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1 P R O C E E D I N G S

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3 JUDGE MACE: We are here today to hear  
4 argument on a petition for reconsideration and a motion  
5 to compel filed by Qwest, Docket No. UT-011439. This  
6 is Verizon Northwest, Inc's., petition for a waiver of  
7 WAC 480-120-071 (2)(a). My name is Theo Mace, and I'm  
8 the presiding administrative law judge in this  
9 proceeding, and I just want to observe for the record  
10 that I'm replacing Judge Marjorie Schaer, who was  
11 previously assigned to this case. This is June 17th,  
12 2002, and we are convened in a hearing room at the  
13 Commission's offices in Olympia, Washington.

14 What I hope to cover today in addition to  
15 hearing argument is I need to get appearances from  
16 counsel, and we need to determine process and  
17 procedural schedule and any other business that you  
18 might have. So let me start out with appearances, and  
19 if you've already entered the long form of appearance,  
20 you don't have to do that today, but if you haven't, if  
21 you would please give your name, your address, who you  
22 represent, e-mail, fax, and telephone.

23 MS. ENDEJAN: My name is Judith Endejan, and  
24 I'm appearing today on behalf of Verizon Northwest,  
25 Incorporated, and I believe that all of my name,

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1 address and telephone number and e-mail have previously  
2 been set forth.

3 MR. OWENS: Thank you, Your Honor. I'm  
4 Douglas N. Owens, attorney at law. Business address is  
5 1325 Fourth Avenue, Suite 940, Seattle, Washington,  
6 98101. Phone is (206) 748-0367; fax, (206) 748-0369,  
7 and I'm appearing on behalf of Qwest Corporation.

8 JUDGE MACE: Do you have an e-mail address?

9 MR. OWENS: Dnowens@qwest.net.

10 MR. TRAUTMAN: Greg Trautman, assistant  
11 attorney general for Commission staff.

12 JUDGE MACE: Thank you. I want to ask the  
13 parties if there is anything of a preliminary nature  
14 before we go ahead and hear argument. Then I would  
15 propose that we hear argument on the petition for  
16 reconsideration first. I'll hear from you, Mr. Owens,  
17 then Staff and/or Verizon, if they want to respond, and  
18 then hear from you yet one more time again.

19 One of the things I do want the parties to  
20 address in the course of the argument today is what is  
21 the end of the 18-month period that the rule discusses,  
22 and I'm a little concerned about what authority Qwest  
23 is invoking in terms of filing this petition for  
24 reconsideration. I didn't see any reference to a rule,  
25 and it would be helpful to me if you would talk about

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1 that. I have read all of the written pleadings that  
2 the parties have filed so far, so you don't need to go  
3 over those point by point in your argument. Go ahead.

4 MR. OWENS: Thank you, Your Honor. I guess  
5 with regard to the authority for Qwest's petition for  
6 reconsideration and clarification, I would simply rest  
7 on any party's duty to attempt to alert the tribunal  
8 that it is in the process of making a mistake or an  
9 error that affects the fairness of the proceeding and  
10 offer its suggestions on how that unfairness can be  
11 avoided.

12 Qwest was brought into this involuntarily on  
13 motion of the Staff granted by order of the Commission,  
14 and it expressed its objections to the schedule and the  
15 only means available to it as soon thereafter as was  
16 feasible, and a petition for reconsideration to the  
17 Commission not of the decision to make Qwest a party  
18 but of the procedural conundrum in which Qwest finds  
19 itself of being apparent target of adverse action by  
20 the Staff and/or the Commission and not yet having been  
21 made aware through either notice of hearing or a  
22 pleading directed against Qwest of the issues that it  
23 would be required to address in the testimony that it  
24 was directed to file as being the first in order of  
25 precedence under the schedule that was in the

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1 Commission's Third Supplemental Order. I really don't  
2 think that any particular rule of authority is  
3 necessary for a party to attempt to preserve its right  
4 to a fair hearing in this manner.

