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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of the Petition of)
TELEPHONE UTILITIES OF WASHINGTON)
4 INC., d/b/a PTI COMMUNICATIONS)
for an Order Authorizing the) DOCKET NO. UT-940700
5 Purchase of Property and for)
Declaratory Order on Rate Base)
6 Treatment.)
-----)

7 In the Matter of the Application)
of U S WEST Communications, Inc.) DOCKET NO. UT-940701
8 to Transfer Property to Telephone)
Utilities of Washington, Inc.,) Volume I
9 d/b/a PTI Communications.) Pages 1-27
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11 A hearing in the above matter was held on
12 October 14, 1994 at 1:45 p.m., at 1300 South Evergreen
13 Park Drive Southwest, Olympia, Washington, before
14 Administrative Law Judge ALICE L. HAENLE.

15 The parties were present as follows:

16 TELEPHONE UTILITIES OF WASHINGTON, INC. by
17 CALVIN SIMSHAW, Corporate Counsel, 805 Broadway,
Vancouver, Washington 98668.

18 U S WEST COMMUNICATIONS, INC. by EDWARD T.
19 SHAW, Corporate Counsel, 1600 7th Avenue, #3204,
Seattle, Washington 98191.

20 AT&T by R. BRUCE EASTER, JR., Attorney,
1501 Fourth Avenue, Suite 2600, Seattle, Washington
21 98101.

22 WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION
23 by RICHARD A. FINNIGAN, Attorney, 1201 Pacific Avenue,
Suite 1900, Tacoma, Washington 98402.

24 Lisa K. Nishikawa, CSR, RPR

25 Court Reporter

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1 MCI TELECOMMUNICATIONS CORPORATION by BROOKS
2 E. HARLOW, Attorney, 601 Union Street, #4400, Seattle,
3 Washington 98101-2352.

4 GTE NORTHWEST by FRED LOGAN, State Director,
5 1800 41st, Dept.-1-RIA, Everett, Washington 98201.

6 PUBLIC COUNSEL by ROBERT F. MANIFOLD,
7 Assistant Attorney General, 900 Fourth Avenue, #2000,
8 Seattle, Washington 98164.

9 WASHINGTON UTILITIES AND TRANSPORTATION
10 COMMISSION by GREGORY J. TRAUTMAN and STEVE SMITH,
11 Assistants Attorney General, 1400 South Evergreen Park
12 Drive Southwest, Olympia, Washington 98504.

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2 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

3 (None.)

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6 EXHIBIT MARKED ADMITTED

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

2 JUDGE HAENLE: The hearing will come to
3 order. This is a prehearing conference in
4 consolidated Docket Numbers UT-940700 and Docket
5 Number UT-940701. The first docket number is a
6 petition of Telephone Utilities of Washington, Inc.
7 d/b/a PTI Communications for an order authorizing the
8 purchase of property and for a declaratory order on
9 rate base treatment.

10 The second docket number is in the matter
11 of the application of US WEST Communications, Inc. to
12 transfer property to Telephone Utilities of
13 Washington, Inc. d/b/a PTI Communications.

14 The notice of prehearing conference was
15 issued on September 23, 1994 and there was an order of
16 consolidation by the Commission consolidating these
17 two served on September 26, 1994. This prehearing
18 conference is taking place on October 14, 1994 before
19 Administrative Law Judge Alice L. Haenle of the Office
20 of Administrative Hearings.

21 I would like to take appearances at this
22 time, please. I'll just begin at one end of the table
23 and go down the line since we have a number of people
24 who are petitioning to intervene. Give your name,
25 your client's name, your business address, beginning

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1 at the end there, Mr. Easter.

2 MR. EASTER: This is Bruce Easter entering
3 an appearance for AT&T. The business address is Davis
4 Wright Tremaine, 1501 Fourth Avenue, Seattle,
5 Washington, 98101. Telephone number 206-622-3150.

6 JUDGE HAENLE: Thank you. Mr. Shaw.

7 MR. SHAW: Yes. Ed Shaw on behalf of the
8 petitioner US West Communications, Inc., 1600 Bell
9 Plaza, Room 3204, Seattle, 98111.

