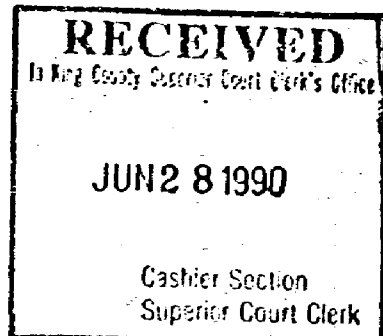


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FILED IN RECORD
CLERK OF COURT
BY SHERIFF-DEP. POWELL

JUL 12 1 21 PM '90

GARY M. OLSON



IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

GTE NORTHWEST INCORPORATED, a
Washington corporation,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF REVENUE; BENTON COUNTY, a
municipal corporation; CHELAN
COUNTY, a municipal corporation;
CLARK COUNTY, a municipal corpor-
ation; COWLITZ COUNTY, a municipal
corporation; DOUGLAS COUNTY, a
municipal corporation; GRANT
COUNTY, a municipal corporation
ISLAND COUNTY, a municipal corpor-
ation; KING COUNTY, a municipal
corporation; OKANOGAN COUNTY, a
municipal corporation; PEND
ORIELLE COUNTY, a municipal
corporation; SKAGIT COUNTY, a
municipal corporation; SKAMANIA
COUNTY, a municipal corporation;
SNOHOMISH COUNTY, a municipal
corporation; SPOKANE COUNTY, a
municipal corporation; and WHITMAN
COUNTY, a municipal corporation,

Defendants.

NO. 90-2 13094 1

S U M M O N S

Registered
Indexed, Dir
Indirect
Filed 7-13-90
Mailed

TO THE DEFENDANTS: A lawsuit has been started against you in the above
entitled Court by plaintiff, GTE NORTHWEST INCORPORATED. Plaintiff's claim
is stated in the written Complaint, a copy of which is served upon you with
this Summons.

In order to defend against this lawsuit, you must respond to the

SUMMONS -1-

LEGAL DEPARTMENT
GTE NORTHWEST INCORPORATED
1800 FORTY-FIRST STREET
EVERETT, WASHINGTON 98201
(206) 251-5006

1 Complaint by stating your defense in writing, and by serving a copy upon the
2 person signing this Summons within twenty (20) days after the service of this
3 Summons, excluding the day of service, or a default judgment may be entered
4 against you without notice. A default judgment is one where plaintiff is
5 entitled to what he asks for because you have not responded. If you serve a
6 Notice of Appearance on the undersigned person, you are entitled to notice
7 before a default judgment may be entered.

8 You may demand that the plaintiff file this lawsuit with the Court. If
9 you do so, the demand must be in writing and must be served upon the person
10 signing this Summons. Within fourteen (14) days after you serve the demand,
11 the plaintiff must file this lawsuit with the Court, or the service on you of
12 this Summons and Complaint will be void.

13 If you wish to seek the advice of an attorney in this matter, you should
14 do so promptly so that your written response, if any, may be served on time.

15 This Summons is issued pursuant to Rule 4 of the Superior Court Civil
16 Rules of the State of Washington.

17 DATED this 28th day of June, 1990.
18
19
20

21 *Judith A. Endejan*
22 JUDITH A. ENDEJAN
23 1800 41st Street
24 Everett, Washington 98201
25 206-261-5008
26

Attorneys for GTE Northwest Incorporated

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

GTE NORTHWEST INCORPORATED, a
Washington corporation,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF REVENUE; BENTON COUNTY, a
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municipal corporation; SKAMANIA
COUNTY, a municipal corporation;
SNOHOMISH COUNTY, a municipal
corporation; SPOKANE COUNTY, a
municipal corporation; and WHITMAN
COUNTY, a municipal corporation,

Defendants.

NO. _____

COMPLAINT FOR DE NOVO REVIEW
OF BOARD OF TAX APPEALS DECISION
AND FOR REFUND OF TAXES PAID

Plaintiff, GTE Northwest Incorporated ("GTE-NW"), for its complaint
against defendants, states as follows:

I. PARTIES

1. Plaintiff GTE-NW is a Washington corporation which is wholly-owned by
GTE Corporation, a New York corporation. GTE-NW maintains its corporate

COMPLAINT -1-

LEGAL DEPARTMENT
GTE NORTHWEST INCORPORATED
1800 FORTY-FIRST STREET
EVERETT, WASHINGTON 98201
(206) 261-5006

1 headquarters and principal place of business in Everett, Washington.

