 entertain that motion right now and give the parties
20 a chance to comment, and then I'll rule on your
21 motion.

22 MR. AHLERS: Do you want me to address
23 that?

24 JUDGE CAILLE: Yes.

25 MR. AHLERS: Okay. Yes, Eschelon is a CLEC

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1 that is certified in Washington and operating in
2 Washington, and we do operate in the areas served by
3 US West, or now Qwest. And we did respond to the
4 Commission's request for information about our
5 provision of our service in those areas that are the
6 subject of this hearing. We think we have a
7 substantial interest, given that we are a competitor
8 and in the area, and we would request intervention on
9 that basis.

10 JUDGE CAILLE: All right. Is there any
11 objection to my granting this petition to intervene?
12 Hearing none, then the petition to intervene by
13 Eschelon is hereby granted.

14 All right. Just to bring you up-to-date,
15 Mr. Ahlers, in addition to your petition to
16 intervene, which I just granted, the following
17 petitions to intervene were granted without objection
18 last week: AT&T Communications of the Pacific
19 Northwest, TCG Seattle, TCG Oregon, WorldCom,
20 Advanced TelCom Group, Washington Association of
21 Internet Service Providers, MetroNet Services
22 Corporation, Tracer, Nextlink, Electric Lightwave,
23 McLeod USA, Focal, Global Crossing Telemanagement,
24 and Global Crossing Local Services. Did I miss
25 anyone? Okay. I think I got them all.

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1 The next thing we talked about was
2 discovery, and the discovery rule, which is WAC
3 480-09-480, was invoked, and discovery may begin
4 right away.

5 One thing we did not discuss last week, and
6 I would like to throw this out to the parties, is
7 whether we need to establish a cutoff date for
8 discovery.

9 MR. CROMWELL: Your Honor, Robert Cromwell,
10 for Public Counsel. I would be concerned about a
11 hard cutoff, just because we're on such an
12 accelerated schedule in this case. If we're going to
13 be approaching the schedule that was under discussion
14 last week and if the Commission was looking at
15 implementing that schedule, we would be looking at
16 hearings at the end of October. With everyone's
17 various personal plans that likely occur in August,
18 vacations and such, the likelihood of getting sort of
19 late discovery on this is probably -- if the company
20 would be concerned about having to try to respond
21 during the actual time of the hearings, I would
22 certainly understand that. We could create a
23 blackout window or something of that nature if that
24 was a concern. I don't know if the company has those
25 concerns.

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1 MR. PETER BUTLER: My only concern, Your
2 Honor -- again, this is Peter Butler, on behalf of
3 Qwest, is to make sure that discovery ends prior to
4 the hearing beginning with enough time for all the
5 parties to digest what has actually been discovered.
6 So I would suggest that all discovery to be completed
7 by a week prior to the commencement of the hearings.

8 MR. CROMWELL: Well, let me find a
9 calendar, Your Honor. Hold on a sec. If we're
10 looking at the standard 10-day, what does that take
11 us to? So the week before the hearing would be the
12 17th, and then 10 days before that would take us back
13 to October 6th. That essentially gives us August and
14 September to do discovery, which is fairly tight. I
15 guess I would just raise that concern to the
16 Commission.

17 JUDGE CAILLE: The reason why I brought
18 this up is because there have been times when we've
19 had problems because we hadn't established a cutoff
20 date. So if we could come to a compromise here. Is
21 there anyone on the bridge line that wants to be
22 heard on this matter? Okay.

23 MS. JOHNSTON: Well, Your Honor, I would
24 just suggest -- this is Sally Johnston, for
25 Commission Staff.

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1 JUDGE CAILLE: Ms. Johnston, could you pull
2 the microphone. Thank you.

3 MS. JOHNSTON: Perhaps we could just agree
4 to revisit this issue later, if necessary. If we
5 need to impose a shortened or abbreviated turnaround
6 time for Respondent's data request, we can make that
7 later or petition you for such an order.

8 JUDGE CAILLE: Is that acceptable to US
9 West, or Qwest?

10 MR. PETER BUTLER: I'm not sure. I'm not
11 that familiar with the procedures that are used in
12 Washington, but I'm not sure what the vehicle would
13 be to that. But I mean, if we simply want to defer
14 that, I'm fine with that.

