

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of)	DOCKET UT-090842
)	
VERIZON COMMUNICATIONS INC.)	
AND FRONTIER)	ORDER 02
COMMUNICATIONS)	
CORPORATION)	PREHEARING CONFERENCE
)	ORDER
For an Order Declining to Assert)	
Jurisdiction Over, or, in the Alternative,)	(Evidentiary Hearing set for
Approving the Indirect Transfer of)	December 15 – 18, 2009 and Public
Control of Verizon Northwest Inc.)	Comment Hearing set for October
)	15, 2009)
.....)	

1 **NATURE OF PROCEEDINGS:** On May 29, 2009, Verizon Communications Inc. (Verizon) and Frontier Communications Corporation (Frontier) filed a joint application with the Washington Utilities and Transportation Commission (Commission) for an order declining to assert jurisdiction over the indirect transfer of control of Verizon Northwest, Inc. (Verizon Northwest) from Verizon to Frontier or, in the alternative, approving the Application under the ‘Transfer of Property’ statute and rules set forth in RCW 80.12, WAC 480-143, and any other authority deemed necessary to effect the transaction.

2 On June 12, 2009, the Commission entered a Notice of Prehearing Conference and appointed Administrative Law Judge Patricia Clark as presiding officer in this proceeding.

3 **CONFERENCE.** The Commission convened a prehearing conference in this proceeding, as scheduled, at Olympia, Washington on July 7, 2009.

4 **PARTY REPRESENTATIVES:** Gregory M. Romano, Everett, Washington, represents Verizon. Charles L. Best, Portland Oregon, and Kevin Saville, of Mound, Minnesota, represent Frontier. Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission

Staff or Staff).¹ Gregory J. Kopta, Davis Wright Tremaine, LLP, Seattle, Washington, represents Comcast Phone of Washington (Comcast). Mark P. Trinchero, Davis Wright Tremaine LLP, Portland, Oregon represents Integra Telecom of Washington, Inc. (Integra), tw telecom of Washington, llc (tw telecom), XO Communications Service, Inc. (XO Communications), Covad Communications Company (Covad), and PAETEC Communications, Inc., on behalf of its subsidiary McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC Business Services (PAETEC) collectively referred to as the Joint Competitive Local Exchange Carriers or Joint CLECs. Scott J. Rubin, Bloomsburg, Pennsylvania, represents the International Brotherhood of Electrical Workers, Local 89 (IBEW). Lisa Rackner, McDowell & Rackner PC, Portland, Oregon, represents Level 3 Communications, LLC (Level 3) and 360networks (USA), inc. (360networks). Brooks E. Harlow and David L. Rice, Miller Nash, LLP, Seattle, Washington, represent the Broadband Communications Association of Washington (BCAW). Stephen S. Melnikoff, General Attorney, Arlington, Virginia, represents The Department of Defense and All Other Federal Executive Agencies (DoD/FEA). A complete list of party representatives and their contact information is attached to this Order as Appendix A.

5 **PETITIONS FOR INTERVENTION.** On June 10, 2009, Comcast filed a petition to intervene. Integra, tw telecom, and XO Communications filed petitions to intervene on June 11, 2009. On June 15, 2009, Covad sought intervention. IBEW and Level 3 filed petitions to intervene on June 29, 2009. On June 30, 2009, BCaw, PAETEC, and DoD/FEA filed petitions to intervene. Also on June 30, 2009, Frontier and Verizon filed a response opposing IBEW’s petition to intervene. 360networks (USA) inc. (360networks) filed a petition to intervene on July 2, 2009. IBEW filed a motion for leave to file reply and reply on July 2, 2009.

6 With the exception of BCaw’s, Comcast’s, and IBEW’s petitions, the petitions to intervene were not opposed. The contested petitions are discussed later in this decision. In each of the unopposed petitions to intervene, the petitioners

¹ In formal proceedings, such as this, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*.

demonstrated a substantial interest in this proceeding and that their participation will be in the public interest. Accordingly, the unopposed petitions to intervene filed by Integra, tw telecom, XO Communications, Covad, PAETEC, Level 3, 360networks, and DoD/FEA, are granted.²

CONTESTED PETITIONS FOR INTERVENTION/MOTION FOR LEAVE TO FILE REPLY.