2 2. GTE-NW is an interstate company duly authorized to do business in
3 the states of Washington, Oregon, Idaho and Montana (hereinafter: GTE-NW's
4 "four-state network area"). GTE-NW operates a telecommunications system in
5 its four-state network area providing services as a public utility under the
6 rate and tariff regulation of the four states involved.

7 3. GTE-NW owns and utilizes real and personal property (hereinafter:
8 "operating property") located across its four-state network area to provide
9 public utility telecommunication services to customers in portions of the
10 following counties in the state of Washington: Benton, Chelan, Clark,
11 Cowlitz, Douglas, Grant, Island, King, Okanogan, Pend Oreille, Skagit,
12 Skamania, Snohomish, Spokane and Whitman.

13 4. Defendant, State of Washington Department of Revenue (hereinafter:
14 the "DOR") is an agency of the state of Washington which is charged by
15 Washington law with the responsibility, on an annual basis, of:

- 16 (a) Determining the true cash value of the operating property of
17 each interstate company operating in Washington;
18 (b) Apportioning to Washington that part of the value of each
19 interstate company's operating property which represents the
20 value of the portion of that property in Washington;
21 (c) Apportioning the value of the operating property in Washington
22 equitably among the counties in Washington where the interstate
23 company operates;
24 (d) Determining the equalized value of the operating property
25 apportioned to each county; and,
26 (e) Certifying the equalized value of the operating property to
local county assessors for placement on each county's
respective tax roll.

5. Defendant counties, Benton, Chelan, Clark, Cowlitz, Douglas, Grant,
Island, King, Okanogan, Pend Oreille, Skagit, Skamania, Snohomish, Spokane

1 and Whitman are public corporate bodies which have each levied and collected
2 1988 and 1989 assessment years ad valorem property taxes from GTE-NW for
3 operating property of GTE-NW, which was subjected by DOR to a palpably
4 excessive, fundamentally erroneous, discriminatory, and grossly inequitable
5 valuation as set forth more fully below.

6 **II. NATURE OF ACTION**

7 6. Plaintiff GTE-NW brings this action against defendant DOR and
8 defendant counties pursuant to R.C.W. 82.03.180, 84.68.020 and 84.68.050 to
9 recover a refund of the excessive ad valorem property taxes (plus interest
10 thereon) which GTE-NW was required to pay for the 1988 and the first half of
11 the 1989 assessment years, and did pay (under protest) as a result of the
12 palpably excessive, fundamentally erroneous, discriminatory and grossly
13 inequitable valuation made by the DOR as set forth more fully below. On or
14 before October 31, 1990, GTE-NW will be required to, and will pay the second
15 half of the ad valorem taxes for the 1989 tax year. Such payment will be
16 made under protest, and GTE-NW will thereafter move to amend this Complaint
17 to claim a refund of the sums so paid.

18 **III. THE CHALLENGED VALUATION AND TAX OVERPAYMENT**

19 7. For the 1988 assessment year, the DOR determined the alleged "true
20 cash value" of the operating property in GTE-NW's four-state network area to
21 be \$1,370,000,000 of which 60.28% was allocated to Washington, resulting in
22 \$789,800,000 in value being apportioned to the defendant counties for ad
23 valorem taxation purposes, pursuant to a notice from the DOR dated September
24 21, 1988.

25 8. For the 1989 assessment year, the DOR determined the "true cash
26 value" of the operating property in GTE-NW's four-state network area to be

1 \$1,400,000,000 of which 58.36% was allocated to Washington. The DOR assigned
2 an alleged true cash value of \$817,100,000 as of January 1, 1989, for
3 GTE-NW's operating property in the state of Washington.