5 I would like now to move to the substance and  
6 some of the concerns that Qwest has and try to explain  
7 why they exist. The Commission at Page 2 of the Third  
8 Supplemental Order in Paragraph 4 sets out what it  
9 considers the issues in this case are. The second of  
10 them is the one that affects Qwest, and that is whether  
11 the Commission should redraw exchange boundaries to  
12 allow another adjacent carrier to provide the requested  
13 service if the cost to build the extension would be  
14 less than for the original exchange carrier.

15 That to Qwest misperceives the issue, because  
16 this is clearly a case not about allowing another  
17 carrier to serve but about compelling another carrier  
18 to serve. Qwest considers that to be a very  
19 significant difference which the Commission doesn't  
20 seem to have apprehended in its order.

21 At Paragraph 10 of the same order, the  
22 Commission -- this is on Page 3 -- describes the  
23 substance of the Staff's motion and says Staff contends  
24 that it makes sense to join Qwest as a party at this  
25 point because if Verizon is granted a waiver, the

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1 Commission would immediately be able to examine whether  
2 Qwest would more appropriately serve the Timm Ranch and  
3 to determine whether the exchange boundaries between  
4 Verizon and Qwest would need to be redrawn.

5           Again, it appears that the Commission has  
6 misapprehended the Staff position, because if you look  
7 at the Staff's reply to Qwest's answer on Page 4 --  
8 I'll read from the paragraph that begins at the top of  
9 the page -- "Assuming that (as Staff believes) Verizon  
10 is not able to show that it should be granted a waiver  
11 under the standards governing an exemption from WAC  
12 480-120-071, the Commission may still find that it is  
13 more reasonable under the facts of this case to require  
14 that Qwest provide service to the Nelson properties."  
15 So this is diametrically opposed to what the Commission  
16 apparently understood in making Qwest a party and  
17 scheduling Qwest to provide the first round of  
18 testimony in this matter.

19           Qwest has tried, as you may recall, Your  
20 Honor, to discern some unifying principle in this  
21 proceeding that the Staff has brought. The only means  
22 available, so far, were to question Staff during the  
23 scheduling conference held June the 3rd by  
24 teleconference, and the Staff essentially repeated what  
25 I had just read to you as its position. However, the

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1 prefiled testimony and even the petition, I believe,  
2 indicates that of the two areas as to which line  
3 extension waivers are --

4 JUDGE MACE: Which petition are you talking  
5 about?

6 MR. OWENS: I'm talking about Verizon's  
7 petition that started this case, Your Honor. Of the  
8 two areas as to which Verizon is seeking waivers in  
9 this case, there are other companies whose facilities  
10 are alleged to be closer to the respective users of  
11 service than Verizon's in both cases -- two different  
12 companies, Century in one case and Qwest in the  
13 other -- yet Qwest is the only company that has been  
14 the subject of a motion to make it a party which was  
15 granted by the Commission.

16 So Qwest is unable to explain, at least based  
17 on what we know now, what are the circumstances under  
18 which the Staff may make its recommendation to the  
19 Commission, as it says in its motion, to join Qwest as  
20 a party, that Qwest's exchange boundary be redrawn, and  
21 that Qwest, either under the compulsion of the line  
22 extension rule or under RCW 80.36.090 be directed to  
23 extend service to one of those two locations.

24 Another source of Qwest's inability to  
25 formulate the issues and frame testimony to anticipate

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1 the Staff's case is the fact that there are now, as of  
2 this past Friday, two eligible telecommunications  
3 carriers who have been designated as such for the area  
4 that includes the Timm Ranch. One of them, of course,  
5 is Verizon itself, which was designated, I believe,  
6 back in 1997, and if I may approach, I have something  
7 to hand out.

8           This is, Your Honor, a copy of a petition by  
9 RCC Minnesota for designation as an eligible  
10 telecommunications carrier, and if you will look at  
11 Exhibit B, near the end of the document, you will see  
12 that among the wire centers for which this wireless  
13 carrier has sought designation as an ETC is Bridgeport,  
14 which is the Verizon exchange in which the Timm Ranch  
15 is located. Now obviously, this just happened, and we  
16 are not suggesting anybody could have anticipated this,  
17 but it certainly in our minds raises a number of issues  
18 which need to be addressed and would require some  
19 additional time to address them, and would, I think,  
20 likely require that this carrier also be made a party  
21 to the proceedings.

