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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In the Matter of the)
4 Implementation of the) DOCKET NO. UT-033025
5 Federal Communication) Volume 1
6 Commission's Triennial) Pages 1 - 49
7 Review Order)
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10 A prehearing conference in the above matter
11 was held on September 26, 2003, at 9:30 a.m., at 1300
12 South Evergreen Park Drive Southwest, Olympia,
13 Washington, before Administrative Law Judge ANN E.
14 RENDAHL.

15 The parties were present as follows:
16 COVAD COMMUNICATIONS COMPANY, NORTHWEST COMPETITIVE
17 COMMUNICATIONS COALITION, by DAVID L. RICE, Attorney at
18 Law, Miller Nash, 601 Union Street, Suite 4400,
19 Seattle, Washington 98101; telephone, (206) 622-8484.

20 SPRINT, by WILLIAM E. HENDRICKS III, Attorney
21 at Law, 902 Wasco Street, Hood River, Oregon 97031;
22 telephone, (541) 387-9439.

23 QWEST CORPORATION, by LISA A. ANDERL and ADAM
24 L. SHERR, Corporate Counsel, 1600 Seventh Avenue, Suite
25 3206, Seattle, Washington 98191; telephone
 (Ms. Anderl) (206) 345-1574.

 QWEST CORPORATION, by CHUCK STEESE, Attorney
at Law, Steese & Evans, 6400 South Fiddlers Green
Circle, Suite 1820, Denver, Colorado 80111; telephone,
(720) 200-0677.

 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by JONATHAN THOMPSON, Assistant Attorney
General, 1400 South Evergreen Park Drive Southwest,
Post Office Box 40128, Olympia, Washington 98504;
telephone, (360) 664-1225.
Kathryn T. Wilson, CCR
Court Reporter

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1 VERIZON NORTHWEST, by KENDALL J. FISHER,
Attorney at Law, Stoel Rives, 600 University Street,
2 Suite 3600, Seattle, Washington 98101; telephone,
(206) 386-7526.

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4 AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST,
INC.; TCG SEATTLE, INC.; TCG OREGON, INC., by REBECCA
B. DECOOK, Senior Attorney, 1875 Lawrence Street, Room
5 1575, Denver, Colorado 80202; telephone, (303)
298-6357.

6
7 XO OF WASHINGTON; INTEGRA TELECOM, INC.;
MCLEOD LOCAL SERVICES, INC.; GLOBAL CROSSING LOCAL
SERVICES, INC.; ESCHELON TELECOM, INC.; PAC WEST
8 TELECOM, INC., by MARK P. TRINCHERO, Attorney at Law,
Davis Wright Tremaine, 1300 Southwest Fifth Avenue,
9 Suite 2300, Portland, Oregon 97201; telephone, (503)
778-5318.

10
11 PUBLIC COUNSEL, by SIMON J. FFITCH (via
bridge line), Assistant Attorney General, 900 Fourth
Avenue, Suite 2000, Seattle, Washington 98164;
12 telephone, (206) 464-7744.

13 WEBTEC, by LISA F. RACKNER (via bridge line),
Attorney at Law, Ater Wynne, 222 Southwest Columbia,
14 Suite 1800, Portland, Oregon 97201; telephone, (503)
226-1191.

15
16 COVAD COMMUNICATIONS COMPANY, by KAREN S.
FRAME (via bridge line), Attorney at Law, 7901 Lowry
Boulevard, Denver, Colorado 80230; telephone, (720)
17 208-1069.

18 MCI, INC., by MICHEL SINGER NELSON (via
bridge line), Senior Attorney, 707 17th Street, Suite
19 4200, Denver, Colorado 80202; telephone, (303)
390-6106.

20
21 DEPARTMENT OF DEFENSE, AND ALL OTHER FEDERAL
EXECUTIVE AGENCIES, by STEPHEN S. MELNIKOFF (via bridge
line), Attorney at Law, United States Army Litigation
22 Center, 901 North Stuart Street, Suite 700, Regulatory
Law Office, Arlington, Virginia 22203-1837; telephone,
23 (703) 696-1643.

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

2 JUDGE RENDAHL: Let's be on the record this
3 morning. My name is Ann Rendahl. I'm an
4 administrative law judge. We are going to be off the
5 record for a minute.

6 (Discussion off the record.)

7 JUDGE RENDAHL: We are back on the record
8 after having resolved whatever technical problems we
9 had. We are here before the Washington Utilities and
10 Transportation Commission this morning, Friday,
11 September 26th, 2003, for a prehearing conference in
12 Docket No. UT-033025 in the matter of the
13 implementation of the Federal Communications Commission
14 Triennial Review Order.

15 This prehearing conference is probably going
16 to be fairly long given the number of issues for state
17 commissions to resolve as a result of the Triennial
18 Review Order, and there is a fair amount of up-front
19 organizational work to be done to make sure everything
20 goes as efficiently as possible.

21 In response to the FCC's release of the order
22 on August 21st, this Commission issued a notice on
23 August 22nd in inviting comments on implementing the
24 FCC's order.

25 If anyone is using a cell phone or anything

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1 other than a handset, if you could please turn it off
2 and call in on a regular phone. We are now
3 experiencing more interference. Let's be off the
4 record for a moment.

5 (Discussion off the record.)

6 JUDGE RENDAHL: So the commission later
7 extended that comment deadline from -- that deadline
8 was set for September 4th, I believe, and then that
9 comment deadline was extended to the 11th. The
10 commission scheduled this prehearing by notice dated
11 September 5th and also tentatively scheduled hearings
12 for November 10th through 13th to address the
13 enterprise switching issue, should a petition be filed
14 and should hearings be necessary, and then last Friday,
15 the commission set a filing deadline of October 3rd for
16 any person to file a petition requesting the commission
17 to address the enterprise switching finding of the FCC.

18 As I discussed while we were off the record,
19 the purpose of this prehearing is to take appearances
20 of the parties, consider petitions to intervene, and
21 address scheduling and other issues related to the
22 various proceedings that might result from the
23 Triennial Review Order. At the outset after reviewing
24 comments filed by various interested parties', the
25 commission agrees that at least two separate generic

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1 proceedings may be necessary, the enterprise switching
2 proceeding to be completed in 90 days and then other
3 issues to be addressed in nine months, and that the
4 commission also agrees that with the exception of maybe
5 the issue of the batch cut process of the 90-day and
6 the nine-month proceedings need to be triggered by some
7 other party and will not be issued by the commission.

8 Now, understanding that nobody has yet made a
9 filing for either the 90-day proceeding or the
10 nine-month proceeding, we are still going to address
11 those and maybe try to get a schedule set, or at least
12 some parameters, so that we are ready to get going once
13 things are filed. So when we talk about the separate
14 proceedings, we will identify issues, if we need to go
15 there, establish a schedule for discovery and
16 evidentiary hearings, other process, and any other
17 matters the parties wish to discuss.

18 So before we go any further here, let's take
19 appearances, and please understand that you are making
20 an appearance for this docket, and then if a 90-day
21 petition is filed or a nine-month petition is filed, we
22 will have another prehearing and there will be further
23 opportunity for appearances and petitions to intervene
24 to be made at that time, but we need to get a docket
25 going. We need to get interested parties turned into

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1 parties at this point.