4 9. For the 1988 assessment year GTE-NW contended that the "true cash
5 value" of its four-state operating property should have been determined to be
6 \$1,046,453,100, resulting in an apportionment of \$595,242,900 in value to be
7 taxed by defendant counties in the state of Washington. For the 1989
8 assessment year GTE-NW contended that the "true cash value" of its four-state
9 operating property should have been determined to be \$1,070,274,204,
10 resulting in an apportionment of \$652,225,100 in value to be taxed by
11 defendant counties in the state of Washington. For the 1988 and 1989
12 assessment years the DOR over-valued GTE-NW's operating property in its
13 four-state network area by over One Half Billion Dollars, resulting in an
14 excessive valuation of GTE-NW's Washington state operating property.

15 10. GTE-NW paid ad valorem taxes to the defendant counties in 1989 for
16 the assessment year 1988 in the following amounts which substantially
17 exceeded the property tax liability that GTE-NW would have borne had its
18 operating property been assessed in an equitable fashion:

19	Benton County	\$ 1,237,262.54
	Chelan County	\$ 438,682.52
20	Clark County	\$ 128,981.42
	Cowlitz County	\$ 43,008.24
21	Douglas County	\$ 155,225.65
	Grant County	\$ 89,875.40
22	Island County	\$ 232,157.00
	King County	\$ 2,029,626.52
23	Okanogan County	\$ 17,052.60
	Pend Orielle County	\$ 61,189.26
24	Skagit County	\$ 240,886.93
	Skamania County	\$ 12,969.48
25	Snohomish County	\$ 5,481,269.04
	Spokane County	\$ 36,357.93
26	Whitman County	\$ 336,783.58
	TOTAL	\$10,541,328.11

COMPLAINT -4-

LEGAL DEPARTMENT
GTE NORTHWEST INCORPORATED
1800 FORTY-FIRST STREET
EVERETT, WASHINGTON 98201
(206) 261-5006

11. GTE-NW has paid and will pay ad valorem property taxes to the defendant counties in two installments payable on April 30, 1990, and October 31, 1990, for the 1989 assessment year in the following amounts which substantially exceeded, and will exceed, the property tax liability that GTE-NW would have borne had its operating property been assessed in an equitable fashion:

County	Total 1990 Taxes	First-Half Payment 4/30/90	Second-Half Payment 10/31/90
Benton	\$ 1,238,745.94	\$ 619,411.22	\$ 619,334.72
Chelan	\$ 529,791.90	264,895.95	264,895.95
Clark	\$ 124,610.92	62,329.71	62,281.21
Cowlitz	\$ 29,011.40	14,505.70	14,505.70
Douglas	\$ 191,585.39	95,792.77	95,792.62
Grant	\$ 95,485.48	47,742.74	47,742.74
Island	\$ 242,644.00	121,322.00	121,322.00
King	\$ 2,414,083.70	1,207,112.07	1,206,971.63
Okanogan	\$ 19,416.59	9,711.26	9,705.33
Pend Orielle	\$ 69,912.58	34,956.29	34,956.29
Skagit	\$ 259,039.27	129,519.65	129,519.62
Skamania	\$ 12,541.95	6,271.00	6,270.95
Snohomish	\$ 5,672,029.06	2,836,053.93	2,835,975.13
Spokane	\$ 35,529.60	17,764.83	17,764.77
Whitman	\$ 293,081.11	146,568.70	146,512.41
TOTALS	\$11,227,508.89	\$ 5,613,957.82	\$ 5,613,551.07

12. GTE-NW has paid and will pay the aforementioned excessive ad valorem property taxes to the defendant counties under protest, advising each of the counties of the basis for its protest. A tax overpayment of in excess of Four Million Dollars by GTE-NW will result.

IV. FIRST CAUSE OF ACTION

The DOR's Valuation Rests On A Fundamentally Wrong Basis or Theory

13. Plaintiff GTE-NW realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 12, inclusive, above.

1 14. Pursuant to its own regulations (WAC 458-50-080), the DOR was
2 required to ascertain the "true cash value" of GTE-NW's "operating property"
3 by reference to its "...market value," i.e., the amount of money a buyer
4 willing but not obligated to buy would pay for such operating property from a
5 seller willing but not obligated to sell. In arriving at a determination of
6 such value, the [DOR] may consider only those factors which can within reason
7 be said to affect the price in negotiations between a willing purchaser and a
8 willing seller, and the department shall consider all such factors to the
9 extent the reliable information is available to support a judgment as to the
10 probable effect of such factors on price." [Emphasis added.]