22           Some of the Commission's rationale for making  
23 Qwest a party has actually raised more issues that  
24 Qwest is unable to ascertain how to respond to in its  
25 testimony, and I'll just describe those. I was just



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1 reminded that RCC Minnesota is also the eligible  
2 telecommunications carrier for Qwest's Omak exchange,  
3 which is the neighboring exchange to Bridgeport in case  
4 the Commission were to redraw the exchange boundary,  
5 and Qwest is not an eligible telecommunications carrier  
6 for that exchange. That is an additional reason why  
7 they shouldn't be made a party to the case.

8           Referring Your Honor to Paragraph 28 of the  
9 Commission's Third Supplemental Order, I'll just read  
10 the second and third sentences: "The Commission has  
11 authority under RCW 80.36.230 to prescribe exchange  
12 area boundaries for telecommunications companies. Even  
13 though it is not clear whether and how this authority  
14 should be invoked in this proceeding, Qwest has a  
15 significant stake in the outcome since it bears a  
16 common exchange boundary with Verizon near the Timm  
17 Ranch, its facilities are closer to the Timm Ranch than  
18 Verizon's, and Staff alleges that Qwest's costs to  
19 extend service to the Timm Ranch would be less than  
20 Verizon's."

21           Well, if it's not clear to the Commission  
22 whether and how the authority to prescribe exchange  
23 boundaries should be invoked in the proceeding, it  
24 certainly isn't clear to Qwest, and I think essentially  
25 because there is no criteria, there are no criteria or

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1 standards in the statute itself, that Qwest requires  
2 some notice of the claims that would be used to justify  
3 redrawing its exchange boundaries in order to be able  
4 to respond.

5 Paragraph 29, the Commission justifies making  
6 Qwest a party by saying the Commission must ask as  
7 though to promote the public interest and to determine  
8 fair, just, reasonable, and sufficient rates and  
9 practices for regulated utilities. The Commission  
10 cites RCW 80.01.040, which is simply the broad  
11 regulating-the-public-interest statute, but the actual  
12 authority under which that power is contained, RCW  
13 80.01.040 says, regulate in the public interest as  
14 provided by the public service laws.

15 Well, the public service laws that deal with  
16 the just, reasonable, and sufficient rates and  
17 practices for regulated utilities, at least for  
18 telecommunications companies, is RCW 80.36.140. That  
19 statutes requires that before the Commission can do  
20 what it says in this paragraph -- that is, to determine  
21 fair, just, reasonable, and sufficient rates and  
22 practices -- it has to determine that the existing  
23 rates, practices, and other regulatory items for  
24 telecommunications company are, in fact, unjust or  
25 discriminatory.

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1           Qwest hasn't been informed through any notice  
2 or any pleading as to what rates or practices the  
3 Commission or the Staff claims that Qwest has that are  
4 unreasonable or discriminatory. So if the Commission  
5 made Qwest a party based on the reasoning in Paragraph  
6 No. 29, we submit that this is really a demonstration  
7 that Qwest hasn't received the adequate notice to allow  
8 the Commission to take such action against Qwest.

9           And then finally in Paragraph 30, the  
10 Commission discusses the argument based on the WITA  
11 versus WUTC case, and it says after finding that,  
12 arguably, the WITA case does not apply to this  
13 particular rule, it says, in any event, the Commission  
14 can proceed on an adjudicatory basis to determine the  
15 proper cost and allocation of cost for provision of  
16 service in this case, or in the alternative, can grant  
17 a waiver of the line extension requirement if the  
18 evidence supports it.

19           Your Honor, in an adjudication, as you are  
20 aware, there has to be notice of the claims, the facts  
21 on which the claims are based, and an opportunity to  
22 meet those claims with evidence, and we simply haven't  
23 had that. The Commission in the Tel West decision  
24 issued just a few weeks ago -- this is Docket  
25 UT-013097 -- on May 23rd, very correctly set out the