10 JUDGE HAENLE: Thank you. Mr. Finnigan.

11 MR. FINNIGAN: Thank you. Richard Finnigan
12 appearing on behalf of the Washington Independent
13 Telephone Association. I'm with the firm of
14 Vandenberg, Johnson, and Gandara. Address is 1201
15 Pacific Avenue, Suite 1900, Tacoma, Washington, 98402.

16 JUDGE HAENLE: Mr. Harlow.

17 MR. HARLOW: Brooks Harlow representing MCI
18 Telecommunications Corporation. I'm with the law firm
19 of Miller, Nash, Wiener, Hager & Carlsen. Our address
20 is 4400 Two Union Square, 601 Union Street, Seattle,
21 Washington, 98101.

22 JUDGE HAENLE: Thank you. Mr. Simshaw.

23 MR. SIMSHAW: Calvin Simshaw appearing on
24 behalf of the petitioner Telephone Utilities of
25 Washington, Inc. doing business as PTI Communications.

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1 My business address is 805 Broadway, Vancouver,
2 Washington, 98668.

3 JUDGE HAENLE: And mailing address is a
4 post office box?

5 MR. SIMSHAW: Actually, that is a mailing
6 address or there's also a post office box of 9901.

7 JUDGE HAENLE: Thank you. That's what's on
8 the master service list. I want to be sure we're not
9 sending material to the wrong place. Mr. Logan.

10 MR. LOGAN: Fred Logan representing GTE
11 Northwest. 1800 41st Street, Everett, Washington,
12 98201.

13 JUDGE HAENLE: Thank you. Mr. Manifold.

14 MR. MANIFOLD: Robert F. Manifold,
15 assistant attorney general, appearing on behalf of
16 public counsel. Our address is 900 Fourth Avenue,
17 Suite 2000, Seattle, Washington, 98164.

18 JUDGE HAENLE: Thank you. Mr. Trautman.

19 MR. TRAUTMAN: Gregory J. Trautman,
20 assistant attorney general, representing Commission
21 staff. Our address is 1400 South Evergreen Park Drive
22 Southwest, Olympia.

23 JUDGE HAENLE: Thank you. And now was
24 there anyone else present in the hearing room who
25 intends to move to intervene in this matter or

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1 otherwise participate that has not entered an
2 appearance? The record will reflect there is no
3 response.

4 Were there any written petitions filed to
5 intervene, gentlemen? Hearing no response, I assume
6 you will be making your statements orally then. I
7 told you before we went on the record, and I'll tell
8 you again, that I know that the Commission wants to
9 keep the issues in this case narrow so that we're
10 discussing just what the petition and the application
11 are covering, so keep that in mind. You will need to
12 state what your client's interest is specifically in
13 this case.

14 Well, there are a number of other things
15 that the notice of hearing -- I'm sorry -- notice of
16 prehearing conference indicated we'll cover this
17 morning. We'll do them after we do the petitions to
18 intervene so we know who's in and who's out.

19 Want to begin, Mr. Easter?

20 MR. EASTER: AT&T moves to intervene in
21 this proceeding. We have a written petition which I
22 will file, but I will note for the record that the two
23 primary issues of interest to AT&T are the potential
24 impact of the transaction on access charges to AT&T as
25 a customer. The petitions are vague and ambiguous on

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1 this point. We anticipate that they will increase.
2 AT&T is also concerned with billing and collection
3 cost increases as a result of the transaction. Both
4 of these could have a significant detrimental impact
5 on customers' long distance use in the region. And
6 that is AT&T's primary interest and focus in this
7 proceeding.

8 JUDGE HAENLE: Is there any objection to
9 the participation of AT&T in this matter, Mr. Simshaw?

10 MR. SIMSHAW: None.

11 JUDGE HAENLE: Mr. Shaw?

12 MR. SHAW: No.

13 JUDGE HAENLE: Comment from anyone else?

14 MR. MANIFOLD: No.

15 MR. TRAUTMAN: No objection.

16 JUDGE HAENLE: All right. I will grant the
17 petition to intervene of AT&T then. Okay. The next
18 is, I guess, you, Mr. Finnigan.

