

[Service Date September 4, 2002]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

AT&T COMMUNICATIONS OF	)	
THE PACIFIC NORTHWEST, INC.,	)	DOCKET NO. UT-020406
	)	
Complainant,	)	FOURTH SUPPLEMENTAL ORDER
v.	)	
	)	PREHEARING CONFERENCE ORDER
VERIZON NORTHWEST, INC.,	)	REGARDING SCHEDULING
	)	
Respondent.	)	
.....	)	

1 **Proceeding:** On April 3, 2002, AT&T Communications of the Pacific Northwest, Inc. (AT&T) filed with the Commission a complaint against Verizon Northwest, Inc. (Verizon). The complaint alleges that Verizon’s switched access charges far exceed Verizon’s cost of providing that access. The complaint further alleges that Verizon is using revenues generated by excessive switched access rates to fund a “price squeeze” designed to force competitors from toll markets in Washington.

2 **Conference:** The Commission convened prehearing conferences in this docket at Olympia, Washington on August 13, 2002, and August 27, 2002, before Administrative Law Judge (ALJ) Marjorie R. Schaer.

3 **Appearances:** Gregory J. Kopta, attorney, Seattle, and Letty Friesen, attorney, Denver, represent AT&T Communications of the Pacific Northwest, Inc. (AT&T); Judith Endejan, attorney, Seattle, represents Verizon Northwest, Inc. (Verizon); Michel Singer-Nelson, attorney, Denver, and Brooks Harlow, attorney, Seattle, represent WorldCom and its regulated subsidiaries (WorldCom); Gregory J. Trautman, assistant attorney general, Olympia represents the staff of the Washington Utilities and Transportation Commission (Staff); Robert Cromwell, assistant attorney general, Seattle, appears as public counsel.

4 **Background:** The Commission held its first prehearing conference on June 12, 2002 before ALJ Schaer. The Commission entered its Second Supplemental Order denying

a Verizon motion to dismiss on July 16, 2002. The parties agreed at the June 12, 2002, prehearing conference that an additional conference regarding scheduling would be necessary if Verizon's motion to dismiss was denied. The Third Supplemental Order entered June 24, 2002, was the prehearing conference order for the June 12 prehearing conference. It gave notice of a prehearing conference for scheduling on August 13, 2002. A follow-up conference was held August 27, 2002.

5 **SCHEDULE:** At the second prehearing conference held on August 13, 2002, the ALJ suggested that this matter might be heard in early-December, 2002, and that the parties might want to consider taking these dates as a starting point, and build a schedule to meet that time frame. Verizon then proposed a schedule that would result in hearings in late-May and early-June 2003. The parties discussed scheduling off the record. After the discussion, the parties reported that they had agreed to propose the following schedule :

AT&T files direct testimony	October 16, 2002
Verizon, Staff and Public Counsel response	January 8, 2003
Replies to the responsive testimony	March 21, 2003
Replies to those replies	April 15, 2003
Final sur-replies	May 2, 2003
Hearings	May 14-23, 2003
Simultaneous opening briefs	July 11, 2003
Simultaneous reply briefs	July 31, 2003

6 Mr. Kopta stated a concern that this schedule, which would extend the hearing dates into the second half of May, 2003, was too long, but indicated his belief that under the circumstances "this is the best we can do." *TR 27*. The other parties stated that they had no concern about the length of schedule the parties had proposed.

7 The parties then addressed what the consequences for their clients if the Commission decided to set a faster schedule. AT&T responded that it would work with whatever guidelines the Commission wants to establish. Verizon responded that it would do its

best to cooperate and meet whatever schedule the Commission would establish, but that its counsel had been advised by Verizon's subject-matter experts that they could not be prepared to file a direct case until early December. Public Counsel responded that given the disclosures Verizon had made about the scope of the filing it is likely to make, including cost studies and rate rebalancing, it would need at least ten weeks to conduct discovery and prepare a complete response. Staff concurred with Public Counsel. WorldCom indicated that there would not be a significant impairment as a result of a more compacted schedule.

- 8 At the conclusion of the hearing, the ALJ took the proposed schedule under advisement for administrative review to determine whether the parties proposed schedule would work for the Commission.
- 9 On August 21, 2002, AT&T filed with the Commission a request to shorten the schedule, arguing that the length of the schedule proposed by the parties at the August 13, 2002, prehearing conference is not reasonable, in light of the narrow scope of the issues raised by the complaint. The letter indicated that both Commission Staff and Public Counsel would agree to a much shorter schedule if this proceeding is limited to addressing the allegations in AT&T's complaint. AT&T proposed a schedule that would result in hearings from December 16 through 20, 2002.
- 10 The Commission gave notice of a prehearing conference on August 27, 2002, to further discuss scheduling. The notice allowed parties to appear either in person or over the Commission's conference bridge.
- 11 At the conference, AT&T, WorldCom, Public Counsel and Commission Staff agreed that a shorter schedule limiting the scope of the proceeding was appropriate. Verizon argued that its due process rights would be violated if it was not allowed to present the case it found appropriate, and that it could insist on a delay in the schedule in order to complete the studies it will rely on, and have them ready to present. AT&T and Verizon each endorsed their issues lists filed June 24 as their statement of issues in the proceeding.
- 12 Different options for going forward were discussed: bifurcating the proceeding to address only the complainant's issues, and then if complainant won on its issues, going forward with a proceeding looking at cost studies and how they should be implemented; having a case strictly limited to the issues in the complaint, and

allowing Verizon to file a rate proceeding if it believed any resulting decrease in access charges lowered its rate of return to an unacceptable level, or continuing with this proceeding and dealing with scoping issues as they arise, and when the record on which to make a ruling is more complete. Following this discussion, the parties asked for time off the record to discuss scheduling. They reached agreement on a new schedule that they jointly proposed. That schedule is:

AT&T, WorldCom, Commission Staff and Public Counsel prefile direct cases	September 20, 2002
Verizon files direct case	December 2, 2002
Parties file rebuttal (Verizon may move for permission to file brief surrebuttal)	January 21, 2003
Hearings	March 3, 2003
Simultaneous briefs	April 7, 2003
"For cause" responsive briefs (only to respond to surprises or egregious errors)	April 18, 2003

In addition to these dates, a prehearing conference at which parties must exchange cross-examination exhibits and time estimates for cross-examination will be held starting at **9:30 a.m. on February 24, 2003**. The dates of March 3 to March 11, 2003, have been reserved for hearings.

13 The Commission approves the parties' revised jointly proposed schedule.

Dated at Olympia, Washington, and effective this 4th day of September, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARJORIE R. SCHAER  
Administrative Law Judge

**NOTICE TO PARTIES:** Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.