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1 elements in Paragraphs 24 through 26, and I've already  
2 quoted those in my pleading, and I won't repeat them,  
3 but Qwest agrees with what the Commission says here,  
4 and we submit that Qwest has not been given adequate  
5 notice or opportunity to respond on the existing  
6 schedule unfairly puts the moving party, which is the  
7 Staff, in a position of filing its testimony without  
8 any possibility of Qwest rebutting that testimony, and  
9 that Staff's filing is after Qwest, and the only issues  
10 as to which Qwest has any notice are, Does it share a  
11 common boundary with Verizon, what distance are its  
12 facilities located away from the respective customers  
13 at Timm Ranch, and what would Qwest's costs be? But we  
14 have no indication of what those facts, what the  
15 relationship of those facts are to the issues under  
16 which the Staff asserts that the Commission should,  
17 under circumstances not yet disclosed, redraw Qwest's  
18 boundaries with the objective of forcing Qwest to  
19 provide service to the occupants of the Timm Ranch.

20 We simply believe that there isn't adequate  
21 notice here. There isn't an opportunity for Qwest to  
22 meet the Staff's evidence, and we are just concerned  
23 that the hearing under these circumstances is not going  
24 to be fair. The parties will spend a great deal of  
25 time and effort and money to litigate, and we believe

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1 likely that the court would not uphold the Commission's  
2 decision if it were to redraw the boundary and forcibly  
3 force Qwest to provide the service.

4           So we respectfully request that the schedule  
5 be reconsidered, that the Staff be required to put its  
6 evidence on before Qwest, or that some specific form of  
7 notice that the Commission hasn't yet issued informing  
8 Qwest of what the burden is that Qwest is required to  
9 meet be set out, and that our preference is to have the  
10 Staff's evidence put on first and that Qwest have a  
11 reasonable opportunity for discovery of that evidence  
12 before Qwest is required to file its evidence to meet  
13 it. So that would be the basis of our petition for  
14 reconsideration.

15           We did also ask for clarification as to the  
16 part of the Commission's order that talked about  
17 allocations of cost. We just asked, What does that  
18 mean? We don't really have any idea. Thank you.

19           JUDGE MACE: Ms. Endejan, do you have  
20 anything that you want to contribute to this?

21           MS. ENDEJAN: Briefly, Your Honor. I guess  
22 it would be the position of Verizon here that we have  
23 certain objectives that we want to achieve. First of  
24 all, we do not want to be penalized by failing to abide  
25 by a Commission rule when clearly there are

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1 circumstances that warrant an extension of this  
2 18-month deadline that appears in the rule, so we want  
3 to not be penalized.

4 We want to not have to put our case on twice.  
5 We want to do it once. We want to have before the  
6 Commission a full and complete record of all of the  
7 relevant facts and want the Commissioners to hear the  
8 case, because we view this as a very significant case  
9 for a lot of reasons from a public policy standpoint.

10 In principle, we don't object to Qwest's  
11 request for additional time. We are sympathetic to the  
12 situation they find themselves in, and also, there is a  
13 new factor that is very recent, and I don't think that  
14 we have really fully analyzed the significance of  
15 having another ETC designated for the area in question.  
16 That just happened Friday, so I really don't know what  
17 my client's position is on that, but it's something  
18 that adds another wrinkle to an already complicated  
19 case.

20 So we would not be opposed to redoing the  
21 schedule if we could have a stipulation among the  
22 parties or ruling from the Commission that would state  
23 that the 18-month clock would, in effect, stop ticking.

24 JUDGE MACE: When does the 18-month clock  
25 stop ticking as of this point?

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1 MS. ENDEJAN: There are two different  
2 locations, and with respect to the first location --

3 JUDGE MACE: Is that the Taylor location?

4 MS. ENDEJAN: It depends on how you view  
5 when the request for service came in. There were some  
6 oral discussions. Ms. Taylor called Mr. Shirley, and  
7 then they called Ms. Gage, and then we called our  
8 service people and they went and started looking at  
9 this in February of 2001.

10 I first became aware of this in spring of  
11 2001, but she never submitted a formal service order  
12 into the system until December of 2001. So with  
13 respect to Ms. Taylor, how you calculate the 18 months  
14 depends on when you start the clock running. If you  
15 started it, and I just put down March of 2001, 18  
16 months ends in August of this year. If you start from  
17 the December 2001 actual submission of the service  
18 order, the clock stops running on May 2003.

