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BEFORE THE WASHINGTON UTILITIES AND

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TRANSPORTATION COMMISSION

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In the Matter of the Continued)
 Costing and Pricing of) Docket No. UT-003013
 4 Unbundled Network Elements and) Volume XXXIII
 Transport and Termination.) Pages 4014 to 4029
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A prehearing conference in the above matter

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was held on September 24, 2001, at 1:00 p.m., at 1300

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South Evergreen Park Drive Southwest, Room 206, Olympia,

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Washington, before Administrative Law Judge LAWRENCE

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BERG.

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The parties were present as follows:

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THE WASHINGTON UTILITIES AND TRANSPORTATION
 COMMISSION, by GREGORY J. TRAUTMAN and MARY TENNYSON,
 14 Assistant Attorneys General, 1400 South Evergreen Park
 Drive Southwest, Post Office Box 40128, Olympia,
 15 Washington, 98504-0128.

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WORLDCOM, INC. AND COVAD COMMUNICATIONS
 COMPANY, by BROOKS E. HARLOW, Attorney at Law, Miller
 17 Nash, LLP, 601 Union Street, Suite 4400, Seattle,
 Washington 98101.

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AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST,
 19 INC. AND XO WASHINGTON, INC., by GREGORY J. KOPTA,
 Attorney at Law, Davis, Wright, Tremaine, LLP, 1501
 20 Fourth Avenue, Suite 2600, Seattle, Washington 98101.

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VERIZON NORTHWEST, INC., via bridge line by
 JENNIFER L. MCCLELLAN, Attorney at Law, Hunton and
 22 Williams, 951 East Byrd Street, Richmond, Virginia
 23219.

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Joan E. Kinn, CCR, RPR
 25 Court Reporter

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1 QWEST CORPORATION, by LISA ANDERL and ADAM
2 SHERR, Attorneys at Law, 1600 Seventh Avenue, Suite
3 3206, Seattle, Washington 98191.

3 TRACER, via bridge line by ARTHUR A. BUTLER,
4 Attorney at Law, Ater Wynne, LLP, 601 Union Street,
5 Suite 5450, Seattle, Washington 98101.

5 MCI/WORLDCOM, INC., bia bridge line by MICHEL
6 SINGER NELSON, Attorney at Law, 707 - 17th Street, Suite
7 4200, Denver, Colorado 80202.

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P R O C E E D I N G S

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JUDGE BERG: This is a prehearing conference in Washington Utilities and Transportation Commission Docket Number UT-003013. This particular part of the docket has been designated as Part D. Today's date is September 24th, 2001. This prehearing conference is being held at the Commission's headquarters in Olympia, Washington as part of due and proper notice served on all parties on September 14th, 2001. My name is Lawrence Berg. I am the Administrative Law Judge that has been assigned to preside with the commissioners in this part of the proceeding.

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At this time, we will proceed to take appearances of counsel. I believe all counsel who are present in person or who are appearing via the Commission's teleconference bridge have previously appeared in this proceeding, and that being the case, counsel need only restate their name and the party they represent, and we will start in the room on my right with Commission Staff.

MR. TRAUTMAN: Greg Trautman, Assistant Attorney General for Commission Staff.

MS. TENNYSON: Mary Tennyson, Senior Assistant Attorney General for Commission Staff.

MR. HARLOW: Brooks Harlow, Miller Nash,

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1 attorney for Covad Communications.

2 JUDGE BERG: And, Mr. Harlow, do you also
3 represent YIPES Transmission, Inc. in this proceeding?

4 MR. HARLOW: I don't know that we ever
5 intervened for them, but they're certainly not active in
6 this part at this time.

7 JUDGE BERG: All right.

8 MR. HARLOW: Should I qualify that a little
9 further just to be safe.

10 JUDGE BERG: Thank you.

11 And then I know we have counsel for WorldCom
12 on the conference bridge; are you also co-counsel for
13 WorldCom?

14 MR. HARLOW: I would say yes, I guess, but
15 Ms. Singer Nelson is going to represent WorldCom on this
16 call, on this prehearing.

17 JUDGE BERG: All right, thank you.

18 MR. KOPTA: Gregory Kopta of the law firm
19 Davis Wright Tremaine, LLP, on behalf of AT&T
20 Communications of the Pacific Northwest, Inc., and XO
21 Washington, Inc.