2 When you do state your appearance, indicate
3 one counsel or representative for a party who will
4 receive a paper copy and all others who wish to receive
5 e-mail courtesy copy of notices and orders from the
6 commission, and please state your full name, the party
7 you represent, your full address, telephone number, fax
8 number, and e-mail. So we are going to start with
9 those in the room, with commission staff, go around the
10 table counter-clockwise, and then we will go to the
11 conference bridge.

12 MR. THOMPSON: Jonathan Thompson, assistant
13 attorney general, representing the commission staff.
14 My address is 1400 South Evergreen Park Drive
15 Southwest, PO Box 40128, Olympia, 98504. My phone
16 number is (360) 664-1225. Fax is (360) 586-5522. My
17 e-mail is jthomps@wutc.wa.gov.

18 JUDGE RENDAHL: Mr. Trincherero?

19 MR. TRINCHERO: My name is Mark Trincherero.
20 I'm appearing on behalf of XO, Integra, McLeod, Global
21 Crossing, and I believe also Eschelon; although, I have
22 to check the rest of that voice mail.

23 JUDGE RENDAHL: Would that be XO of
24 Washington and Integra Telecom, Inc., and McLeod...

25 MR. TRINCHERO: Local Services, Inc., I

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1 believe.

2 JUDGE RENDAHL: And Global Crossing...

3 MR. TRINCHERO: Global Crossing Local
4 Services, Inc.

5 JUDGE RENDAHL: Your address?

6 MR. TRINCHERO: My address is 1300 Southwest
7 Fifth Avenue, Suite 2300, Portland, Oregon, 97201.
8 Telephone is (503) 778-5318. Fax number is area code
9 (503) 778-5299. E-mail address is
10 marktrinchero@dwt.com.

11 JUDGE RENDAHL: Thank you.

12 MR. TRINCHERO: Would you like the list of
13 e-mail addresses at this point, or should we do that
14 later?

15 JUDGE RENDAHL: If you could send to the
16 commission a letter indicating those who wish to be on
17 the e-mail list, that would be helpful. For AT&T?

18 MS. DECOOK: Rebecca DeCook on behalf of AT&T
19 Communications of the Pacific Northwest, Inc., TCG
20 Seattle, Inc., and TCG Oregon, Inc. My address is 1875
21 Lawrence Street, Suite 1575, Denver, Colorado, 80202.
22 Telephone number is (303) 298-6357; fax number, (303)
23 298-6301, and e-mail address, dcook@att.com, and there
24 is two others I would like to have on the e-mail list,
25 and I will provide that separately to the court

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1 reporter.

2 JUDGE RENDAHL: You can either say it on the
3 record or send a letter in to the commission
4 identifying who should also be on the e-mail list.

5 MS. DECOOK: We will do that.

6 JUDGE RENDAHL: Mr. Rice?

7 MR. RICE: My name is David Rice with Miller
8 Nash, LLP. I'm here on behalf of the Northwest
9 Competitive Communications Coalition and Covad
10 Communications Company. My address is 4400 Two Union
11 Square, 601 Union Street, Seattle, Washington, 98101.
12 My telephone number is (206) 777-7424. My fax number
13 is (206) 622-7485, and my e-mail address is
14 david.rice@millenash.com, and I will provide you with a
15 list of e-mail addresses for Covad and the coalition.

16 JUDGE RENDAHL: Thank you. I notice you have
17 given to me a copy of a petition to intervene of the
18 Northwest Competitive Communications Coalition, which I
19 understand you filed this morning; is that correct?

20 MR. RICE: That is correct.

21 JUDGE RENDAHL: In this, you indicate
22 yourself and Mr. Harlow representing the coalition.
23 Should the paper copy go to you or Mr. Harlow?

24 MR. RICE: You can give the paper copy to me.

25 JUDGE RENDAHL: And for the record, could you

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1 state who is in the coalition since it is stated in
2 your petition?

3 MR. RICE: Yes. ATL Communications, Axxis
4 Communications, Gorge Networks, Inc., Fox
5 Communications Corporation, Focal Communications
6 Corporation of Washington, Eschelon Telecom of
7 Washington, Inc., Oregon Telecom, Sentito Networks,
8 World Communications, Inc., and Z Tel.

9 JUDGE RENDAHL: Thank you.

10 MS. FISHER: My name is Kendall Fisher. I'm
11 at Stoel Rives, LLP. I'm here on behalf of Verizon
12 Northwest. My address is 600 University Street, Suite
13 3600, in Seattle, Washington, 98101. My telephone
14 number is (206) 386-7526. My fax number is (206)
15 386-7500. My e-mail address is kjfisher@stoel.com, and
16 also appearing on behalf of Verizon Northwest but who
17 is not here today is Timothy O'Connell, also from Stoel
18 Rives at the same address. His telephone number is
19 area code (206) 386-7562, and his e-mail address is
20 tjococonnell@stoel.com.

21 JUDGE RENDAHL: Which of you would like to
22 receive the paper copy?

23 MS. FISHER: Tim O'Connell.

24 JUDGE RENDAHL: If there are other parties
25 for Verizon Northwest, then please send the commission

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1 a letter and let us know.

2 MS. FISHER: I will do that. Thank you.

3 JUDGE RENDAHL: For Qwest?

4 MS. ANDERL: Lisa Anderl representing Qwest.

5 My business address is 1600 Seventh Avenue, Room 3206,
6 Seattle, Washington, 98191; telephone, (206) 345-1574;
7 fax, (206) 343-4040, and my e-mail is
8 lisa.anderl@qwest.com. I would also like to enter an
9 appearance for Adam Sherr. Same address and fax;
10 telephone, (206) 398-2507, and e-mail is
11 adam.sherr@qwest.com, and of the three of us, I should
12 be the one to receive the paper copy.

13 MR. STEESE: Chuck Steese on behalf of Qwest.
14 I'm with the law firm of Steese and Evans. Our address
15 is 6400 South Fiddlers Green Circle, Suite 1820,
16 Denver, Colorado, 80111. Telephone number, (720)
17 200-0677. Fax is (720) 200-0679. E-mail is
18 csteese@s-elaw.com.

19 JUDGE RENDAHL: So you mean "s" underscore or
20 "s" dash?

21 MR. STEESE: "S" dash.

22 JUDGE RENDAHL: For Sprint?

23 MR. HENDRICKS: Tre Hendricks on behalf of
24 Sprint. My address is 902 Wasco Street, Hood River,
25 Oregon, 97031. Phone number is (541) 387-9439; fax,

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1 (541) 387-9753, and my e-mail address, which is long,
2 is tre.e.hendricks.iii@mail.sprint.com.

3 JUDGE RENDAHL: Are there any other persons
4 in the room who are not sitting at the table who wish
5 to make an appearance for a party this morning? Let's
6 move to the bridge line, beginning with Mr. Melnikoff.