19 With respect to Mr. Nelson who submitted the  
20 service order request for the Timm Ranch, he submitted  
21 a service order request sometime in June of 2001. I  
22 don't recall the exact date. The 18-month period would  
23 then end in November of 2002. Given the numerous  
24 wrinkles and the vagaries and variances of road  
25 construction over in that part of Washington, it's very

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1 difficult to see how -- even if Verizon were ordered to  
2 do this tomorrow, it would be very difficult to see how  
3 that task could be completed, particularly for  
4 Mr. Nelson, because that involves about 30 miles of  
5 actual digging and road construction to lay the fiber.

6           So be that as it may, in principle, we are  
7 not taking a position one way or the other with respect  
8 to Qwest's motion, but we just want to make sure that  
9 the case is done properly and that we don't get fined  
10 for not abiding by a rule that we can't abide by given  
11 all the circumstances of the case.

12           JUDGE MACE: Thank you. Mr. Trautman?

13           MR. TRAUTMAN: Thank you, Your Honor. As you  
14 know, Staff did not petition for any reconsideration of  
15 the order. We have not filed a written response. It  
16 appeared that Mr. Owens was talking about a few things.  
17 One, he seemed to be talking about the Commission's  
18 authority to prescribe the exchange boundaries under  
19 80.36.230, and Staff's position would be that the  
20 Commission correctly decided that it does have that  
21 authority and that the Commission's past precedents  
22 clearly indicated that the Commission has decided that.  
23 Now, that's a different question from saying whether it  
24 will move particular exchange boundaries in the facts  
25 of a particular case. That's a different question, but



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1 that's not what the order had to decide to join Qwest  
2 as a party.

3           Some of the other comments appear to be  
4 directed at, I believe, the structure of the schedule.  
5 Basically, the fact that Qwest under the current  
6 proposed schedule would file first and that Staff would  
7 respond. Mr. Owens did say, well, Qwest will have no  
8 opportunity to respond to whatever Staff puts forth.  
9 Certainly, that goes too far. That's not under the  
10 ALJ's proposed alternative. Qwest does have an  
11 opportunity to respond, but since this seems to be  
12 causing difficulties for Qwest, Staff is agreeable,  
13 provided there is a quicker discovery turnaround.  
14 Right now, we have 10 days, I believe is what we've  
15 used with Verizon, but that was because we had more  
16 time between filings.

17           Staff is willing to file first as long as we  
18 can file last. Part of the problem why we need an  
19 opportunity to respond to Qwest is that a lot of the  
20 facts in terms of what is the cost of service and some  
21 of the technical facts may well be more, at least,  
22 initially within Qwest's knowledge than Staff's. It  
23 may be things we can acquire and learn through  
24 discovery, so that's the reason we need to have the  
25 opportunity to do discovery once Qwest has filed.

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1           So Staff is willing to file first and Qwest  
2 can file second, as long as we can file last. That  
3 would appear to address the problems Qwest has. It  
4 would also, I assume, address the problems with the  
5 motion to compel because, of course, we would be  
6 answering data requests after we filed our testimony,  
7 which is what we've done with Verizon, so that would be  
8 consistent with that practice.

9           You had asked about when the deadlines or  
10 when we believe the deadlines for the 18-month  
11 deadlines would run. I believe Staff's position is  
12 that as to the Taylor application that she applied back  
13 in February of 2001, and so the 18 months would run  
14 somewhere near the end of August of 2002 because she  
15 had made a request. Even if it was not a formal  
16 service order, she had clearly requested service in  
17 February of 2001.

18           From Staff's perspective, knowing that,  
19 obviously, now that we are in a testimony filing  
20 schedule and we have to have a hearing and a Commission  
21 order, knowing that obviously that's going to take some  
22 time, Staff would not have any objection if the  
23 construction work were completed by November of 2002;  
24 in other words, at the end of this construction season.