19 MR. FINNIGAN: Thank you. We're appearing
20 on behalf of the Washington Independent Telephone
21 Association.

22 JUDGE HAENLE: And speaking slowly, please.

23 MR. FINNIGAN: WITA is a non-profit
24 corporation whose members are local exchange companies
25 operating within the state of Washington. As stated

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1 in the notice of prehearing conference, the ultimate
2 issue involved in this proceeding is whether the
3 transfer of properties is consistent with the public
4 interest. This is the first major transfer of largely
5 rural exchanges within the state of Washington among
6 the existing local exchange companies. We anticipate
7 that there will be others in the future and that this
8 case will set the ground rules under which those
9 transfers can occur. We certainly will focus solely
10 on that issue as stated here that the transfer of
11 property is consistent with the public interest and
12 have no intention of bringing in any issue other than
13 that.

14 JUDGE HAENLE: Is PTI a member of the WITA
15 organization?

16 MR. FINNIGAN: Yes, they are. They are.

17 JUDGE HAENLE: Does that cause you
18 gentlemen any problem?

19 MR. SIMSHAW: No objection.

20 JUDGE HAENLE: I just -- that's -- I
21 assumed the answer was yes, that you were a member,
22 but I didn't know if that caused any kind of a
23 conflict at all.

24 Does that complete your statement of
25 interest, Mr. Finnigan?

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1 MR. FINNIGAN: Yes, it does.

2 JUDGE HAENLE: Your primary interest is in
3 the precedential value this transfer would have on
4 later transfers?

5 MR. FINNIGAN: That is correct. We assume
6 that the standards set in this case will be the ones
7 that the Commission would intend to apply to
8 subsequent transfers.

9 JUDGE HAENLE: All right. Is there any
10 objection to the participation of WITA in this matter,
11 Mr. Simshaw?

12 MR. SIMSHAW: No objection.

13 JUDGE HAENLE: Mr. Shaw?

14 MR. SHAW: None.

15 JUDGE HAENLE: From the Commission staff or
16 public counsel?

17 MR. MANIFOLD: No.

18 MR. TRAUTMAN: No.

19 JUDGE HAENLE: All right.

20 MR. HARLOW: Your Honor, excuse me. I have
21 no objection. I would request, since it's required by
22 the rule, that the address for WITA be stated. It
23 might become necessary to serve WITA at some point in
24 the future, so I think it's important we get those
25 addresses on the record.

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1 next. I'm sorry. So WITA was -- there was no
2 objection and I will grant the petition of WITA.

3 MR. FINNIGAN: Thank you.

4 JUDGE HAENLE: Mr. Harlow.

5 MR. HARLOW: Thank you, your Honor. MCI
6 Telecommunications Corporation petitions to intervene
7 in this proceeding. MCI does not desire and will not
8 broaden the issues in this case beyond those stated in
9 the notice of prehearing conference. MCI's interest
10 is substantially similar to that of AT&T. MCI is also
11 an interexchange carrier that purchases access,
12 transport, and billing and collection services from
13 the petitioners. And those charges and costs that MCI
14 bears may be affected by this proceeding.

15 In addition to the address that I gave,
16 MCI's address, and we would request that this be
17 included on the service list as well, should include
18 Sue E. Weiske, W E I S K E. MCI Telecommunications
19 Corporation, Suite 3900, Arco Tower, 707 17th Street,
20 Denver, Colorado, 80202.

21 For reasons I've just stated, MCI has an
22 interest in this proceeding and petitions to
23 intervene.

24 JUDGE HAENLE: Any objection to the
25 participation, Mr. Simshaw?

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1 MR. SIMSHAW: No objection.

2 JUDGE HAENLE: Mr. Shaw?

3 MR. SHAW: None, your Honor, but I would
4 request that it be clarified that Mr. Harlow listing
5 also an MCI in-house counsel in Denver, that doesn't
6 mean that the parties here are going to be required to
7 serve two copies of everything on MCI, such as
8 responses to discovery and so forth.