7 MR. MELNIKOFF: My name is Stephen S.
8 Melnikoff. I represent the consumer interests of the
9 Department of Defense and all other federal executive
10 agencies. My address is United States Army Litigation
11 Center, 901 North Stuart Street, Suite 700, Regulatory
12 Law Office, Arlington, Virginia, 22203-1837. My
13 telephone is (703) 696-1643. The fax number is (703)
14 696-2960. My e-mail address is
15 stephen.melnikoff@hqda.army.mil.

16 JUDGE RENDAHL: Thank you very much.

17 MR. MELNIKOFF: I have one other person
18 through electronic service. His name is Robert W.
19 Spangler, S-p-a-n-g-l-e-r. His e-mail address is
20 rspangler@snavely-king.com, and I will take service of
21 the hard copy, please.

22 JUDGE RENDAHL: Thank you. Ms. Singer
23 Nelson?

24 MS. SINGER NELSON: Michel Singer Nelson
25 representing MCI, Inc. The address is 707 17th Street,

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1 Suite 4200, Denver, Colorado, 80202. The phone number
2 is (303) 390-6106. My fax number is (303) 390-6333,
3 and my e-mail address is michel.singer@nelsonmci.com.

4 JUDGE RENDAHL: And you will receive the
5 paper copy.

6 MS. SINGER NELSON: Yes. No one else will
7 make an appearance on behalf of MCI.

8 JUDGE RENDAHL: For WebTEC?

9 MS. RACKNER: This is Lisa Rackner. My
10 address is Ater Wynne, LLP, 222 Southwest Columbia,
11 Portland, Oregon, 97201. Phone is (503) 226-1191. Fax
12 is (503) 226-0079. My e-mail address is
13 lfr@aterwynne.com. I will receive the electronic copy.
14 Art Butler in our Seattle office should receive the
15 paper copy. I'll give you his address: Ater Wynne,
16 LLP, 601 Union Street, Seattle, Washington, 98101. His
17 phone number is (206) 623-4711. Fax is (206) 467-8406,
18 and his e-mail address is aab@aterwynne.com.

19 JUDGE RENDAHL: Thank you. Ms. Frame for
20 Covad?

21 MS. FRAME: My name is Karen S. Frame, and
22 I'm with Covad Communications Company. The address is
23 7901 Lowry Boulevard, Denver, Colorado, 80230. The
24 phone is (720) 208-1069, and my fax number is (720)
25 208-3350, and e-mail is just kframe@covad.com, and I

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1 believe that Mr. Rice of Miller Nash will be accepting
2 the paper copy for us.

3 JUDGE RENDAHL: So you will be receiving just
4 an e-mail copy?

5 MS. FRAME: At this point, correct.

6 JUDGE RENDAHL: If there are any others for
7 Covad who wish to receive e-mail service, you can also
8 let the commission know by letter who else should be on
9 the list for e-mail.

10 MS. FRAME: Thank you very much.

11 JUDGE RENDAHL: Mr. ffitch for public
12 counsel?

13 MR. FFITCH: Simon ffitch, assistant attorney
14 general, public counsel section, Washington attorney
15 general's office, 900 Fourth Avenue, Suite 2000,
16 Seattle, Washington, 98164; phone number, (206)
17 389-2055; fax, (206) 389-2058. E-mail is
18 simonf@atg.wa.gov.

19 JUDGE RENDAHL: Are there any other persons
20 on the bridge line who have not stated an appearance in
21 this docket and wish to? Hearing nothing, at this
22 point, we will move on from stating appearances and
23 move on to petitions for intervention, which we do have
24 one filed for the Northwest Competitive Communications
25 Coalition --

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1 MR. TRINCHERO: If I might interrupt, before
2 we move off of appearances, I would like to make an
3 appearance on behalf of two more parties. I've had an
4 opportunity to check my voice mail. I would like to
5 make an appearance on behalf of Eschelon Telecom,
6 Inc.,and Pac West Telecom, Inc., and I will submit a
7 letter with e-mail addresses for those two companies as
8 well. Thank you.

9 JUDGE RENDAHL: Thank you. Are there any
10 others in the room who I may have overlooked who wish
11 to state an appearance? Okay. Are there any other
12 petitions to intervene this morning besides the
13 petition of Northwest Competitive Communications
14 Coalition?

15 MR. RICE: Yes, Your Honor.

16 JUDGE RENDAHL: More petitions to intervene?

17 MR. RICE: Yes, on behalf of Covad
18 Communications Company.

19 JUDGE RENDAHL: I think you stated an
20 appearance for Covad, but you would also like to make a
21 petition to intervene?

22 MR. RICE: That's right.

23 JUDGE RENDAHL: Is that being filed with the
24 commission, or is it just being stated orally this
25 morning?

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1 MR. RICE: Your Honor, I will state it
2 orally.

3 MS. DECOOK: Your Honor, do you need
4 petitions to intervene from all of us in order to
5 proceed?

6 JUDGE RENDAHL: No, I don't. I think at this
7 point, appearances are sufficient to make you a party
8 in this proceeding, and we will make things more formal
9 when we move into the petitions, if they are filed.

10 MS. DECOOK: Great.

11 JUDGE RENDAHL: So I'm happy to accept them
12 at this point, but I don't think it's necessary, and I
13 guess at this point, if you wish to make a brief
14 statement about the petitions, Mr. Rice, and then we
15 will takes comments from parties.

16 MR. RICE: Your Honor, if you would prefer
17 that we not intervene at this time, that's acceptable
18 and we can wait. It sounds like we are the only ones
19 intervening today if we go that route.

20 JUDGE RENDAHL: I guess at this point, if you
21 want to state an appearance on behalf of the coalition,
22 we will take it as that, and for the additional
23 dockets, we can address the issue of intervention at
24 that time.

25 MR. RICE: I have entered an appearance for

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1 both the coalition and Covad, so we will just leave it
2 at that then for this time. It sounds like that's the
3 procedure everybody wants to follow.

4 JUDGE RENDAHL: I guess I will take comments
5 from parties at this point.

6 MS. ANDERL: Your Honor, there is no named
7 party in the caption in this case. It occurs to me if
8 the commission sent you notice and you appear today,
9 you are a party, and that's where we would propose that
10 it be left for purposes of this docket.

11 JUDGE RENDAHL: So for clarification for the
12 record, the coalition has filed a petition, a written
13 petition, which I guess at this point they would
14 withdraw, and the appearance is so noted for Covad and
15 the coalition. Is that acceptable, Mr. Rice?

16 MR. RICE: Yes, it is.

17 JUDGE RENDAHL: Any other preliminary matters
18 on appearances and interventions? The next issue I
19 would like to talk about is ex parte issues.
20 Yesterday, the commission did send a notice out about
21 Chairwoman Showalter and Commissioner Oshie and staff
22 member Paula Strain participating in the ROC meeting
23 Sunday and Monday in Seattle and their intention to
24 avoid ex parte concerns by absenting themselves from
25 any closed communications with Qwest and other

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1 potential parties concerning substantive issues
2 involving the Triennial Review Order.