25           As to the Timm Ranch, I believe the

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1 Commission initial request for service was made in June  
2 of 2001 so that the clock there would run out somewhere  
3 near the end of the year. Staff is not quite as  
4 concerned in that case if the construction were to not  
5 be completed until the early part of 2003, but I think  
6 that's more relevant only if the Commission were to  
7 decide to bifurcate the case in some way, which Staff  
8 had proposed -- although, I'm not sure the other  
9 parties were receptive to it -- that being having the  
10 Taylor case go first and perhaps, if necessary, having  
11 the Timm Ranch case separated out, but if there isn't  
12 going to be such bifurcation, then that doesn't become  
13 an issue. I think that hits the points I wanted to  
14 make.

15 JUDGE MACE: Mr. Owens?

16 MR. OWENS: Thank you, Your Honor. I don't  
17 understand how Counsel for the Staff could have heard  
18 my comments and construed them as a challenge to the  
19 Commission's authority to prescribe the exchange  
20 boundaries. That was part of the original discussion  
21 on the motion to join Qwest as a party, and I don't  
22 believe I mentioned that. What I said was that because  
23 the statute under which the Commission purports to act  
24 in this matter contains no standards, it's critical  
25 that Qwest be made aware of the claims on which that

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1 relief is sought, and that hasn't happened.

2 JUDGE MACE: Would you be satisfied if Staff  
3 did file first?

4 MR. OWENS: In principle, yes. As they say,  
5 the devil is in the details. Staff asks for a reduced  
6 discovery turnaround. I would point out that, and I'm  
7 not going to testify but as an officer of the court, I  
8 would represent to you that it's my understanding that  
9 the Staff served 87 data requests on Verizon. I think  
10 it's physically impossible for Qwest or anyone else to  
11 respond in a very short time to such a volume of  
12 discovery. I ask that that be kept in mind.

13 It seems that what apparently is driving a  
14 lot of the decision-making here is this perception of  
15 the deadline, and in principle, if the schedule  
16 structure has changed as Staff has indicated it would  
17 agree to with Staff filing first and last and Qwest  
18 filing in between, that addresses our concerns about  
19 proper notice and opportunity to respond. We, of  
20 course, would need some reasonable amount of discovery  
21 of the Staff, subject, as Mr. Trautman mentioned, to  
22 the fact that it would be of their testimony, which, of  
23 course, we haven't seen yet.

24 JUDGE MACE: Anything else?

25 MR. OWENS: No, nothing else.

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1                   MR. TRAUTMAN: Obviously, the number of data  
2 requests that I think all sides would issue would be  
3 quite less. Verizon issued quite a few to Staff, not  
4 87, but they issued 40 to 50 as well because there was  
5 a great deal more time.

6                   Another thing is if Qwest, upon filing its  
7 testimony -- for instance, if they have testimony  
8 saying it cost "X" amount to serve, if they would  
9 include with that testimony the backup documentation  
10 that supports that, that would also streamline the  
11 process. Work papers, if you will, would streamline  
12 the process, but I do think that the shorter discovery  
13 period is necessary because of the reduced time between  
14 filings.

15                   JUDGE MACE: It sounds like there is a  
16 resolution, to some extent, if Staff would agree to  
17 file first. The fly in the ointment, and that may not  
18 be the best expression to use here, is that the  
19 Commission is highly desirous of hearing this case at a  
20 very early opportunity. They are very concerned about  
21 not foreclosing opportunities for provision of service  
22 to these customers if that's what it decides should  
23 happen.

24                   I am not willing to change our hearing dates.  
25 That means July 15th to 17th, which we agreed to in the

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1 teleconference, remain the hearing dates. If you can  
2 work out a schedule that would accommodate Staff filing  
3 first and some period of discovery for each of you, I  
4 certainly would give you an opportunity to do that, but  
5 I can't change the hearing dates.

6 MR. TRAUTMAN: Can you just more or less use  
7 the dates that you have in the ALJ proposal and just  
8 change the parties?

9 JUDGE MACE: You are talking about then Staff  
10 filing being June 21st? Because then it would be the  
11 Qwest response on July 2nd. Let's be off the record to  
12 discuss this.

13 (Discussion off the record.)

14 JUDGE MACE: Parties have discussed  
15 scheduling off the record and have come up with the  
16 following schedule, which seems reasonable. Staff will  
17 file testimony on June 20th. It will be an electronic  
18 filing. Qwest and Verizon will file a responsive  
19 filing on July 5th by noon, also on electronic filing.  
20 Staff will file a responsive filing on July 11th.

