(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF AT&T COMMUNICA­TIONS OF THE MOUNTAIN STATES, INC.  PETITION FOR ARBITRA­TION PURSUANT TO SECTION 252(b) OF THE TELECOMMUNICA­TIONS ACT OF 1996 OF THE RATES, TERMS, AND CONDITIONS OF INTERCONNECTION WITH GTE NORTH­WEST INCORPORATED   | )))))))) | CASE NO. GTE-T-97-3ATT-T-97-1ORDER NO.  26871 |

On March 10, 1997, the Commission issued Procedural Order No. 26833 in this case, which included the appointment of John Antonuk of Liberty Consulting Group as arbitrator.  On March 20, 1997, GTE Northwest Incorporated (GTE) filed a Motion to Reconsider Appointment of Arbitrator.  GTE noted that Mr. Antonuk and other members of Liberty previously appeared as witnesses in an arbitration before the Virginia State Corporation Commission involving GTE South Incorporated and AT&T Communications of Virginia, Inc.  According to GTE, “Mr. Antonuk propounded data requests to GTE South, formulated positions and recommendations on certain issues, and testified.”  Motion to Reconsider Appointment, p. 2.  GTE argued that the prior involvement of Mr. Antonuk and Liberty Consulting Group in the Virginia arbitration renders Mr. Antonuk unable to act as arbitrator in this case.

On March 24, 1997, Mr. Antonuk provided a written response to GTE’s Motion.  Mr. Antonuk provided detailed information regarding his role in the Virginia arbitration and included copies of transcripts of his testimony as a witness.  Mr. Antonuk stated that he and Liberty were retained to provide an objective and unbiased analysis of the issues involved in the arbitration and did not appear as advocates for any party.  According to Mr. Antonuk, his role in the Virginia and other arbitrations is analagous to a judge who has heard a case involving similar issues.  Mr.  Antonuk argued that “a judge’s past experience, especially involving issues that are complex and that require substantial technical background, is not a source of disqualification; it is an asset.”  Mr.  Antonuk averred that he is able to conduct this arbitration and determine the disputed issues without any bias or favoritism toward either party.

We find that Mr. Antonuk should be retained as the arbitrator in this case.  GTE did not argue that Mr. Antonuk demonstrated any bias or prejudice in the Virginia case, or that he is likely to demonstrate an unfair bias in this case.  Instead, it is the mere fact that Mr. Antonuk has reviewed similar issues that apparently caused GTE to file its Motion.  We do not believe the expertise gained by an arbitrator through participation in other arbitrations, without more, is cause to remove the arbitrator from a particular case.  GTE does not attempt to argue that an improper motive or bias by Mr. Antonuk exists to render him unable to act as an impartial and fair arbitrator.  We also note that the arbitration hearing is scheduled to commence April 28, 1997.  The short period of time until the hearing makes the appointment of a new arbitrator for this case difficult if not impossible.  Accordingly, we find that GTE’s Motion should be denied.

O R D E R

IT IS HEREBY ORDERED that GTE’s Motion to Reconsider the Appointment of Arbitrator is denied.  Mr. Antonuk will serve as the arbitrator in this proceeding.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of April 1997.

                                                                                                                                       RALPH NELSON, PRESIDENT

                                                                                            MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:GTE-T-97-3.ws2d

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

April 2, 1997