3 Given the entire agenda is pretty well
4 addressing the Triennial Review Order, given that these
5 proceedings are under way here in Washington, the
6 commission wishes to avoid any ex parte concerns. So
7 the notice went out to parties to receive objections
8 from any party from the commissioners participating and
9 advisory staff participating, so I guess at this time,
10 I would open it up if there are any objections to
11 participating in the remainder of the ROC conference.
12 I think the intention is for regional coordination to
13 the extent possible and discussion among the parties
14 among the various members of the industry about the
15 order, so I would open the conference to that
16 discussion. Ms. DeCook?

17 MS. DECOOK: Thank you, Your Honor. AT&T
18 doesn't have any objections to the commission
19 participating in the open discussions that occur at
20 ROC, and one of the questions I had as a clarification
21 is there are two, I guess, what the commission might
22 refer to as closed-door sessions -- at least two, maybe
23 more -- one with Qwest and one with the CLECs. Is it
24 their intent that to the extent that those discussions
25 involve procedural matters that they will participate,

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1 and if they move into substantive issues that they
2 would excuse themselves?

3 JUDGE RENDAHL: Yes. That's my understanding
4 of the intent of the commissioners and Ms. Strain.

5 MS. DECOOK: We don't have any objection to
6 that either.

7 MS. ANDERL: Qwest has no objection to
8 proceeding the way it's been described.

9 JUDGE RENDAHL: Any other parties in the
10 room? Anyone on the bridge line?

11 MS. RACKNER: Your Honor, this is Lisa
12 Rackner. WebTEC doesn't have any objection to the
13 commissioners participating in any of the opening
14 sessions, but in addition, it was my thought that the
15 commissioners really should make themselves available
16 to receive as much information as possible during the
17 ROC proceedings, and one way of getting around the
18 party problem might be to have a court reporter
19 transcript made of the closed session so that the
20 commissioners are able to receive as much information
21 as possible. If any party wants to respond in writing,
22 they would have an opportunity to do so. I guess I
23 would just throw that out as an alternative discussion
24 for dealing with the proceedings.

25 JUDGE RENDAHL: Thank you. I'll pass that on

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1 and see where it goes. I'm not at all involved in the
2 ROC organization, so I'll make sure that gets to
3 whoever needs to know. Any other comments on the
4 bridge line about the ROC meeting?

5 MR. MELNIKOFF: The DOD does not object to
6 their participation in the ROC proceedings. As an
7 alternative to what was just suggested, I suspect that
8 a transcript would raise sensitivity and not be a
9 closed meeting. In the alternative, the commissioners
10 might -- it would satisfy DOD if they just briefly -- I
11 think they were going to exclude themselves from the
12 presentation that was specific to Qwest in Washington
13 and the CLECs in Washington. If they would prepare a
14 letter to all the parties, that would satisfy us, what
15 generally those discussions entail.

16 JUDGE RENDAHL: So instead of avoiding the
17 participation to outline in a letter to those who have
18 stated an appearance today to identify what occurred in
19 those discussions? Is that your proposal?

20 MR. MELNIKOFF: Just on the one that they
21 were going to exclude themselves on, which was
22 Washington State specific.

23 JUDGE RENDAHL: Again, I will bring that
24 issue to the commissioners. I think that they feel
25 more strongly about not even being involved in any

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1 discussions that may not be appropriate under the
2 state's ex parte rules, but I will bring that
3 suggestion to the commissioners.

4 MR. HENDRICKS: Your Honor, Sprint doesn't
5 have any objection. I guess we feel that there
6 probably should be some caution in how to approach some
7 of these procedural issues, may have substantive
8 implications because of the fairly complex process the
9 FCC has outlined. We would like to see a cautious
10 approach taken to these separate discussions.

11 JUDGE RENDAHL: Thank you. Anything further
12 on that issue? Separately, I'm disclosing that my
13 participation and Paula Strain's participation in the
14 Triennial Review implementation project task force that
15 was generated through the NARUC organization and also
16 in what is now termed the ROC TRIP task force, first
17 with the TRIP task force, as it is called, Ms. Strain
18 and I have participated in numerous conference calls
19 concerning state implementations of the order both
20 before and after release of the order. Minutes of the
21 TRIP meetings are posted on the Web Site, which I will
22 state on the record:

23 www.naruc.org/programs/trip/index.shtml.

24 The discussions on the TRIP task force, as I
25 said, have been primarily trying to organize states for

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1 these types of proceedings and putting together a
2 summary of the order for use by state commissions -- I
3 believe that's also posted on the Web Site -- as well
4 as currently developing a discovery template and a
5 protective order template, and neither Ms. Strain nor I
6 have been involved in developing those. So I disclose
7 our participation in that. I am intending to end my
8 participation in the TRIP task force as of today, and
9 Ms. Strain will likely continue in her role as a
10 commission advisor.

11 Second, in our participation of the ROC TRIP
12 lists served, it is intended to similarly provide to
13 you regional coordination for implementing the
14 Triennial Review Order. After the first several
15 conference calls, it became clear to me it was more of
16 a staff-level group and that it would be inappropriate
17 for me to continue further. Ms. Strain and I have both
18 taken ourselves off the list served and are not
19 participating at all in that list served.

20 I will be reviewing the communications I've
21 had both at the TRIP task force level and the ROC TRIP,
22 and if there is anything that appears to be
23 inappropriate under the commissions' rules and the
24 state Administrative Procedures Act for ex parte
25 communications, then I will disclose those in a

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1 memorandum to everyone here and you will have the
2 opportunities available under the laws and the rules
3 for objecting to my leading this proceeding, so
4 disclosure made.

5 As you are all aware, this is a national
6 issue involving many states, all the states, so it's an
7 issue. Any comments based on my disclosure?

8 MS. ANDERL: Yes, Your Honor. I guess your
9 disclosure raises the issue is if this proceeding under
10 the state Administrative Procedures Act, and I think we
11 wrestled with this question when the commission first
12 started to do cost dockets, because the question was,
13 was the commission implementing its state authority or
14 because of its delegated federal authority,
15 essentially, it may well not come under the contested
16 case, APA-type guidelines.

17 I think the parties stipulated and it was
18 understood into eternity that the cost dockets would be
19 considered APA-type proceedings and the ex parte rules
20 would apply. I think it would be good idea to have
21 that same clarification for the record in this
22 proceeding.

23 JUDGE RENDAHL: That, I think, would be
24 helpful. When we take a break, we can talk more about
25 how to do that, but it's my understanding that we are

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1 conducting this proceeding under the state APA.
2 Although we are required to have these proceedings in
3 part by the federal order, we are using our own
4 straight procedures to process the case.

5 My understanding is that any orders that are
6 generated by this commission arising from the Triennial
7 Review Order are appealable, and unlike the 271 case,
8 which is a recommendation, this is an order generated
9 as appealable, so I think we need to use the state's
10 Administrative Procedures Act and the commission's
11 procedural rules. So we will discuss that off the
12 record at the break and go from there.

13 At this point, I plan to go into discussion
14 of the 90-day proceeding and the nine-month proceeding,
15 so maybe this is a good time for a break, so let's be
16 off the record until twenty to eleven.

17 (Recess.)

18 JUDGE RENDAHL: While we were on our break,
19 the court reporter has asked me to identify if anyone
20 wishes to receive a copy of transcript. In the room,
21 if you have not already identified to the court
22 reporter, please do that. On the bridge line, anyone
23 who wishes to receive a transcript of today's
24 proceeding?