9 JUDGE HAENLE: No. The way that I just set
10 it up is that there will be one contact person per
11 client. I will put -- at your request I can put on
12 the master service list for service of things like
13 notices of hearing and things the name and address
14 that you gave, but we are -- I've asked that everybody
15 give one single name and address, so for purposes of
16 service on you of other parties' materials, you have a
17 choice of being the contact or having this other
18 person be the contact and then you will be responsible
19 for internal distribution within your organization.

20 MR. HARLOW: I'll be the contact then. As
21 a courtesy, I would request counsel, if they would
22 please, to copy Ms. Weiske. If you're not willing to
23 do that, I will forward it to her.

24 JUDGE HAENLE: Okay. For official purposes
25 and for purposes of getting information to everyone,

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1 counsel's responsibilities will end when they have
2 served you. If they want to do the other as a
3 courtesy, that's all right. Remember to give me that
4 name and address afterwards so I can add it to the
5 Commission's master service list, but if the petition
6 is granted, you would then be the contact person. Any
7 objection to the petition from anyone else?

8 MR. TRAUTMAN: No, your Honor.

9 MR. MANIFOLD: No.

10 JUDGE HAENLE: Okay. I will grant the
11 petition of MCI then.

12 MR. EASTER: Excuse me, if I may. I had a
13 similar request from the in-house person in Colorado
14 for AT&T, so is the procedure now that I can give you
15 another name at the end of this proceeding and
16 courtesy copies of documents other than discovery
17 requests and so on will be mailed?

18 JUDGE HAENLE: Well, I can ask that they
19 add additional people to the master service list from
20 the Commission. At some point it gets so unwieldy
21 that it gets very confusing. You may give it to me
22 afterward and you may let other counsel know after the
23 hearing if you want -- if you want courtesy copies
24 sent, but understand, if we have, what, eight or nine
25 separate parties in this matter, that it gets so

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1 cumbersome, that that's why I insist on one single
2 contact person. I don't want to hear from anyone that
3 they have not been able to -- you will be responsible
4 for distribution within your own entity and if other
5 people want to as a courtesy accommodate you, that's
6 fine, but I want to make it very clear that their
7 legal responsibility from my point of view will be
8 covered by serving the one contact person.

9 Okay. Mr. Logan, I believe you're next.

10 MR. LOGAN: Thank you, your Honor. GTE's
11 main interest is with two items, the accounting
12 treatment that will come out of this docket as well as
13 the public interest issues. Our issues or concerns
14 are very similar to WITA's, as were expressed by Mr.
15 Finnigan. We do not plan to broaden or inject new
16 issues into this docket. And our concern also rests
17 with any precedent that may be set since GTE at some
18 time in the near future may be filing similar
19 petitions before the Commission.

20 JUDGE HAENLE: What do you mean when you
21 say public interest issues? Anything in particular?

22 MR. LOGAN: The overall policy, the
23 concerns that we would have to be aware of as
24 reflecting the sale, what it does on the customers as
25 well as the IXCs and those types of issues. Is it in

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1 the public interest.

2 JUDGE HAENLE: Okay. Does that complete
3 your statement, Mr. Logan?

4 MR. LOGAN: Yes, it does, your Honor.

5 JUDGE HAENLE: Any objection to the
6 participation of GTE in this matter, Mr. Simshaw?

7 MR. SIMSHAW: No objection.

8 JUDGE HAENLE: Mr. Shaw?

9 MR. SHAW: None.

10 JUDGE HAENLE: From public counsel or the
11 Commission counsel?

12 MR. TRAUTMAN: None.

13 MR. MANIFOLD: No objection.

14 JUDGE HAENLE: All right. I'll grant the
15 motion of GTE then. Does that cover everyone? Okay.
16 That gives us seven parties, seven units to serve. So
17 please remember that all of you will consider the
18 address you gave at the beginning as the contact
19 address unless you let me know differently. I mean
20 eight parties, you're right, two companies. Okay. It
21 wasn't a test; it was just clumsy on my part.