7 *BCAW.* Verizon objected to *BCAW*'s intervention arguing that an organization of unregulated competitors should not be permitted to intervene in a case concerning transactions between regulated competitors.³ In addition, Verizon argued that as a trade association it is unclear what specific interest the association has regarding this transaction.⁴

8 Commission Staff did not oppose intervention based on *BCAW* members' interests as a wholesale purchaser of telecommunications services.⁵ Public Counsel observed that in recent telecommunications cases the Commission has addressed broadband issues in varying degrees.⁶ *BCAW* confirmed that some of its members are wholesale customers of Verizon.⁷

9 The Commission granted *BCAW*'s intervention specifically based on the members' interests as a wholesale customer of Verizon.⁸ However, *BCAW*'s participation in this proceeding will be limited to its members' interests as wholesale customers of Verizon.

10 *Comcast.* Verizon requested that *Comcast*'s intervention be limited in a similar manner to that of *BCAW*.⁹ *Comcast* asserted that Verizon's objection was unclear because it is a regulated telecommunications carrier registered with the

² WAC 480-07-355.

³ TR 9.

⁴ *Id.*

⁵ TR 11 – 12.

⁶ TR 12.

⁷ TR 10.

⁸ TR 13.

⁹ *Id.*

Commission.¹⁰ Comcast argues that because it has an interconnection agreement with Verizon its interests are different than BCAW and its intervention should not be limited.¹¹

11 The Commission granted Comcast's intervention without limitation.¹² Comcast's petition reasonably demonstrated that it has a substantial interest in the outcome of this proceeding and that its participation will not broaden the issues.

12 *IBEW.* IBEW asserted the proposed transaction is likely to have a direct and immediate impact on its members both in their status as employees and customers. The Commission does not concern itself with labor relations issues, which are the *sine qua non* of IBEW's existence. That is, labor relations are the exclusive purpose of the IBEW. In order to be granted status as an intervenor, IBEW must demonstrate that the interests that the organization seeks to protect are germane to its purpose and that those interests are within the scope of what the Commission will consider in this proceeding. IBEW has failed to do so. Indeed, the labor union's own pleadings and the arguments advanced by its counsel demonstrate its interests are principally labor relations matters (*i.e.*, protecting its members as employees of Verizon), which are beyond the scope of this proceeding.

13 The fact that some of IBEW's members may also be customers of Verizon is beside the point insofar as its intervention is concerned because their status as customers has nothing to do with the purpose of their membership in the IBEW. To assert IBEW is acting as some sort of customer interest group is facile argument, at best.¹³

14 In short, IBEW failed to demonstrate a substantial interest within the scope of this proceeding that is related to its purpose as an organization. Moreover, considering the union's participation and conduct in the recent CenturyTel/Embarq matter,¹⁴ and

¹⁰ TR 14.

¹¹ *Id.*

¹² TR 15.

¹³ The interests of retail customers are adequately represented in this case by Public Counsel in its role as advocate for the residential and small business customers, and by the Commission Staff that represents the broader public interest.

¹⁴ *In the Matter of the Joint Application of EMBARQ CORPORATION AND CENTURYTEL, INC., For Approval of Transfer of Control of United Telephone Company of the Northwest d/b/a Embarq and Embarq Communications, Inc.*, Docket UT-082119.

the similar arguments in support of its participation that the union has made here, the Commission has no reason to think IBEW's participation will be in the public interest. The Commission accordingly denies IBEW's petition to intervene.

- 15 **STANDARD OF REVIEW.** During the prehearing conference, the Commission inquired whether any party intended to raise the issue of the appropriate standard of review (*i.e.*, “no harm” versus “net benefits”) in its prefiled testimony. Specifically, the Commission stated that while the Legislature recently modified the statutes governing the standard for reviewing the acquisition of a controlling interest in a natural gas or electrical company, the revised statutes are not applicable to telecommunications companies.¹⁵ For natural gas and electrical company transactions, the standard of review is now a demonstration that the transaction would result in a net benefit to the customers of the company. For telecommunications companies, the standard of review remains a demonstration that the transaction will not result in harm to the customers of the company or otherwise be contrary to the public interest.
- 16 The parties indicated affirmatively or by their silence that they do not intend to raise the standard of review as an issue. Accordingly, the Commission will follow its long-standing interpretation of WAC 480-180-143 and evaluate this application according to a demonstration that this transaction will not result in harm to the public interest. Parties may, of course, raise issues concerning the application of the no harm standard in this case.
- 17 **BURDEN OF PROOF.** The joint applicants, Verizon and Frontier, bear the burden of proving that this transaction will not result in harm to the customers of Verizon or to the broader public interest. Yet, the joint applicants filed a markedly spare direct case consisting of two testimonies and no exhibits. During the prehearing conference, Verizon and Frontier were reminded that if they have information they want the Commission to consider in support of their application, they must provide it to the Commission for the record. The joint applicants were further reminded that the Commission's review will be limited exclusively to evidence adduced on the record.¹⁶

¹⁵ RCW 80.12.010, RCW 80.12.020, and RCW 80.12.030.