25 MS. FRAME: Yes, I do.

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1 MR. FFITCH: Simon ffitch, public counsel.

2 JUDGE RENDAHL: Thank you. Anyone else?

3 MS. RACKNER: Lisa Rackner for WebTEC.

4 JUDGE RENDAHL: Anyone else wish to receive a
5 copy of the transcript? In the room at the back?

6 MR. DENNIS: Yes. I'm Don Dennis with
7 CenturyTel.

8 JUDGE RENDAHL: If you send a letter in or
9 contact the records center, they can coordinate that
10 with you.

11 MS. FISHER: Will that also be made available
12 on line on the commission's Web Site?

13 JUDGE RENDAHL: If that's the usual process,
14 yes, it will be. Whenever we get the electronic copy
15 in, it gets posted, I believe.

16 Let's go forward. We are going to talk now
17 about the 90-day proceeding. As I said at the
18 beginning of this prehearing conference, the commission
19 has set a deadline for next Friday for any person or
20 company wishing to file a petition with the commission
21 to rebut the FCC's finding of no impairment for
22 enterprise level switching or enterprise market
23 switching.

24 The commission also set aside hearing dates
25 November 10th, afternoon of the 12th, and all day on

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1 the 13th, and potentially on the 11th. It is a
2 holiday, but that hasn't stopped us in the past from
3 having hearing, so we will just have to figure out what
4 we are going to do. The reason we scheduled that week
5 was because it was the only available week for the
6 commissioners to have a hearing on the issue, so that's
7 where we are.

8 In terms of laying out additional schedule
9 for the 90-day, I would like to set a date for
10 responses to whatever petitions are filed and identify
11 another prehearing conference date to formalize
12 interventions, etcetera, and then identify a prehearing
13 conference day prior to the November hearing date and
14 identify a time for the usual list of exhibits,
15 witnesses, cross-exhibits to be filed, and
16 understanding we are on a very shortened time frame
17 here, I guess I will open it up to weather parties
18 think a hearing is necessary. We had some comments
19 filed that a paper process was all that was sufficient,
20 and so I guess I would open up comments to that. Let's
21 be off the record for a moment.

22 (Pause in the proceedings.)

23 JUDGE RENDAHL: We are back on the record.
24 Any comments on process, hearing process? Qwest?

25 MS. ANDERL: Your Honor, I guess what I

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1 heard, are you anticipating prefiling of direct and
2 responsive testimony?

3 JUDGE RENDAHL: The notice asked for any
4 person who is interested in rebutting, anyone who is
5 filing a petition, you should file it in the form of
6 prefiled testimony and exhibits and to address the
7 issues of defining the market and identifying
8 particular markets. It's a very short turnaround time,
9 understandably, but with the hearing looming in
10 November, there will be time, I'm sure, to amend or to
11 have -- so I guess I open it up for discussion, but we
12 have to start someplace. Any other suggestions? The
13 notice could be amended always.

14 MS. ANDERL: Your Honor, it apparently was an
15 oversight on my part. I wasn't aware that the October
16 3rd date was required to include prefiled testimony, so
17 that makes sense to have prefiled testimony and then
18 response and then a prehearing conference.

19 JUDGE RENDAHL: That was the intent, but
20 obviously, it wouldn't be Qwest who would be filing the
21 prefiling, so I might turn to other parties who might
22 have an interest if there is a need to modify that
23 process. So I guess we will stick with that process
24 and see where it goes. Anyone on the bridge line wish
25 to comment? Hearing nothing... I understand nobody

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1 has filed a petition, and I don't want to push anybody
2 to indicate one way or the other where they are. I
3 just want to get the schedule out there.

4 Looking at my calendar with the hearings
5 being in November, the week of November 10, it seems we
6 have some sort of prehearing conference the prior week.
7 Because of commissioner availability, it's necessary
8 for me to do it earlier in the week than later so that
9 I can brief the commissioners, so I'm looking at either
10 the 3rd or the 4th. I think that's a Monday or
11 Tuesday, so I guess I would ask if you have any strong
12 preferences one way or the other, a Monday or Tuesday
13 prehearing.

14 MR. THOMPSON: Your Honor, would this be for
15 predistribution of cross-exhibits and so forth?

16 JUDGE RENDAHL: The predistribution would
17 either be the day before or the Friday before, so it
18 would be the prehearing conference for marking and any
19 issues that need to be addressed prior to. This is a
20 process I used in 271. Given the short period of time,
21 if we need to predistribute on the same day as the
22 prehearing, that's something I'm willing to entertain
23 given the 90-day limit that we're under.

24 MS. ANDERL: Your Honor, just speaking
25 completely hypothetically here, it's so hard to know

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1 what the parameters are going to be in this docket that
2 doesn't exist yet, but the 4th would you better, since
3 nobody is saying anything.

4 JUDGE RENDAHL: I guess at this point, we
5 could do the 4th, because if people intend to come into
6 town as opposed to call in on the bridge line, then
7 it's potentially easier to get here on a Tuesday than a
8 Monday. You can still have your weekend. So why don't
9 we set the 4th as the prehearing conference date. It
10 would be a morning prehearing, and then the 3rd would
11 be the prefiling date for exhibits, cross-exhibits, all
12 of that, exhibit lists.

13 So let's work backwards. If the deadline for
14 filing is October 3rd, when is a reasonable time for
15 responses to allow an additional round, if necessary,
16 prior to the hearing? Given that basically the parties
17 had two weeks, I think, to file their initial round,
18 I'm going to allow a reply round. Let's be off the
19 record. We will put our dates on the record when we
20 are done, so we will be off the record for discussion
21 of the schedule.

22 (Discussion off the record.)

23 JUDGE RENDAHL: While we were off the record,
24 we scoped out the 90-day proceeding and discussed
25 issues involving discovery, propounding discovery,

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1 rules for discovery, and protective order issues, so
2 beginning with the schedule for -- actually, let's
3 start with discovery and protective order.

4 While we didn't specifically address invoking
5 the commission's discovery rule, my understanding is
6 the parties would want to do that if a 90-day
7 proceeding was filed, and there was an agreement that a
8 five-calendar-day turnaround time is appropriate for
9 discovery questions. There are a fair number of
10 discovery questions in template and other form
11 available, and I am making copies available of the
12 discovery questions prepared by the TRIP task force and
13 the template protective order developed by the task
14 force available in hard copy to those here in the room
15 by the end of the prehearing conference today and will
16 circulate electronically to all of those who have given
17 me their e-mail addresses this morning, I will get that
18 out by the end of the day today.

19 I've also asked those here and on the bridge
20 line to circulate to others -- once you get my e-mail,
21 you will have the list -- to circulate to others or to
22 send to me any electronic copies of the discovery
23 questions that you want all the other parties to look
24 at. There will be an opportunity for comment on all of
25 those discovery questions and protective order

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1 proposals by next Friday the 3rd.