22 MR. EASTER: Your Honor, now that we've got
23 that clarified, I had brought petitions to intervene
24 with me, but the mailing information in those
25 petitions now is going to conflict with what we've

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1 agreed to here, so I think I will just let my oral
2 record stand rather than file the written petition, or
3 I can file the written petitions with changes to it,
4 whatever you prefer.

5 JUDGE HAENLE: Well, we'll be using the
6 mailing addresses that were given on the record. If
7 you have fully stated your interest and since your
8 interest -- your petition has been granted, I don't
9 see any reason to file the written document unless
10 somebody wants it. If somebody wants one in
11 particular, maybe you could ask Mr. Easter for it, but
12 beyond that, the decision was made on the basis of
13 your oral statements, not on the basis of a written
14 statement that nobody had seen yet. So I don't think
15 it's probably necessary.

16 MR. EASTER: Okay.

17 JUDGE HAENLE: One of the major things that
18 we need to talk about is the issues were stated in the
19 notice of prehearing conference and the Commission
20 also at the bottom of the first page of the notice of
21 prehearing conference indicated that it proposed to
22 conduct this hearing on the basis of prefiled
23 testimony and exhibits without cross-examination of
24 witnesses. What I would like to do is go off the
25 record for a bit, but that around, talk some

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1 scheduling, depending on whether parties object to
2 that process or not, and then come back and summarize.
3 Is that sufficient for everybody? Okay. Let's go off
4 the record for that purpose.

5 (Discussion off the record.)

6 (Steve Smith enters the hearing room and
7 Gregory Trautman leaves the hearing room.)

8 JUDGE HAENLE: Let's be back on the record
9 after an extended discussion of the processes that
10 we'll be using, the setting of a tentative schedule,
11 and the premarking of documents. At the time we went
12 off the record, I called the parties' attention to
13 that portion of the Commission's notice of prehearing
14 conference that indicated that the Commission's strong
15 preference would be to hold this on the basis of a
16 paper record, that is, prefiled testimony and exhibits
17 without cross-examination of witnesses. It's my
18 thought and the thought as I understand from the
19 Commission in its tentative -- in its proposal on
20 alternate dispute resolution that it would not use
21 this process without the agreement of all the parties
22 that were involved.

23 I asked the parties if they would agree to
24 waive cross-examination and a number of parties stated
25 that they did not know yet enough about the case to be

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1 able to make an informed decision one way or the
2 other, partly because they had not seen the company's
3 prefiled yet because they didn't have to bring it
4 until today, and partly because they had not conducted
5 any discovery yet.

6 We talked about that for some period of
7 time and what we agreed to do is the following, I
8 think, and once I've stated this on the record, if
9 I've misstated anyone's position or if there are any
10 comments anyone wants to make, I'll give you the
11 opportunity to do that.

12 What we set up was a schedule that involves
13 prefiling of all of the testimony and exhibits before
14 cross-examination of any of them. We then set a
15 settlement conference for a time between the end of
16 the prefiling, that is, you'll know what all the
17 materials are, and before the hearing dates that
18 we've set. The purpose of the settlement conference
19 as I proposed it, one purpose is to then find out from
20 the parties whether or not they are willing to waive
21 cross-examination. A second purpose obviously would
22 be to see how you're doing in terms of narrowing the
23 issues, discussing settlement to see if this case can
24 be settled entirely. That would be wonderful. But at
25 that time I'll ask you again if you're willing to

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1 waive the cross-examination, and if so, we would at
2 that time cancel the cross-examination hearings,
3 although we would still hold the public hearings that
4 we'll be setting up. We also set a brief date.

5 The dates that we set up are the following.
6 Company prefile October 14, which has been done during
7 the time we were off the record. Prefiling of
8 Commission staff, intervenor, and public counsel
9 expert December 15. Prefiling of company rebuttal for
10 the two companies January 12. Settlement conference
11 January 26. Hearings February 21 through 24, and
12 briefs March 16. If indeed we are able to cancel the
13 hearings because of the settlement conference, then we
14 can certainly adjust the briefing date if we need to.

15 The discussion about public hearings
16 suggested two public hearings, one on the east side of
17 the mountains, one on the west side of the mountains,
18 and after some discussion, we, I think, agreed on one
19 in Ashford and one in Ritzville. And there was a
20 suggestion of a couple of locations at Ashford that we
21 could use.