22 MS. ANDERL: Lisa Anderl on behalf of Qwest
23 Corporation.

24 MR. SHERR: Adam Sherr on behalf of Qwest.

25 JUDGE BERG: For Verizon.

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1 MS. MCCALL: Jennifer McClellan.

2 JUDGE BERG: And, Ms. McClellan, just repeat
3 your firm association, please.

4 MS. MCCALL: I'm sorry, Hunton and Williams.

5 JUDGE BERG: And for WorldCom.

6 MS. SINGER NELSON: Michel Singer Nelson on
7 behalf of MCI/WorldCom.

8 JUDGE BERG: Are there any other parties or
9 persons present or on the conference bridge who wish to
10 enter an appearance?

11 MR. BUTLER: Yes, this is Arthur A. Butler
12 from Ater Wynne, LLP, appearing on behalf of Tracer.

13 JUDGE BERG: Mr. Butler, do you also
14 represent Teligent, Rhythms, or Broadband Office
15 Communications in this proceeding?

16 MR. BUTLER: No, just Tracer.

17 JUDGE BERG: Thank you, sir.

18 All right, at this time, we will be off the
19 record for a further discussion.

20 (Discussion off the record.)

21 JUDGE BERG: There's been a brief discussion
22 off the record regarding Verizon Northwest's request
23 that the Commission correct the dollar amount of its
24 total OSS transition cost recovery for UNEs in the state
25 of Washington as stated in the Commission's Part A final

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1 order. Verizon requests that this correction be made as
2 a result of an obvious or administrative error. Parties
3 shall have until October 3rd, 2001, to respond by letter
4 to the letter filed by Verizon dated September 14th,
5 2001, received by the Commission on September 18th,
6 2001.

7 Anything else from the parties on the record?
8 All right, then we will be back off the
9 record.

10 (Discussion off the record.)

11 JUDGE BERG: There has been a discussion with
12 the parties regarding the deferral of issues pertaining
13 to OSS transition cost recovery to another proceeding to
14 begin in the first quarter of 2002. Qwest requests an
15 opportunity to further consider this matter and to
16 submit a letter to the Commission stating its position
17 on or before September 28th, 2001. No other parties
18 state any objection to the deferral of those issues so
19 long as parties are able to comment and to contest
20 whether any costs reported are necessary, prudent, and
21 should be allowed.

22 Anything further from the parties on this
23 issue?

24 All right, hearing nothing, we will be back
25 off the record.

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1 (Discussion off the record.)

2 JUDGE BERG: There has been a discussion off
3 the record regarding whether the Commission should
4 further address the self provisioning of a point of
5 interconnection outside a central office in this Part D
6 proceeding, and if so, how should the issues be
7 established. The issue to be addressed in Part D is how
8 should CLECs be allowed to self provision entrance
9 facilities outside of a central office, and what costs
10 or what additional costs are associated with that self
11 provisioning.

12 In spite of this or in addition to this being
13 an issue to be addressed in this proceeding, there was
14 some agreement between parties to work on this issue
15 outside of the hearing room, to involve technical
16 experts to see if there may be some negotiated solution
17 to the problem. I appreciate the parties' willingness
18 to do that and sincerely hope that you can succeed in
19 part or in entirety.

20 Is there anything else the parties want to
21 add?

22 All right, let's again be off the record.

23 (Discussion off the record.)

24 JUDGE BERG: There has been discussion among
25 the parties as to whether or not there should be an

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1 additional issue presented in Part D relating to the
2 provisioning of DSL over DLC, and the Commission will
3 take this issue under advisement. But in doing so, I
4 want to provide the parties an opportunity to state in
5 their own words the issue to be resolved.

6 And, Mr. Harlow, you brought this to the
7 table, so I will let you discuss your client's concerns
8 and what you think needs to be done.

9 MR. HARLOW: Thank you, Your Honor, and just
10 to be very brief in summarizing, I will refer to and
11 incorporate Covad's Part D briefing, which fully sets
12 forth our position, and that way I hope to be briefer
13 than we were off the record.