21 We will have a prehearing conference on July  
22 12th at 1:30 in the afternoon; hearing July 15th to  
23 17th. That will begin at 9:30 in the morning on the  
24 15th. If it turns out that all your witnesses can be  
25 consolidated into two of those three days, please

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1 advise me so that we can cancel one of the schedule  
2 days, and I only ask that because the Commission's  
3 schedule in July is so full that it would be helpful  
4 for the overall schedule if I could throw that  
5 additional day back into the pool of dates available  
6 for the Commission.

7 Briefing schedule would call for simultaneous  
8 briefs on August 13th, electronically filed. We still  
9 have oral arguments scheduled for August 20th. I'm  
10 assuming you have all discussed and agreed upon some  
11 sort of discovery turnaround that will assist you.

12 MR. OWENS: We weren't able to come to  
13 agreement on that. We tried. I think Qwest is willing  
14 to serve its responses to the Staff as they are  
15 completed, however long that takes within the 10 days ,  
16 on a best-efforts base, but I don't know at this point  
17 what kind of workload we are looking at.

18 JUDGE MACE: I'm not comfortable with just  
19 saying 10 days is okay. Best efforts, certainly.  
20 Given the parameters of the schedule, you are going to  
21 have to get those responses out sooner than 10 days. I  
22 guess I'll leave it to the parties who have proposed  
23 the interrogatories that they should contact me if  
24 there is a problem.

25 MR. TRAUTMAN: Either three or four days

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1 would work for Staff.

2 JUDGE MACE: When you say "would work for  
3 Staff," you mean Staff can have its responses in three  
4 or four business days?

5 MR. TRAUTMAN: And expect the reciprocal.

6 JUDGE MACE: I would certainly be more  
7 comfortable with that, and then with some allowances,  
8 depending on the load of questions that are proposed,  
9 not to hold so fast to it that there would be some  
10 penalty involved that we couldn't have it in three or  
11 four days.

12 MR. OWENS: Your Honor, we've got a number of  
13 other simultaneous proceedings going that involve the  
14 same people that would be producing responses to the  
15 discovery in this case, and it's simply not realistic  
16 to believe that Qwest could comply with that sort of a  
17 turnaround given the existing workload.

18 JUDGE MACE: I recognize it's difficult. We  
19 do have a pretty tight time frame in this proceeding.  
20 As I said, I think that's what you should aim for.  
21 That's what your best efforts should be. If you have a  
22 problem, I think it's flexible enough so that we could  
23 try to deal with giving you additional time.

24 MR. TRAUTMAN: Staff would like Qwest to file  
25 its work papers with its filing. That could save Staff



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1 considerable effort.

2 JUDGE MACE: I'm not going to make that a  
3 requirement. You've expressed that interest, and if  
4 they can do it, it probably would be helpful, but I  
5 don't know what that would involve.

6 MR. OWENS: When we get them, I will be able  
7 to tell you what will be involved, but we don't have  
8 them yet.

9 JUDGE MACE: Anything else?

10 MR. TRAUTMAN: The only reason I mention the  
11 three days is that we would probably be putting out  
12 some of our DR's after they file. Now, they are now  
13 filing on July 5th, and we are to file on July the  
14 11th, and that's why we need the shorter turnaround  
15 time.

16 MR. OWENS: I guess I would point out, Your  
17 Honor, that Qwest is a regulated company. The  
18 Commission has the statutory power, has had it all  
19 during this case, to require Qwest to provide  
20 information. The fact that we are now 11th-hour  
21 parties to this case and trying to meet a hearing date  
22 I don't think really should reasonably justify this  
23 kind of short turnaround.

24 JUDGE MACE: The schedule is a very  
25 abbreviated one, and I recognize that that's difficult.

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1 I'm asking that you comply with this short turnaround  
2 to the extent you can. If there is some difficulty in  
3 complying with it, I'm sure Staff will call it to my  
4 attention, and we will try to resolve it as quickly as  
5 we can. Anything else? Okay, thank you. We are  
6 adjourned.

7 (Prehearing conference adjourned at 4:14 p.m.)

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