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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Pre-hearing Conference

9

June 18, 2007

10

Jefferson City, Missouri

11

Volume 1

12

13 The Staff of the Missouri Public)

Service Commission of the State)

14 Of Missouri,)

15 Complainant,)

16 V.) Case No.

) TC-2007-0413

17 Time Warner Cable Information)

Services (Missouri), L.L.C.,)

18)

Respondent.)

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BENJAMIN H. LANE, Presiding,

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REGULATORY LAW JUDGE

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REPORTED BY:

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MINDY VISLAY, CCR

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MIDWEST LITIGATION SERVICES

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A P P E A R A N C E S

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FOR: Staff of the Missouri Public
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1 P R O C E E D I N G S

2 JUDGE LANE: My name is Ben Lane, I'm the
3 Regulatory Law Judge who will serve as the Hearing
4 Officer in this case should it go to a formal hearing.

5 The Case is: Staff of the Missouri Public Service
6 Commission of the State of Missouri versus Time Warner
7 Cable Information Services (Missouri), L.L.C., that's
8 Case No. TC-2007-0413, and we're here today for the
9 pre-hearing conference in this Complaint Case. It's
10 about 10:04 on Monday, June the 18th, and this
11 pre-hearing conference was scheduled by an Order dated
12 May 30th.

13 Typically, at the pre-hearing conference, I have
14 two objectives, and I hope those are shared by the
15 parties as well.

16 Number one, in a matter like this, that may or may
17 not proceed to a contested hearing, the parties should
18 be prepared to discuss the nature of the discovery
19 that may need to be conducted, and the time necessary
20 to complete discovery, and prepare for the hearing,
21 and talk about a witness list.

22 I believe the Order of May 30th did indicate what
23 the parties should jointly prepare and file with the
24 Commission -- a proposed procedural schedule -- in
25 this matter, by no later than July 9th. You're

1 familiar with that drill; the number and names of
2 witnesses you might be calling, exhibits, anticipated
3 length of the hearing, you know, briefing -- any kind
4 of briefing schedule that we need to do before the
5 hearing if it's required.

6 The second thing that these pre-hearing
7 conferences are often useful for is to provide an
8 opportunity for the parties to pursue settlement
9 negotiations. And there are a couple of areas that
10 might provide the basis for the parties to compromise
11 in most cases.

12 It appears, from the pleadings in this case, that
13 there might possibly be some room, but it seems a
14 little more doubtful than in a lot of the cases I've
15 had with pre-hearing conferences. And as I mentioned,
16 if you are unable to dissolve your differences here
17 today, the Commission has directed you to prepare a
18 proposed procedural schedule and a statement of issues
19 to go on a going-forward basis.

20 I believe everyone is represented here, and I know
21 that Counsel have submitted their written entries of
22 appearance. But for the record, if the Counsel
23 present would please enter your oral entry of
24 appearance. Let's begin with Staff.

25 MS. HEINTZ: Jennifer Heintz for the Staff

1 of the Missouri Public Service Commission, P.O. Box
2 360, Jefferson City, Missouri 65102. Also here from
3 Staff, from the Telecommunications Department, are
4 John Van Eschen and Myron Couch.

5 JUDGE LANE: Thank you, Ms. Heintz.

6 And from Time Warner Cable Information Services
7 (Missouri).

8 MR. DeFORD: Thank you, Your Honor. Paul
9 S. DeFord at the law offices of Lathrop and Gage, 2345
10 Grand Boulevard, Kansas City, Missouri 64108 appearing
11 on behalf of Time Warner Cable.

12 JUDGE LANE: Thank you very much.

13 And again, I want to thank all of you for being
14 here today and for our court reporter, who is going to
15 be pulling a double shift, right after this matter is
16 over, to go next door and take that matter up and help
17 them out.

18 MR. DANDINO: Your Honor, shall I enter my
19 appearance?

20 JUDGE LANE: I'm sorry, did you do a
21 written -- you didn't do a written?

22 MR. DANDINO: No, I haven't.

23 JUDGE LANE: I'm sorry, please do.

24 MR. DANDINO: Michael Dandino, Deputy
25 Public Counsel, Office of the Public Counsel, Post

1 Office Box 2230, Jefferson City, Missouri 65102
2 representing the Office of Public Counsel and the
3 public.

4 JUDGE LANE: Thank you Mr. Dandino, I
5 apologize for that.

6 I think I've kind of hit the high points of what I
7 hope to achieve, or at least get the process kicked
8 off here today.

9 It's my understanding that Time Warner filed some
10 affirmative defenses in this case that may or may not
11 still be at issue at this point, and again, that's
12 something that you might want to talk about.

13 It sounds like there could be some legal issues
14 here. I know Time Warner has indicated that it's
15 their position, or at least it's an arguable point, as
16 to whether the position of IT-based services
17 constitute basic, local phone service, so as to
18 require the filing of the quarterly Quality of Service
19 reports and so forth. I know there are some legal
20 issues -- and it looks like they may be primarily
21 legal -- since Time Warner, in its answer, has
22 admitted some of the allegations of the complaint, and
23 it looks like the remaining issues may in fact be
24 legal issues rather than so much factual. Having said
25 that, I think it might be a good time for me to leave

1 and have you do what you think you can do here today.

2 Just a reminder; any facts that are discussed, or
3 positions that are taken here in this settlement
4 conference, are privileged and cannot be used in any
5 hearing absent proof by independent record evidence.
6 That's designed to encourage the confidentiality of
7 these talks and also to encourage settlement. You
8 know that as well, but I wanted to reiterate that,
9 it's very useful.

10 Before I go, and before the court reporter heads
11 out, has anyone got any questions or any issues they
12 feel that I ought to address before I head out?

13 MS. HEINTZ: Did you bring -- I did not --
14 a hearing calendar, which we'll need for choosing
15 dates.

16 JUDGE LANE: I did not bring a hearing
17 calendar, but that can be handled informally if one or
18 both of you can come up with some dates -- a few dates
19 that can be useful to you.

20 I'm thinking, we're doing pretty well in the
21 months of July and early August. I did take a look at
22 the calendar before I came down, and we're pretty
23 open. One of the conference rooms is booked up pretty
24 heavy, but this one -- or one of the hearing rooms --
25 this one looks pretty much wide open. We don't have

1 anything double-booked for most of that period. But
2 you know, again, if you just want to send me an e-mail
3 on matters like that, that would be fine. And thank
4 you, Ms. Heintz, for bringing that up.

5 And without further adieu, I will go off the
6 record now and permit you do what you came here to do.

7 MR. DeFORD: Thank you.

8 MS. HEINTZ: Thank you.

9 MR. DANDINO: Thank you.

10 (WHEREIN, the recorded portion of the pre-hearing
11 conference was concluded.)

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1 CERTIFICATE OF REPORTER

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4 I, Mindy Vislay, Certified Court Reporter with the
5 firm of Midwest Litigation Services, and Notary Public
6 within and for the State of Missouri, do hereby
7 certify that I was personally present at the
8 proceedings had in the above-entitled cause at the
9 time and place previously described; that I then and
10 there took down in Stenotype the proceedings had; and
11 that the foregoing is a full, true and correct
12 transcript of such Stenotype notes so made at such
13 time and place.

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Mindy Vislay, CCR

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Notary Public (County of Cole)

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My commission expires March 19, 2011

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