14 In a nutshell, what Covad is seeking here is
15 that the order on prehearing conference direct Qwest and
16 Verizon to file cost studies using the least cost
17 forward looking technology for DSL line sharing over
18 digital loop carrier or DLC. And we have kind of a
19 chicken and egg problem. Basically we keep finding
20 ourselves, as DSL CLECs generally find themselves, in
21 the position where when the new capability comes out
22 such as DLC, such as line sharing over DLC, that there's
23 a lag period between the ILEC's retail offering and the
24 permanent per costing and pricing of the necessary
25 network elements. And we want to avoid that problem

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1 either by the interim solutions that Covad proposed in
2 Part D or by just going ahead and directing appropriate
3 TELRIC cost studies in Part D.

4 JUDGE BERG: Ms. Anderl.

5 MS. ANDERL: Thank you, Your Honor. Qwest
6 disagrees with Covad's interpretation of what would
7 constitute an appropriate TELRIC study, and what Covad
8 is asking the Commission to order we don't think is
9 supported by the applicable FCC decisions. We do think
10 that that issue in terms of what an ILEC is required to
11 do to offer DSL line sharing over DLC was addressed in
12 Part B. We think that Part B order will provide
13 valuable guidance before we move forward in Part D.

14 That said, however, we do have additional
15 information with regard to the costs and prices we would
16 propose on the DSL over DLC issue as well as costs and
17 prices associated with the packet switching offering,
18 which we do intend to come forward with in this Part D
19 docket, and we think that that's legally what is
20 required of us. We are prepared to do that, and we
21 think that that's all the Commission should order us to
22 do.

23 JUDGE BERG: Ms. McClellan.

24 MS. MCCALL: Yeah, rather than to add
25 something, Verizon supports what Qwest has just said.

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1 In addition to that, I would say that there has been no
2 finding that the methods of access to the high frequency
3 portions of the loops served by fiber that's preferred
4 by Covad is even a technically feasible method of
5 access, which is an underlying question that would need
6 to be addressed before any decision can be made about
7 whether or not that's the least cost most forward
8 looking technology available to the ILECs from studying
9 costs and prices, which just underscores there are
10 several legal and policy and technical issues wrapped up
11 in line sharing over fiber that would need to be
12 addressed before cost prices can be set. That hasn't
13 happened on the record anywhere, in Phase B or anywhere,
14 so that's a decision that's or that's an issue that
15 would need to be addressed before the parties could come
16 forth with costs and prices.

17 JUDGE BERG: All right, thank you very much.
18 Let's be back off the record.
19 (Discussion off the record.)

20 JUDGE BERG: There has been a discussion off
21 the record regarding both cost and pricing issues
22 pertinent to Qwest and pertinent to Verizon.

23 With regards to issues pertinent to Qwest,
24 Qwest and other parties will confer about the issues for
25 Part D as soon as possible, and Qwest will present on or

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1 before October 3rd a comprehensive list of Washington
2 issues for the Part D hearing. This will be a list that
3 will be cross referenced with outline points from the
4 annotated SGAT price list in Docket Number UT-003022.

5 With regards to Verizon, Verizon has
6 identified two OSS related issues that may be addressed
7 in Part D or may be deferred. The issues not subject to
8 deferral that Verizon will be filing costing information
9 on are nonrecurring charges for multiplexing, fiber
10 optic patch cord related to OCR termination, virtual
11 collocation, and then eight rate elements that are
12 related to the FCC's recent collocation order.

13 Let's start with you, Ms. McClellan, did I
14 capture that okay?

15 MS. MCCALL: It's OCN termination rather than
16 OCR, but other than that, yes, sir.

17 JUDGE BERG: Thank you.

18 And, Ms. Anderl, anything further with
19 regards to Qwest?

20 MS. ANDERL: I don't think so, Your Honor.

21 JUDGE BERG: All right, thank you.

22 Let's be off the record.

23 (Discussion off the record.)

24 JUDGE BERG: There has been an off record
25 discussion regarding procedural dates. Parties will

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1 file direct testimony on Wednesday, November the 7th,
2 2001. Parties will file response testimony on December
3 20th, 2001. And parties shall file reply testimony on
4 January 29th, 2002. The Commission will look to
5 schedule a hearing in this matter.

6 And for anybody joining the bridge, this is
7 the conclusion of a prehearing conference in UT-003013.
8 We will be finishing up in just one moment.

9 The Commission will look to file or schedule
10 a hearing in this matter as early as the first week in
11 March but as soon thereafter as possible.