11 15. The DOR determined that the market-oriented valuation rule of WAC
12 458-50-080 could best be followed by applying a "unit valuation" or "going
13 concern" approach that considered the value of GTE-NW's four-state network
14 area operating property as part of an integrated business entity. In so
15 doing, the DOR recognized that the value of GTE-NW's operating property had
16 to be the probable price the interstate network would command in an arm's
17 length sale. However, the DOR then deviated from this principle by setting
18 the value of GTE-NW's operating property at the historic cost of the
19 operating property, less depreciation--an accounting figure that was clearly
20 unrelated to the income-generating capacity of the system in violation of WAC
21 458-50-080.

22 16. For the 1988 and 1989 assessment years when the DOR used the
23 historic cost, less depreciation, as a surrogate for the market value of
24 GTE-NW's operating property, the DOR refused to make any deduction or to give
25 any adjustment or recognition to the fact that in excess of \$200 Million each
26 year of the historic cost figure represented "accumulated deferred federal

1 income taxes" which is treated as an asset on which GTE-NW is precluded from
2 earning any return by regulators in its four-state network area.

3 17. GTE-NW is informed and believes, and thereon alleges, that the DOR
4 relied solely on the valuation it had derived from GTE-NW's historic cost
5 data, less depreciation, and ignored elementary and fundamental financial and
6 regulatory principles that would be primary consideration to a willing buyer
7 of GTE-NW's operating property. Additionally, GTE-NW is further informed and
8 believes, and thereon alleges, that the DOR constructed an income appraisal
9 which artificially approximated its historic cost, less depreciation
10 valuation, (a) by using short term market data skewed to avoid and disregard
11 real market factors; (b) by relying on a capitalization rate which was
12 derived from raw common stock earnings/price ratios, and which patently
13 disregarded fundamental economic principles (e.g., opportunity cost); and (c)
14 by applying a "direct capitalization" approach that, in 1986, both the DOR
15 and the BTA had rejected as being unsupportable in a valuation of GTE-NW's
16 operating property (in a case where its application of that technique would
17 have reduced the valuation of GTE-NW's property for taxation).

18 **V. SECOND CAUSE OF ACTION**

19 **The DOR's Arbitrary Valuation Techniques And Its Disregard**
20 **Of Principles of Utility Regulation Deny GTE-NW Equal Protection**
21 **Of Laws and Disregard The Requirement For Uniform Taxation**

22 18. GTE-NW realleges and incorporates by reference herein the
23 allegations set forth in paragraphs 1 through 17, inclusive, above.

24 19. Under the Washington Constitution (Const. art. 7, § 1 (amendment
25 14)), the DOR is obligated to assure that "...all taxes [are] uniform upon
26 the same class of property within the territorial limits of the levying
authority..." Additionally, under the 14th Amendment of the U. S.

1 Constitution, the DOR is precluded from subjecting GTE-NW to fundamentally
2 unfair hearing and review procedures or to discriminatory taxation.

3 20. The valuation techniques applied by DOR to GTE-NW's operating
4 property for assessment years 1988 and 1989 were fundamentally unfair because
5 the methodology used to value GTE-NW's operating property was arbitrarily
6 altered from year to year to obtain the highest possible valuation for tax
7 purposes in violation of GTE-NW's constitutional rights. Additionally, or
8 alternatively, the DOR knowingly used inappropriate appraisal data which it
9 knew to be erroneous, irrelevant and likely to overvalue GTE-NW's property.