2 There will be a prehearing conference on
3 October 9th, likely all day, first to address any
4 petition that has been filed in the 90-day proceeding,
5 and that will be the initial prehearing conference for
6 appearances, interventions, all of those preliminary
7 issues, and then we will get into discovery issues. As
8 I noted off the record, I would like the parties if
9 they have disputes to focus their disputes on the
10 90-day issues initially. I've indicated that both
11 ILEC's and CLEC's can go ahead and propound discovery
12 on the 6th if they feel the need to do so, but I'm
13 encouraging to avoid propounding discovery on
14 nine-month issues at that time and just limit them to
15 90-day and focus your efforts next week amongst
16 yourselves working on the 90-day issues in particular
17 so we can limit disputes.

18 Responsive testimony for the 90-day
19 proceeding is due on Friday, October the 24th. Reply
20 testimony and exhibits are due on November 7th, which
21 is a Friday. There will be a prehearing conference in
22 advance of the November 10 hearings, prehearing
23 conference on the 4th of November, Tuesday the 4th of
24 November, with lists of exhibits, witnesses,
25 cross-exhibits, etcetera, all the prefiled stuff due on

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1 the 3rd in advance of the prehearing conference.

2 Then there will be a prehearing conference at
3 8:30 on November 10th just prior to hearing to finalize
4 any marking or discovery issues, anything we need to
5 address at that point, and in the meantime, just to let
6 you all know that if there are discovery issues that
7 arise during October and the first week of November to
8 please call each other immediately, try to address
9 them. If you can't work them out, call me and we will
10 do an immediate conference call and address them that
11 way. Anything else on the scheduling that I have not
12 stated on the record? Again, this will be a generic
13 proceeding, so all ILEC's, all CLEC's who choose to be
14 involved will likely be involved.

15 Ms. Anderl raised an issue which I will set
16 out in a prehearing conference notice as well which has
17 to do with party service on each other. There is a
18 provision in the commission's procedural rules that
19 allows parties to basically waive paper service if they
20 wish and also to require parties to be served
21 electronically. Given the press of time, at least in
22 the 90-day proceeding, Ms. Anderl requested that all
23 parties provide electronic service to each other. I
24 think that's a reasonable requirement.

25 If you wish to waive your right to paper

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1 service, you need to do so under the commission's
2 procedural rules, and I will lay that out in the
3 prehearing conference, but I think it's reasonable to
4 expect electronic service on parties, and I think it's
5 reasonable also to allow parties to serve the
6 commission electronically, and there are rules for
7 that. You don't have to file the original and 19, and
8 file an original and six copies when you do make your
9 paper filing, which is the day following, so I'll set
10 that out in the prehearing conference order as well so
11 you are all familiar with the filing requirements, and
12 that will allow quick turn-around time.

13 Anything further on service and scheduling in
14 the 90-day case? Nothing further. Let's be off the
15 record.

16 (Discussion off the record.)

17 JUDGE RENDAHL: Now we are going to turn to
18 nine-month issues. The first thing we need to talk
19 about is how we are going to structure the docket. My
20 hope is to do the same thing as with the 90-day.
21 Whoever files the first petition, that would be the
22 docket number, and if another ILEC or CLEC chooses to
23 file, then they would file under that docket, and that
24 anticipates one docket.

25 Now, some of the parties' filing comments

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1 suggested separate dockets for loop and transport
2 issues and a separate one for switching issues. Is it
3 possible to do it all in one docket in various hearing
4 phases instead of separate dockets?

5 MS. FISHER: Verizon does not plan to file a
6 nine-month case. We have made a determination based on
7 reduced hours, resources that at this time, it is not
8 appropriate and Verizon will not be filing a nine-month
9 case.

10 JUDGE RENDAHL: Thank you very much.

11 MS. FISHER: And that would streamline the
12 issues, so ultimately, this would be considered a Qwest
13 case. We would participate to the extent to monitor
14 the case, but other than that, it would be a Qwest
15 case.

16 JUDGE RENDAHL: Thank you for that
17 clarification.

18 MS. DECOOK: Judge Rendahl, could I ask one
19 question about that?

20 JUDGE RENDAHL: Yes.

21 MS. DECOOK: I assume that you mean for
22 switching, loop, transport-type proceeding. You would
23 participate in the batch hot-cut process?

24 MS. FISHER: Our position is because we are
25 not filing a nine-month case that there is no need to

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1 review the batch hot cut at this time.

2 JUDGE RENDAHL: I think that's an issue that
3 might need to be flushed out at the beginning of the
4 nine-month proceeding, at least in terms of a legal
5 issue, because there is some discussion in reading the
6 order and comments that you see everywhere at this
7 point that states may be required to initiate the batch
8 cut process, and that's not something that's triggered
9 by a petition. So let's hold that thought for now
10 because I do want to get to the batch hot-cut issue.

11 Is there any objection to having one docket,
12 one Qwest docket with phases, I guess, since Verizon
13 doesn't need to file a nine-month case at this point?
14 Ms. Anderl or Mr. Steese, does Qwest have a concern
15 about having two dockets or one docket for nine-month,
16 or what would be Qwest's preference?

17 MS. ANDERL: At this point, one, Your Honor.

18 JUDGE RENDAHL: That would be phased
19 addressing the various issues.

20 MS. ANDERL: Yes. I'll be as forthcoming as
21 I can because a lot of these issues are still under
22 consideration by all the companies, which is why we are
23 getting a lot of silence on things. We will be
24 bringing a mass market switching case. We are still
25 evaluating the loops and transport portion of it, so I

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1 can't sit here and tell you today whether we will or we
2 won't, but if we do, we think it could happen within
3 the same docket.

4 JUDGE RENDAHL: There are two issues that
5 come out of that. One is we need to set a filing date
6 for nine-month cases to be filed, and then the other
7 issue is the batch cut process. Some parties' filing
8 comments indicated that that's something the state
9 commission needs to initiate on its own. The comments
10 are that that's a mandatory requirement for the state
11 commission, regardless of whether any company would
12 file a nine-month petition. So I think that is an
13 issue that could be addressed on brief initially or
14 addressed or argued in some way.

15 Other parties suggested that that's an issue
16 that could be dealt with either through a workshop
17 process or on a regional basis. It's the only issue
18 that may be susceptible to a regional discussion.
19 There was some discussion -- I believe it was in the
20 last ROC TRIP call I was on -- about someone raising
21 this at the Qwest change management process meeting, so
22 I guess I would turn it over to anyone who is familiar
23 with those meetings to know whether there was a
24 discussion or conducting a Qwest batch cut process
25 through the CNP. Any takers to that?

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1 MS. ANDERL: Your Honor, we don't know if it
2 was ever discussed at the CNP. We do have some
3 additional comments on whether it would be appropriate
4 to do it that way when you are ready for those.

5 JUDGE RENDAHL: And then the other suggestion
6 is for those of you who are attending ROC -- I'm not
7 going to be there -- I think this is something for the
8 parties to discuss amongst themselves. It's not
9 something that I think ROC could sponsor or that the
10 state commissions are willing to sponsor themselves,
11 but I think the process for the batch cut is truly an
12 issue.