¹⁶ TR 24 – 25.

18 During the prehearing conference, the Commission provided several examples in the joint applicants' prefiled direct testimony of statements or assertions that lack necessary support.¹⁷ The Commission further advised the joint applicants that it would be inappropriate to provide the necessary support or significant supplemental testimony and exhibits to provide the sort of record upon which the Commission ordinarily evaluates major transfers of property in rebuttal testimony because the other parties to this proceeding would not have had an opportunity to address that information in their responsive testimony.¹⁸

19 The joint applicants' represented that any supplemental filings they make will not interfere with the procedural schedule adopted by the Commission.¹⁹ We caution the joint applicants that if they wish to provide further support for their prefiled direct testimony or supplemental testimony and exhibits, they must do so sufficiently in advance of the deadline for filing responsive testimony to afford all other parties to this proceeding a reasonable opportunity to address any supplemental filings or testimony in discovery practice and in responsive testimony. If not, the Commission will consider, on motion by any party, modifications to the procedural schedule to ensure due process to all parties.

20 **PROCEDURAL SCHEDULE.** During the prehearing conference, the parties were unable to agree on a procedural schedule. The Commission allowed the parties to email proposed schedules by 5 p.m., July 8, 2009, and concluded that it would establish a procedural schedule after considering the schedules proposed by all parties. On July 7, 2009, the Applicants, Public Counsel, and Staff submitted an agreed-upon proposed procedural schedule. No other party submitted a proposed procedural schedule. The Commission adopts, in part, the procedural schedule proposed by the Applicants, Public Counsel, and Staff. As more fully discussed below, the Commission was unable to accommodate the requested date for a public comment hearing. The procedural schedule is set forth in Appendix B to this Order.

21 *Cross-Examination Exhibits.* According to WAC 480-07-460(1), the Commission may require the parties to predistribute their cross-examination exhibits. It has been

¹⁷ TR 25, 30 – 31, 34 – 35.

¹⁸ TR 34 – 35.

¹⁹ TR 34.

the Commission's practice to require the predistribution of cross-examination exhibits and to establish a deadline for that predistribution. In recent cases, the predistribution of cross-examination exhibits after the deadline established by the Commission has presented problems for both the Commission and other parties to the proceeding. To ensure that the parties and the Commission have adequate time to prepare for hearing and review proposed cross-examination exhibits, the Commission will enforce WAC 480-07-460(1)(c) and may exclude cross-examination exhibits distributed after the deadline absent a showing of good cause for the delay in timely pre-distributing such proposed exhibits. The deadline for filing cross-examination exhibits is **December 8, 2009**.

22 *Public Comment Hearing.* Public Counsel requested that the Commission conduct a public comment hearing in this proceeding in either Lynnwood or Everett, Washington. Commission Staff agrees with the Commission conducting a public comment hearing. Verizon and Frontier believe that written public comment reasonably affords the public an opportunity to be heard in this case.

23 The Commission concludes that a public comment hearing should be conducted in Everett, Washington. Due to calendar conflicts, the Commission is unable to accommodate the parties' request for public comment hearing dates. The Commission concludes that the public comment hearing should be held on October 15, 2009.

24 **NOTICE IS HEREBY GIVEN That a public comment hearing in this matter is scheduled to convene on Thursday, October 15, 2009, from 6 p.m. to 8 p.m., in Gray Wolf Hall, Rooms 166 & 168, Everett Community College, 2000 Tower Street, Everett, Washington. .**

25 **NOTICE OF PREHEARING CONFERENCE.** The Commission will convene a prehearing conference in this matter on December 11, 2009, at 1:30 p.m., in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to mark exhibits, including exhibits on cross examination, if any, and to address any procedural matters that the parties may present. If no matters warrant attention, the conference will be cancelled.

26 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning, December 15, 2009, at 9:30 a.m., and continuing thereafter, as necessary, on December 16, 17, and 18, 2009, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

27 **DISCOVERY.** The parties requested that the Commission's rules governing discovery be invoked. This proceeding meets the criteria in WAC 480-07-400(2)(b) and discovery will be conducted in accordance with the Commission's discovery rules in WAC 480-07-400 – 425.