10 21. GTE-NW is informed and believes, and thereon alleges, that the
11 valuation techniques applied by the DOR for GTE-NW's operating property for
12 assessment years 1988 and 1989 were discriminatory, and violated the
13 Washington state constitutional mandate for uniform taxation because property
14 held by different taxpayers for the same income-generating purposes is
15 subject to different tax burdens without any logical basis for distinction.
16 Specifically, DOR has based its valuation of GTE-NW's operating property
17 solely on the historic cost of property and facilities on which GTE-NW is
18 prohibited from realizing any return. GTE-NW is informed and believes, and
19 thereon alleges, that any non-utility taxpayer which could document a
20 comparable discrepancy between the historic cost and income-generating
21 capacity of its property would be granted a reduction in value for tax, e.g.,
22 for "economic obsolescence." Additionally, or alternatively, in its
23 application of a unit valuation approach, the DOR discriminatorily subjected
24 GTE-NW to ad valorem taxation of purely intangible property, including, but
25 not limited to, "goodwill" in the going concern value of GTE-NW's business.

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VI. RELIEF REQUESTED ON BOTH CAUSES OF ACTION


22. For the reasons set forth in paragraphs 1 through 21, inclusive, above, the valuation of GTE-NW's operating property in Washington was palpably excessive, grossly excessive, and non-uniform and discriminatory. The defendant counties' actions in levying and collecting taxes based on that valuation was, therefore, unlawful.

23. Having paid excessive taxes under protest, GTE-NW is entitled to a refund from each of the defendant counties in an amount to be calculated on the basis of a proper, equitable and uniform valuation of GTE-NW's Washington operating properties in accordance with the findings of the court after trial.

WHEREFORE, based upon the foregoing, GTE-NW demands judgment against the DOR and each county defendant as follows:

1. Determining the proper valuation of the GTE-NW taxable system properties in Washington based upon proper valuations for the 1988 and 1989 assessment years;
2. Ordering payment to GTE-NW of excessive and/or unlawful property taxes paid to each defendant county for the 1988 and 1989 assessment years together with legal interest and allowable costs herein;
3. For such other relief as the Court deems just and proper.

DATED this 28th day of June, 1990.


JUDITH A. ENDEJAN
1800 41st Street
Everett, Washington 98201
206-261-5008

Attorneys for GTE Northwest Incorporated

LEGAL DEPARTMENT
JUN 29 1990

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

vs.

Plaintiff(s),

Defendant(s).

NO. 90-2 13094 1

ORDER SETTING ORIGINAL
CIVIL CASE SCHEDULE

I. BASIS

Pursuant to LR 4, IT IS ORDERED that the parties shall comply with the following schedule:

II. SCHEDULE

CASE EVENTS	DUE DATE
Filed.....	Thu 6/28/90
Confirmation of Service (KCLR 4.2).....	Thu 7/26/90
Confirmation of Joinder (KCLR 16.1).....	Thu 12/06/90
Status Conference (KCLR 16.1).....	Thu 12/20/90
Disclosure of Primary Witnesses (KCLR 26).....	Wed 9/04/91
Disclosure of Rebuttal Witnesses (KCLR 26).....	Wed 10/16/91
Trial Confirmation / Jury Demand Cutoff.....	Wed 10/30/91
(KCLR 40(e)(2), 38(b)(2))	
Discovery Cutoff (KCLR 37(g)).....	Wed 12/18/91
Exchange Witness/Exhibit lists (KCLR 16).....	Wed 1/15/92
Dispositive PreTrial Motions (KCLR 56).....	Wed 1/22/92
Joint Statement of Evidence (KCLR 16).....	Wed 1/29/92
Pretrial Conference (KCLR 16).....	Wed 1/29/92
(individual option only)	
Trial (KCLR 40).....	Wed 2/05/92

III. ORDER

It is ORDERED that all parties shall comply with the foregoing schedule and that sanctions, including but not limited to those set forth in Rule 37 of the Superior Court Civil Rules, may be imposed for noncompliance.

DATED: JUN 28 1990

Charles Johnson
JUDGE

(IMPORTANT: See Notices on Back)

rev: 1/18/90

Docket Code: *ORSCS

Stevenson, Washington, 7-12-90

TO COUNTY AUDITOR DR.
Skamania County, Washington

FILING RECORDING	FILE NO.	AMOUNT
Agree. & Lease		
Liens		
Mines		
Deed		
Mortgage		
Satisfactions		
Misc. <i>file Summons</i>		
Surveys		
Plats		
UCC		

Skamania County et al
to
GTE Northwest Inc.

Gary M. Olson
COUNTY AUDITOR
By *D. Lowry*
DEPUTY

24893