15 JUDGE CAILLE: All right. Generally, we do
16 not get involved in the discovery arrangements
17 between the parties unless there's a problem that
18 comes up, and then I ask you to just bring that to me
19 immediately, a phone conference would be fine, so
20 that we can take care of it, especially because of
21 this expedited schedule. All right. Any other
22 matters concerning discovery? All right.

23 Then the next subject that we'd covered was
24 the protective order, and parties requested that the
25 standard protective order be modified and patterned

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1 off the amendment to the protective order in Docket
2 Number UT-990022. In that docket, there was market
3 sensitive data that individual CLECs provided to
4 Commission Staff to aggregate, from which the
5 Commission could determine the status of the market
6 in those areas where US West sought competitive
7 classification.

8 I'm in the process of drafting a protective
9 order that will have a section on highly confidential
10 data and will specifically address the confidential
11 data being submitted by the CLECs. The protective
12 order will also provide that the information already
13 provided by the CLECs in response to the Commission
14 June 22nd, 2000 letter will be treated as highly
15 confidential and available only to Staff.

16 Also related to the protective order, there
17 was a request that the protective order allow a
18 company employee for an intervenor to review the
19 confidential information that US West provides to the
20 Commission for their company only, so the example
21 that was given was that WorldCom would -- WorldCom
22 would like its employee to look at the confidential
23 information that US West submitted on WorldCom only.
24 And I believe -- and I have to check this with the
25 parties -- that we were going to handle this on a

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1 sort of employee-by-employee basis, and the employee
2 would fill out the protective order that I will be
3 sending out, and then US West would either object or
4 not object.

5 MS. JOHNSTON: That's correct, I think.
6 And I think the stated purpose was to enable each
7 responding company to confirm the accuracy of the
8 data provided for itself.

9 JUDGE CAILLE: That is correct. Thank you,
10 Ms. Johnston. Is there any further discussion on the
11 protective order subject?

12 Before we get to the schedule, the other
13 matter we covered was the request by Commission Staff
14 that the Commission enter an order mandating that
15 various CLECs comply with the Commission letter dated
16 June 22nd. That order was served yesterday and
17 responses to the letter are due on August 11th.

18 MS. JOHNSTON: Thank you.

19 JUDGE CAILLE: The schedule that the
20 parties suggested and agreed to is as follows: On
21 August 11th, US West would pre-file direct testimony.
22 September 11th, Staff, Public Counsel and Intervenors
23 would pre-file direct testimony. September 29th, US
24 West would pre-file rebuttal testimony. October 24th
25 through the 29th are hearings for cross of all the

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1 witnesses. November 13th is the date briefs are due.
2 And the statutory deadline for this was December 7th,
3 but US West waived the statutory deadline in order to
4 give us a little more room in the scheduling and in
5 the calendar and stipulated to an extension of that
6 statutory deadline to December the 12th, 2000.

7 MS. JOHNSTON: I thought it was December
8 the 14th.

9 MR. CROMWELL: I had the 14th, Your Honor.

10 JUDGE CAILLE: The 14th, oh. That's right.
11 Seven and seven is 14. Sorry. One other matter that
12 we discussed was the filing format. And I believe it
13 was Mr. Butler who requested whether PDF filings
14 would be acceptable. And I have checked on that, and
15 those will be acceptable.

16 So that covers, I believe, everything that
17 we addressed last week. Mr. Ahlers, since you are
18 the only person who wasn't here last week, is there
19 anything that you would like to be heard on that I
20 have just covered?

21 MR. AHLERS: Hello?

22 JUDGE CAILLE: Yes.

23 MR. AHLERS: Oh, the only thing that I
24 didn't get was the very last thing about the kind of
25 documents.

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1 JUDGE CAILLE: Yes. Normally, we request
2 the documents be filed in a WordPerfect format, and I
3 think we've extended it to Word, as well, but Mr.
4 Butler had asked if it would be all right to consider
5 them in the PDF format.