13 So I guess I will open it up to everyone at
14 this point in terms of your suggestions as to how the
15 commission should best deal with it. Assuming a way of
16 who initiates, whether it's a commission or a party, is
17 this something that's susceptible to regional
18 coordination, or is this something that the state
19 should focus on individually, and if so, is this
20 something that can be dealt with on a workshop level
21 before we get to hearing? There is a lot of
22 possibilities here on batch cut, and I kind of throw it
23 out for discussion at this point.

24 MS. ANDERL: We've talked about it internally
25 and I think at this point are prepared to say that the

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1 processing through the CNP would work if a number of
2 conditions were met, and nobody sitting here today is
3 going to be in a position to say whether those
4 conditions can or will be met because some of those
5 conditions include that all 14 states, at a minimum,
6 endorse that process.

7 Our hot cut process is today and will in the
8 future be regional. We need to be able to train on a
9 regional basis and implement these things on a regional
10 basis. That is not something that varies from state to
11 state, so we would definitely need that, and Washington
12 is one of the first states to have a prehearing
13 conference, so it's not even been raised in a number of
14 the other states.

15 Other considerations would be how long would
16 it be in CNP before disputed issues were crystallized
17 and come to either the state commissions or a regional
18 facilitator for resolution. We would suggest it might
19 be appropriate to work 60 days through the CNP process
20 and then start to bring impassive issues, as it were,
21 for resolution. Under the circumstances, it would
22 probably be appropriate to transcribe the CNP
23 proceedings that address this issue, which is different
24 from how change management issues usually works.

25 (Discussion off the record.)

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1 Mr. Steese and I had a discussion, and he has
2 a better record than I do. So 60 days probably to work
3 on CNP, bearing in mind we do have the same nine-month
4 deadline, assuming the commission is required to do
5 this, and that there would be, of course, a desire or a
6 requirement that the parties, both Qwest and the
7 participating CLECs, be bound by whatever agreements
8 are reached in the change management process, that you
9 didn't have a whole free-for-all before the commissions
10 with all of the issues reopened; that negotiations to
11 the extent compromises -- binding on the parties and
12 that a smaller subset of disputed issues would be
13 brought forward for resolution.

14 JUDGE RENDAHL: Any further comments from
15 Qwest on the batch cut process?

16 MS. FISHER: For Verizon's part, the batch
17 cut process is something that should be considered on
18 an ILEC-to-ILEC basis, and as we stated earlier,
19 Verizon believes that reading the text of the order and
20 the rule as a whole that there is no requirement to
21 review a company's batch cut process if that company is
22 not challenging the impairment determination made by
23 the FCC because those provisions will still be made
24 available to the CLECs.

25 That being said, it is Verizon's

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1 understanding that the purpose of this proceeding is to
2 basically work out the 90-day and the nine-month case,
3 and if there are additional procedural issues that
4 would need to be addressed that those should also be
5 submitted on a written briefing and recommendation.

6 JUDGE RENDAHL: Thank you. Any other party?
7 Ms. DeCook?

8 MS. DECOOK: Thank you. From AT&T's
9 perspective, the CNP issue has just come up recently so
10 we are still analyzing it, but my reaction, and I don't
11 pretend to be an expert on CNP and lawyers do not
12 attend CNP, generally, but from AT&T's perspective, I
13 think we generally agree that batch hot-cut process
14 should be worked on from an ILEC-to-CLEC-specific
15 basis. We think it can be done on a regional basis
16 because it involves regional processes, and I can't
17 imagine that the ILEC would want to have a different
18 batch hot-cut process going from state to state, so I
19 think that there is some basis for some sort of a
20 collaborative approach.

21 The concerns I have about CNP are that I
22 think there may be some fundamental disputes that have
23 to be resolved at the beginning of the process, so I'm
24 not sure that putting it into CNP and having the
25 parties discuss something that maybe is a dispute that

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1 prevents them from moving forward at all is going to be
2 a valuable use of time, given the time constraints.

3 I think the second concern I have is that as
4 I see it, the commission has an obligation to direct
5 and implement a batch hot-cut process, and it seems to
6 me that they need to be involved in the process maybe
7 through staff participation as they did with the ROC
8 OSS development, and that's not provided for in the CNP
9 process. I don't believe that commission staff's,
10 participate in that, so I think maybe we are coming out
11 at the same place. Maybe CNP isn't the vehicle. It's
12 something similar but not precisely --

13 The other point about CNP I want to make is
14 that CNP has a life of its own today, and it's designed
15 to deal with change process that Qwest advances and
16 issues that CLEC's raise, and if we dump the batch
17 hot-cut process into CNP, then it could overwhelm the
18 process and we don't get to those day-to-day issues
19 that the CLEC's have.

20 JUDGE RENDAHL: Mr. Steese, can I take
21 comments from others and then come back to you?

22 MR. STEESE: Yes.

23 JUDGE RENDAHL: Anybody else in the room who
24 has comments on batch cut process? Mr. Trincherero.

25 MR. TRINCHERO: Your Honor, my clients also

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1 support the notion of doing this on a regional basis
2 but have some of the same concerns about the CNP
3 process that AT&T has raised. I guess one of the
4 things that I'm curious about is why the ROC itself
5 would not be a proper avenue for taking this up on a
6 regional collaborative manner.

7 JUDGE RENDAHL: I think that's something
8 maybe to be discussed this weekend on a procedural
9 basis.

10 MR. TRINCHERO: My clients also concur with
11 AT&T's position that it is necessary for each state
12 commission to adopt a batch cut process for ILEC's in a
13 state, whether or not that ILEC challenges the
14 impairment designation of the FCC.

15 JUDGE RENDAHL: Any other comments in the
16 room on batch cut? Anyone on the bridge line with
17 comments about the batch cut process?

18 MS. SINGER NELSON: Your Honor, I'm not going
19 to prolong the discussion, but I would just note that
20 MCI agrees with the views expressed by AT&T and
21 Mr. Trincherro for the same reasons, and apparently, I
22 guess the subject was discussed at CNP, and we have
23 expressed to that group that we do not think it would
24 be appropriate to handle in the CNP process.

25 JUDGE RENDAHL: Thank you. Mr. Steese?

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1 MR. STEESE: Very briefly. It would be
2 wonderful if we could sit down for a couple of months
3 in the change management process and all hold hands,
4 sing cum-by-ah and say we agree on the batch hot-cut
5 process, but we don't have any illusions that's going
6 to happen since it's so central to whether or not this
7 commission is going to find --

8 And so the hope of what change management can
9 do is to sit down and find where there is common
10 understanding and what the disputed points would be and
11 to not decide the issue there, even though that would
12 be wonderful, like I said, if it could occur, so to
13 take two months, November, December, iron out the
14 issues we can, identify a list of issues that remain
15 disputed, so that way when we move forward into the
16 states in the nine-month proceedings that we have an
17 understanding of what the disputed issues will be. So
18 again, the hearings are more focused. The evidence is
19 more focused, and all the parties understand where we
20 need to put our intention.

21 So in terms of whether staff needs to be
22 involved in that, I compare this to really any way that
23 we would come forward almost with a stipulation, if you
24 will, saying, Here's what the issues are, and then
25 obviously, staff and the commission and yourself would

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1 be involved in deciding the disputes that are made
2 between the parties. So we don't see a need to really
3 modify or come up with some new creative process. We
4 can use the existing process with one notable
5 exception, and I believe it was Ms. DeCook who said
6 this and she would be correct.