22 I indicated that I would be willing to hold
23 evening hearings on the public hearings. And I think
24 the dates that we had talked about were February 28,
25 March 1 or 2, or sometime during the week of March 6.

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1 I would like them as early as possible, but that will
2 depend, of course, on the locations that we can find,
3 hearing locations we can find in those towns.

4 Now, that's a very shortcut version of
5 what we discussed. I know the companies wanted to
6 have this done as soon as possible. The staff,
7 intervenors, and public counsel wanted to be sure that
8 they had time for discovery so that they could
9 properly identify the issues.

10 Does anyone else -- did I misstate anything
11 we did or did anyone else want to make a statement in
12 connection with the discussions that we had off the
13 record before we go on to the prefiled material?

14 MR. MANIFOLD: I don't remember if you said
15 anything about the individual customer notification by
16 the companies, which is something we're going to be
17 discussing off the record and getting back to you on.

18 JUDGE HAENLE: I did not. The issue was
19 raised by public counsel that they were going to want
20 to discuss with the company some kind of notification
21 for all of the customers about this filing. I
22 suggested that the parties discuss this off the record
23 and then let me know what they decided to do on that.
24 We had not set any particular checkback date on that.
25 I think that's something that's best done by public

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1 counsel in discussion with the parties.

2 Anyone else? Did I miss anything or
3 misstate anything? All right. Hearing no response
4 then, we also premarked the documents that were
5 provided by the two, the applicant and the petitioner
6 respectively, as follows. Marked as Exhibit T-1 for
7 identification, prefiled testimony of James H.
8 Huesgen, H U E S G E N. It also has JHH-T on it.
9 Exhibit T-2 for identification, prefiled testimony of
10 Jon, J O N, C. Erickson, JCE-T. Exhibit 3 for
11 identification, JCE-1 in two pages. Exhibit 4 for
12 identification, JCE-1 -- I'm sorry. Four is JCE-2, I
13 assume. And 5, JCE-3, also in one page.

14 Exhibit T-6 for identification, prefiled
15 testimony of Robert A. Smith, RAS-T. Exhibit 7 for
16 identification RAS-1. T-8 for identification, the
17 prefile of Michael D. Moran. Nine for identification,
18 MDM-1. T-10 for identification, prefiled testimony of
19 Margaret J. Wright, W R I G H T. Eleven for
20 identification, MJW-1, and 12 for identification,
21 MJW-2.

22 I asked the parties if there was any need
23 for a protective order in this matter. I believe you
24 indicated, Mr. Shaw, that you wanted a protective
25 order, is that correct?

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1 (Marked Exhibits Nos. T-1, T-2, 3, 4, 5,
2 T-6, 7, T-8, 9, T-10, 11, and 12.)

3 MR. SHAW: Yes, please.

4 JUDGE HAENLE: I would suggest -- and you
5 also, Mr. Simshaw?

6 MR. SIMSHAW: Yes, we would.

7 JUDGE HAENLE: I will ask the Commission to
8 issue a protective order then. We'll do it as soon as
9 possible. It takes a couple of days. It will be in
10 the form of the one that we usually use. There's a
11 stock protective order that we usually use, if that's
12 all right with everybody.

13 MR. SHAW: Yes.

14 JUDGE HAENLE: Okay. I asked whether the
15 parties wanted the discovery rule WAC 480-09-480
16 invoked. I think it's appropriate in this case. And
17 I believe the parties did discuss they wanted the
18 discovery rules option open to them. I also indicated
19 there should be an original and 19 copies of prefiled
20 documents filed in this case.

21 Remember that when you send prefiled -- no,
22 let me try it again. When you send responses to
23 discovery requests to -- it was Mr. Trautman a minute
24 ago; now it's Mr. Smith, send those directly to the
25 assistant attorney general involved, whoever that may

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1 end up being, not through the Commission's secretary,
2 so that the responses to the discovery requests do not
3 get distributed by mistake.