28 **PROTECTIVE ORDER.** Verizon requested that the Commission enter a protective order in this docket pursuant to RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 480-07-423 to protect the confidentiality of proprietary information. The request was granted and a protective order governing confidential and highly confidential information was entered July 23, 2009.²⁰

29 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **seven (7) copies**²¹ of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and 1 copy of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

30 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

²⁰ See Order 01, entered July 23, 2009.

²¹ During the prehearing conference, the ALJ misstated the number of copies that must be filed in this proceeding.

- 31 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Electronic versions of all documents must be filed in accordance with WAC 480-07-140(6). Specifically, all documents must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format.
- 32 A copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to <records@utc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 33 According to WAC 480-07-145(6), the parties may electronically submit documents to the Commission provided the electronic submission is received by 3:00 pm on the filing deadline and the Commission receives the original and required number of copies by 12:00 pm on the following business day.. Parties must submit documents through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov, and file an original, plus 7 paper copies, of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to the presiding administrative law judge at pclark@utc.wa.gov.and to the parties to the proceeding.
- 34 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1144.

35 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective July 28, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge

APPENDIX A				
PARTIES' REPRESENTATIVES				
DOCKET UT-090842				
PARTY	REPRESENTATIVE	PHONE	FACSIMILIE	E-MAIL
Verizon	Gregory M. Romano Verizon 1800 41 st Street, WA0105GC Everett, WA 98201	425-261-5460	425-252-4913	gregory.m.romano@verizon.com
Frontier	Charles L. Best 1631 NE Broadway, Suite 538 Portland, OR 97232-1425	503-87-7160	503-287-7160	chuck@charlesbest.com
	Kevin Saville 2378 Wilshire Blvd. Mound, MN 55364	952-491-5564	952-491-5577	kevin.saville@frontiercorp.com
Commission Staff	Jonathan Thompson 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1225	360-586-5522	jthomps@utc.wa.gov
Public Counsel	Simon ffitch Sarah Shifley Public Counsel Section Office of Attorney General 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	206-389-2055 206-464-6595	206-464-6451 206-464-6451	simonf@atg.wa.gov sarah.shifley@atg.wa.gov
Comcast	Gregory J. Kopta Davis Wright Tremaine, LLP 1201 Third Ave., Suite 2200 Seattle, WAS 98101-1688	206-757-8079	206-757-7079	gregkopta@dwt.com
Joint CLECs²²	Mark P. Trincherro Davis Wright Tremaine LLP 1300 SW Fifth Avenue, Suite 2300 Portland, OR 97201	503-778-5318	503-778-5299	marktrincherro@dwt.com
Level 3 and 360networks	Lisa Rackner McDowell & Rackner PC 520 SW Sixth Avenue, Suite 830 Portland, OR 97204	503-595-3922	503-595-3928	lisa@mcd-law.com

²² The Joint CLECs are Integra, tw telecom, XO Communications, Covad, and PAETEC.

PARTY	REPRESENTATIVE	PHONE	FACSIMILIE	E-MAIL
BCAW	Brooks E. Harlow David L. Rice Miller Nash 601 Union St. Seattle, WA 98101-2352	206-622-8484	206-622-7485	brooks.harlow@millernash.com david.rice.@millernash.com
DoD/FEA	Stephen S. Melnikoff U.S. Army Litigation Center 901 N. Stuart Street, Suite 700 Arlington, VA 22203-1837	703-696-1643	703-696-2960	stephen.melnikoff@hqda.army.mil

APPENDIX B

**INTERESTED PERSONS
DOCKET UT-090842**

IP	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Verizon	Milt H. Doumit Verizon Communications 410 11 th Avenue SE, Suite 103 Olympia, WA 98501	360-236-9727	360-236-9919	milt.h.doumit@verizon.com
Frontier	Ken Mason Frontier Communications 180 South Clinton Ave., 5 th Floor Rochester, NY 14646	585-777-5645	585-262-5625	ken.mason@frontiercorp.com
Public Counsel	Stefanie Johnson Public Counsel 800 5 th Avenue, Suite 2000 Seattle, WA 98104-3188	206-389-3040	206-464-6451	stefaniej@atg.wa.gov
Public Counsel	Carol Williams Public Counsel 800 5 th Avenue, Suite 2000 Seattle, WA 98104-3188	206-464-6215	206-464-6451	carolw@atg.wa.gov
Public Counsel	Mary Harper Public Counsel 800 5 th Avenue, Suite 2000 Seattle, WA 98104-3188	206-389-2766	206-464-6451	maryh2@atg.wa.gov
Comcast	Andrew D. Fisher Comcast Cable Communications, LLC One Comcast Center, 50 th Floor Philadelphia, PA 19103	215-286-3039	215-286-5039	Andrew_Fisher@Comcast.com