12 Is there anything else that the parties want
13 to bring up at this time?

14 MR. HARLOW: Your Honor, just an issue with
15 the Staff, further de-averaging to address.

16 JUDGE BERG: Yes, thank you.

17 Ms. Tennyson, would you state the issue for
18 Staff?

19 MS. TENNYSON: Certainly, the Commission
20 Staff has received several items recently that have
21 raised the issue of de-averaging, further de-averaging
22 within the zone classifications that were set in I
23 believe it was Phase III of Part A, and Staff raised the
24 issue of could we address it in this proceeding through
25 Staff filing direct testimony proposing reclassification

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1 of the prices to additional or further de-average to two
2 zones within the existing zones. We would be looking at
3 probably in zones two through five changing it to two
4 rates for the loop within each of those zones. And then
5 so that the average price within that zone would come
6 out to the current average price for the zone. We
7 wouldn't be looking to redo the cost but redo the prices
8 or how the cost is recovered unless the parties were
9 interested in bringing that issue up. Staff would also
10 be amenable to reexamining the cost issues but is not
11 insistent on that.

12 JUDGE BERG: And, Ms. Anderl, understanding
13 that Qwest may have a strong position on this issue,
14 does Qwest object to the issue being addressed in this
15 Part D?

16 MS. ANDERL: I don't know. I haven't had a
17 chance to check with my client about that possibility.
18 I wasn't aware until today that it was possible that it
19 would even be brought up. We saw the Fairpoint
20 petition. We were also aware it had been withdrawn and
21 were not aware that any party would want to take any
22 action along those lines, and so I definitely need to
23 talk to my client about it.

24 I think it would potentially add complexity
25 to the docket, could add the need for additional hearing

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1 days, could add the need for additional time between the
2 filings of the various testimonies depending on what
3 type of discovery was going to be done. Even though
4 Staff says that they don't want to relook at the costs,
5 we would need to look at the costs within each wire
6 center in order to de-average on a distance sensitive
7 basis. As Ms. Tennyson pointed out during the Phase III
8 hearing in the 960369, that was actually a very complex
9 and contentious issue in that docket, distance based
10 de-averaging. And I just don't know without having
11 thought about it in any detail what type of additional
12 time it might need to add to the schedule, so that's
13 kind of where we are on it.

14 I can definitely raise the issue within Qwest
15 and try to get a position back to you somewhere along
16 the same schedule that we have been talking about, the
17 middle of next week.

18 JUDGE BERG: All right, I will take this
19 matter under advisement and look forward to a letter
20 from Qwest. I prefer a discreet letter from Qwest, not
21 combined with other issues.

22 MS. ANDERL: It will be.

23 JUDGE BERG: Setting out Qwest's position as
24 to whether Part D is the appropriate preceding to
25 address these issues and highlighting any other factors

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1 that Qwest needs to bring up.

2 MR. HARLOW: Your Honor.

3 JUDGE BERG: Yes, Mr. Harlow.

4 MR. HARLOW: Would other parties be able to
5 log in with a letter on this issue as well?

6 JUDGE BERG: Yes, sir, I will open this up
7 for all parties to file a responsive letter on or before
8 October 3rd, 2001, regarding Staff's proposed issue.

9 MS. ANDERL: And just for clarification,
10 would Staff be proposing a reevaluation just for Qwest
11 or for Qwest and Verizon both?

12 MS. TENNYSON: I believe it is just Qwest.
13 I'm not positive.

14 MS. SINGER NELSON: Judge Berg, this is
15 Michel Singer Nelson. I would note for the record that
16 WorldCom would like to revisit the loop rates in
17 Washington, so if we talk about de-averaging, redoing
18 some of the de-averaging, I would also like to relook at
19 loops.

20 JUDGE BERG: Well, I will need something in
21 writing about that, Ms. Singer Nelson. I think that
22 would cause some shock waves, but if you put it in
23 writing, we will process that request or decide how best
24 to address it.

25 Anything further?

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1 Let me just note for the parties that Sprint
2 Corporation, WITA, SBC Telecom, and WinStar Wireless
3 will be removed from the service list in this docket as
4 part of the next prehearing conference order.

5 Anything further parties wish to bring up
6 before we adjourn the prehearing conference in
7 UT-003013?

8 MS. TENNYSON: No, thank you.

9 MS. ANDERL: No.

10 JUDGE BERG: Hearing nothing, we will be
11 adjourned.

12 (Hearing adjourned at 3:05 p.m.)

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