4 I will issue a prehearing conference order
5 in this matter. It will include all of the things
6 I've indicated, other than the specific dates and
7 times of the public hearings. That'll take a little
8 while. What I would propose to do then is to put them
9 in a letter to all of you sometime after the order on
10 prehearing conference once we're able to find
11 locations and times for those.

12 Now, is there anything else we need to
13 discuss or have I left anything out from our
14 off-the-record discussions, gentlemen? Mr. Manifold?

15 MR. MANIFOLD: I have something that -- it
16 doesn't involve what we did off the record.

17 JUDGE HAENLE: Let's do those things first.
18 Anything else now? Did I leave anything out from what
19 we did off the record? Anyone? Hearing no response,
20 then go ahead, Mr. Manifold.

21 MR. MANIFOLD: Well, in US WEST's petition,
22 point number 7 on page 5, it says that the effect on
23 USWC's intrastate rate base expenses and revenues of
24 this transfer will be determined later this year and
25 next in proceedings leading to another US WEST

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1 alternative form of regulation and should not be
2 addressed in the Commission disposition of this
3 application.

4 And I'm not an accountant, but it seems to
5 me that that sounds different than what Mr. Shaw said
6 this morning in terms of whether or not this -- or
7 this afternoon, excuse me, whether or not this case
8 would involve the treatment of US WEST's gain on this
9 sale, and so I'm a little unclear which is the case,
10 but I didn't want that to not be addressed, at least,
11 and I don't know if you can address it this afternoon
12 or if that's something that will come out once we read
13 the testimony.

14 JUDGE HAENLE: Where is it again now? I
15 don't find that in --

16 MR. MANIFOLD: On the application, page 5,
17 paragraph numbered 7.

18 JUDGE HAENLE: Okay. I was looking at
19 paragraph numbered 5, I'm sorry. Mr. Shaw?

20 MR. SHAW: When we filed this petition, it
21 was our belief, based upon past Commission practice,
22 that under the transfer of property statute that that
23 issue would not be decided in this case, that the
24 Commission would virtually refuse to decide that issue
25 in this case, that the transfer of asset issue doesn't

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1 have anything to do with the ratemaking treatment
2 accorded the company before or after. It's simply
3 whether the transfer of assets is within the public
4 interest. So that was our full expectation when we
5 filed the petition.

6 Since we filed the petition, that issue has
7 been raised, well, what will happen -- what US WEST's
8 position on what will happen with the gain. And our
9 prefiled testimony asserts that we believe what should
10 happen is that the ratemaking treatment should follow
11 the accounting treatment, that it should reflect the
12 books of the company. And we briefly make the
13 argument why that is the case.

14 If the Commission -- if it becomes an issue
15 in this case for decision on what US WEST's rates
16 should be after this transfer, or if the transfer is
17 conditioned upon some sort of ratemaking treatment,
18 it's our view that that would tend to expand the
19 issues beyond the issues presented by the petition.

20 However, realistically, if that's going to
21 become the issue, we're going to have to address that
22 and we're prepared to address that in this proceeding,
23 but what we don't want is essentially an order that
24 says the transfer is approved and we're going to do
25 negative things to the company in a later proceeding

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1 without the opportunity to make a record on those
2 issues. So it's kind of a delicate proposition.

3 If it's not an issue in the case, we're
4 willing certainly to address it where it is properly
5 an issue. If it's made an issue by any party over our
6 objection or with our acquiescence, then we'll have
7 to treat it in this case.

8 MR. MANIFOLD: What I'm hearing you say is
9 that if there's an order that addresses how it's to
10 be handled, you would like it to be one in which
11 you've been able to make a record on that issue?

12 MR. SHAW: Certainly.

13 MR. MANIFOLD: And you're not sure if
14 that's this record or not?

15 MR. SHAW: Yes.

16 MR. MANIFOLD: Okay.

17 JUDGE HAENLE: Is there anything else we
18 need to discuss this afternoon? All right. I'll
19 adjourn the prehearing conference then. I will ask
20 the Commission to issue a protective order and I will
21 issue an order on prehearing conference. Thank you
22 all for coming.

23 (Hearing adjourned at 3:16 p.m.)

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