7 The meetings, I believe, are once or twice a
8 month, and they are for a few hours and there is a
9 agenda. We would have to set up, using the existing
10 notice list, additional meetings specific to the batch
11 hot-cut process such that parties that were interested
12 could attend, and there would be focused discussions on
13 that, but we wouldn't see a need to change procedural
14 process in any way.

15 JUDGE RENDAHL: Anything further? I think
16 what's clear to me, since there is still a fair amount
17 of discussion that can occur among the parties about
18 ideas for what process should occur -- again, I don't
19 know who will be attending ROC from this group. I will
20 not, but to the extent that parties can engage in
21 further discussion about batch cut process, regardless
22 of whether it's commission initiated or ILEC initiated,
23 that's an issue to be addressed later, I think I would
24 bring this up again at the next prehearing conference,
25 see if we've had further discussion amongst the

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1 parties, and if not, make some decisions at that point.

2 Let's get to the next issue. I think we have
3 all agreed that there will be one docket in the
4 nine-month. It looks like Verizon will not be
5 participating in terms of filing a petition but
6 participating in terms of monitoring. I think we can
7 identify issues, etcetera, later at a prehearing, and
8 we talked about discovery and protective order. We are
9 going to deal with those preliminarily for the
10 nine-month case on the 9th. So let's talk about
11 scheduling, and we will go off the record to do that
12 and come back and put it on the record. So we will be
13 off the record now to discuss scheduling for the
14 nine-month case.

15 (Discussion off the record.)

16 JUDGE RENDAHL: While we were off the record,
17 we had a fairly significant discussion about batch cut
18 process, and A, whether it's incumbent on the
19 commission to make the ruling, regardless of whether an
20 ILEC makes a nine-month filing or not. That issue we
21 are deferring until the prehearing conference that will
22 be held to initiate the nine-month case or to initiate
23 process in that case.

24 After some discussion about what should be
25 filed for an ILEC to initiate a nine-month proceeding,

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1 have established a date of October 10th for ILEC's to
2 file a nine-month petition. Verizon stated while we
3 were off the record that they did not intend to file a
4 nine-month petition, and Qwest has stated off the
5 record that at this point it intends to file at the
6 very least a mass market switching petition, so much of
7 the discussion did discuss Qwest's availability and
8 possibility for filing. So the discussion ended up
9 with October 10th as a petition date for the nine-month
10 proceeding, and I will be issuing a notice or the
11 commission will be issuing a notice by September 30th
12 indicating the parameters of what that nine-month
13 petition should look like.

14 The other dates we discussed for the
15 nine-month case were hearing dates, and we have mapped
16 out the week of March 1st and the week of March 15th,
17 2004, and we have established a prehearing conference
18 date for Monday the 13th of October, and I believe that
19 was the afternoon, unless I misspoke, so it is the
20 afternoon. There were no other dates that we
21 discussed. Is there anything else that we discussed
22 off the record that should be placed on the record?

23 MS. FISHER: Just to clarify, the October
24 13th prehearing conference, are you planning at that
25 time to take up Verizon's batch cut in Qwest's docket,

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1 or is that a separate issue?

2 JUDGE RENDAHL: I think that may be worth
3 discussing, whether there is a need for a separate
4 docket on batch cut issues as a generic matter, and
5 that's something that is worth discussing. So I guess
6 to that extent, I would encourage all parties to attend
7 on the 13th and if motions need to be made, or we can
8 discuss procedurally how to go unless you have thoughts
9 today.

10 MS. FISHER: I'm just wanting to clarify that
11 Verizon's batch-cut process wouldn't be determined in
12 Qwest's docket.

13 JUDGE RENDAHL: I think the hope was to have
14 a generic case, but concerning a Verizon batch cut, if
15 the decision is to be made that the commission needs to
16 do that regardless of whether Verizon files, then it
17 may be appropriate to have a separate docket for
18 Verizon's batch cut, and I think that's worth
19 contemplating.

20 Would Verizon be participating at all in the
21 October 13th proceeding if their batch-cut process was
22 not included in Qwest's case? Did you understand what
23 I just said?

24 MS. FISHER: Were you asking me though?

25 JUDGE RENDAHL: Would Verizon participate on

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1 the 13th in the nine-month proceeding if it did not
2 file a petition?

3 MS. FISHER: I think I understand what you
4 are saying.

5 JUDGE RENDAHL: If Verizon's batch cut is
6 addressed separately, would Verizon still be
7 participating on the 13th?

8 MS. FISHER: To the extent that Verizon would
9 be monitoring the case and if there are ILEC specific
10 issues that Verizon determines that it needs to comment
11 on, then we would at that level, but as a full
12 participant, no. At this point, it's just as a
13 monitoring position and piping in as needed when there
14 is an ILEC specific issue that Verizon determines it
15 needs to make a comment.

16 MS. RENDAHL: Given the lengthy discussion we
17 had about batch cut issues and the issue that's coming
18 up now about separate process, I may ask for separate
19 comment on batch cut and also the issue of separate
20 dockets and that sort of thing. Ms. DeCook?

21 MS. DECOOK: Another option is if Qwest is
22 going to file a petition and then pursuant to your
23 thought process, Qwest would trigger the opening of a
24 Qwest docket for mass market switching, you could also
25 solicit briefing in this docket to address the Verizon

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1 batch hot-cut issue rather than opening a docket
2 specifically for Verizon. You probably don't want to
3 do that until you make the decision as to whether they
4 need to go through the process or not, so that may be a
5 procedural option available.

6 JUDGE RENDAHL: Thank you. I believe we
7 probably will need to ask for comment on the batch
8 hot-cut process, all the various issues we discussed
9 this morning in terms of whose burden it is to initiate
10 it and the best process for concluding it. To the
11 extent that discussions relate to Qwest, those issues
12 could also be transferred over to a nine-month case if
13 those comments were filed in this docket. I know it
14 gets fairly confusing. The hope was to cut this docket
15 out as soon as possible with two other dockets going,
16 but we will see what happens.

17 I will take that issue under advisement and
18 figure out what to do with batch hot cut, but in the
19 meantime, I'll let you all go, unless there are other
20 issues we haven't put on the record. I think we've
21 probably talked about as much as we can.

22 MR. MELNIKOFF: I would just request that for
23 all prehearing meetings for this docket and the 90-day
24 docket and the nine-month docket, other than the
25 prehearing for exchange of testimony and

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1 cross-examination exhibits, if we could have a bridge
2 line, that would make it extremely convenient for those
3 of us on the east coast.

4 JUDGE RENDAHL: Yes. And we do try to do
5 that. It's very rare that we would have a prehearing
6 conference without the bridge line, so we will make
7 that option available.

8 MR. MELNIKOFF: Thank you.

9 JUDGE RENDAHL: With that, I think we should
10 conclude this prehearing conference. Thank you all for
11 coming. We will be off the record.

12 (Prehearing conference adjourned at 12:45 p.m.)

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