IP	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Integra	Dennis Ahlers Integra Telecom, Inc. 6160 Golden Hills Drive Golden Valley, MN 55416-1020	612-432-6249	612-432-6349	ddahlers@integratelecom.com
tw telecom	Lyndall Nipps Vice President, Regulatory Affairs tw telecom of washington, llc 845 Camino Sur Palm Springs, CA 92262-6275	760-832-6275	None	Lyndall.Nipps@twtelecom.com
XO Communicati ons	Rex Knowles XO Communications, Inc. 7050 Union Park Ave., Suite 400 Midvale, UT 84047	801-983-1504	801-951-2133	rex.knowles@xo.com
Covad	Katherine K. Mudge Director, State Affairs & ILEC Relations Covad Communications Company 7000 N. Mopac Expressway, 2 nd Fl. Austin, Texas 78731	512-514-6380	512-514-6520	kmudge@covad.com
Level 3	Gregory L. Rogers Level 3 Communications, LLC 1025 Eldorado Blvd. Broomfield, CO 80021	720-888-2512	720-888-5134	Greg.Rogers@Level3.com
BCAW	Ron Main, Executive Director BCAW 216 First Avenue South, Suite 260 Seattle, WA 98104	206-652-9303	206-652-9303	Rmain@broadbandwashington.org

IP	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
PAETEC	William A. Haas Vice President Regulatory and Public Policy PAETEC Communications 1 Martha's Way Cedar Rapids, IA 52233	319-790-7295	319-298-7901	bill.haas@paetec.com
IBEW	Scott J. Rubin 333 Oak Lane Bloomsburg, PA 17815- 2036	570-387-1893	570-387-1894	scott.j.rubin@gmail.com
360networks	Michel Singer-Nelson 360networks (USA) inc 867 Coal Creek Circle, Suite 160 Louisville, CO 80027	303-854-5513	303-854-5100	Mnelson@360.net
DoD/FEA	Terrance A. Spann U.S. Army Litigation Center 901 N. Stuart Street, Suite 700 Arlington, VA 22203-1837	703-696-2852	703-696-2960	Terrance.Spann@us.army.mil
DoD/FEA	Harry Gildea Snavely King Majoros O'Connor & Bedell, Inc. 1111 14 th Street N.W., Suite 300 Washington, DC 20005	202-371-0604	202-842-4966	hgildea@snavely-king.com
DoD/FEA	Robert Spangler Snavely King Majoros O'Connor & Bedell, Inc. 17304 137 th Ave. SW Vashon, WA 98070	206-567-5302	202-842-4966	rwspang@centurtel.net

**APPENDIX C
PROCEDURAL SCHEDULE
DOCKET UT-090842**

<u>EVENT</u>	<u>DATE</u>	<u>INTERVAL</u> (Days)
Company Direct Testimony and Exhibits	July 6, 2009	38 days
Public Notice Status Report	August 11, 2009	36 days
Settlement/Technical Conference (parties only)	August 20, 2009	9 days
Staff, Public Counsel and Intervenor Responsive Testimony and Exhibits	September 25, 2009 ²³	36 days
Settlement Conference (parties only)	October 13, 2009	18 days
Public Comment Hearing in Everett, Washington	October 15, 2009	2 days
Company Rebuttal Testimony and Exhibits Staff, Public Counsel and Intervenor Cross-Answering Testimony and Exhibits	November 9, 2009 ²⁴	25 days
Deadline for Predistribution of Cross-examination Exhibits	December 8, 2009	29 days
Prehearing Conference to Mark Exhibits²⁵	December 11, 2009	3 days

²³ After September 25, 2009, responses to data requests are due seven business days after receipt.

²⁴ After November 9, 2009, responses to data requests are due five business days after receipt.

²⁵ This prehearing conference may be cancelled if it is not necessary to mark exhibits or address other procedural matters.

<u>EVENT</u>	<u>DATE</u>	<u>INTERVAL</u> (Days)
Evidentiary Hearing	December 15 - 18, 2009	4 days
Simultaneous Post-hearing Briefs	January 11, 2010	24 days