6 MR. AHLERS: Okay. No, I don't have
7 anything else.

8 MR. ARTHUR BUTLER: Excuse me, Your Honor.
9 This is Art Butler. Just a clarification. Did I
10 understand you to say we could also file documents in
11 Word?

12 JUDGE CAILLE: You know, that's what I have
13 been telling the parties. Now, did you say that your
14 discussion with Judge Wallis was that you can't?

15 MR. ARTHUR BUTLER: Yes, in another matter
16 I asked him that question, and he said that they were
17 not yet able to do the conversion (inaudible.)

18 JUDGE CAILLE: Mr. Butler, the court
19 reporter's having trouble hearing you. Could you
20 repeat what you said and just a little louder?

21 MR. ARTHUR BUTLER: Yes. I discussed the
22 matter with Judge Wallis in another proceeding, and
23 he had indicated that the Commission was not yet
24 equipped to easily convert documents from Word to
25 WordPerfect, and requested that we continue to file

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1 things in WordPerfect only. I don't know whether
2 that's changed. If we can file them in Word, as
3 well, that's an additional level of flexibility that
4 would certainly help.

5 JUDGE CAILLE: All right. I will follow up
6 on that and -- because I do believe I have been
7 telling people they could, and I just better make
8 sure that we're being consistent. I will e-mail
9 folks with the answer to that question about Word.

10 MS. JOHNSTON: Or you could just include
11 that in the order, as well.

12 JUDGE CAILLE: Oh, right, in the
13 pre-hearing conference order.

14 MS. JOHNSTON: It may be simpler.

15 MR. ARTHUR BUTLER: Your Honor, this is Art
16 Butler again. Could you also restate for us the
17 number of copies, hard copies needed to be filed?

18 JUDGE CAILLE: Yes, I will. I have one
19 more thing I'd like to bring up before I sort of do
20 the closing remarks where I go through the number of
21 copies and mailing address, et cetera, and that is
22 issues. I'm not sure if there is a need to discuss
23 issues. It would seem to me that it's pretty
24 straightforward, as set forth in the statute and WAC,
25 but I did want to give the parties an opportunity to

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1 let me know if there are specific issues that they
2 want to address.

3 All right. My closing remarks, then.
4 They're really reminders. I remind you that fact
5 stipulations are encouraged and parties are
6 encouraged to consider alternative dispute resolution
7 and settlement discussions and to resolve their
8 differences prior to hearing. The Commission should
9 be advised of any progress that you make.

10 I will issue a pre-hearing conference order
11 that will include our procedural schedule and other
12 matters. I'll remind you that you must -- anything
13 you file must be directed to the attention of the
14 Commission's Secretary, 1300 South Evergreen Park
15 Drive, S.W., Post Office Box 47250, Olympia,
16 Washington, 98502-7250. You will need to use both
17 the mailing address and the P.O. box and the street
18 address to accommodate the needs of the state mailing
19 system.

20 MS. JOHNSTON: Excuse me.

21 JUDGE CAILLE: And we need an original and
22 14 copies. And I will clarify in the pre-hearing
23 conference order -- we definitely would like things
24 in WordPerfect, if possible, and I will put any other
25 options in the pre-hearing conference order.

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1 MS. JOHNSTON: Your Honor, I believe the
2 correct zip code is 98504, not 98502.

3 JUDGE CAILLE: I'm sorry. That's my zip
4 code. 98504. Thank you. All right. Is there any
5 other business that needs to be addressed today?

6 MR. PETER BUTLER: Judge, Peter Butler, on
7 behalf of Qwest. I just want to clarify that the
8 dates for hearing are the 24th through the 27th? I
9 believe you might have said the 29th.

10 JUDGE CAILLE: I did say the 29th.

11 MR. PETER BUTLER: I don't want to commit
12 Lisa Anderl to coming in on a Saturday and Sunday.

13 JUDGE CAILLE: Yes, it's the 24th through
14 the 27th. All right. Thank you. If there's nothing
15 further, thank you for coming.

16 MS. JOHNSTON: Thank you.

17 JUDGE CAILLE: We're adjourned.

18 (Proceedings adjourned at 10:02 a.m.)

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