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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 QWEST CORPORATION,)

4)

4 Complainant,)

5)

5 vs.) DOCKET NO. UT-063038

6) Volume I

6 LEVEL 3 COMMUNICATIONS, LLC,) Pages 1 - 26

7 PAC-WEST TELECOMM, INC.,)

7 NORTHWEST TELEPHONE, INC.,)

8 TCG SEATTLE, ELECTRIC LIGHTWAVE,)

8 INC., ADVANCED TELCOM, INC.,)

9 d/b/a ESCHELON TELECOM, INC.,)

9 FOCAL COMMUNICATIONS CORPORATION,)

10 GLOBAL CROSSING LOCAL SERVICES,)

10 INC., and MCI WORLDCOM)

11 COMMUNICATIONS, INC.,)

11 Respondents.)

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14 A prehearing conference in the above matter
15 was held on July 19, 2006, at 9:30 a.m., at 1300 South
16 Evergreen Park Drive Southwest, Olympia, Washington,
17 before Administrative Law Judge ANN RENDAHL.

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19 The parties were present as follows:

20 QWEST CORPORATION, by LISA A. ANDERL,
21 Attorney at Law, 1600 Seventh Avenue, Room 3206,
21 Seattle, Washington 98191; telephone, (206) 345-1574.

22 LEVEL 3 COMMUNICATIONS, LLC, by GREG L.
23 ROGERS, Director of State Regulatory Affairs, 1025
23 Eldorado Boulevard, Broomfield, Colorado 80021;
24 telephone, (720) 888-2512.

24

Kathryn T. Wilson, CCR

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1 VERIZON ACCESS TRANSMISSION SERVICES, by
GREGORY M. ROMANO, General Counsel, Northwest Region,
2 1800 41st Street, Everett, Washington 98201;
telephone, (425) 261-5460.

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4 PAC-WEST TELECOMM, INC., NORTHWEST TELEPHONE,
INC., BROADWING COMMUNICATIONS, LLC, GLOBAL CROSSING
LOCAL SERVICES, INC., by GREGORY J. KOPTA, Attorney at
5 Law, Davis Wright Tremaine, 1501 Fourth Avenue, Suite
2600, Seattle, Washington 98101; telephone, (206)
6 628-7692.

7 ADVANCED TELCOM, INC., d/b/a ESCHELON
TELECOM, INC., by DENNIS D. AHLERS (via bridge line),
8 Associate General Counsel, 730 Second Avenue South,
Suite 900, Minneapolis, Minnesota 55402; telephone,
9 (612) 436-6249.

10 TCG SEATTLE, by GREGORY L. CASTLE (via bridge
line), Senior Counsel, 525 Market Street, Room 2022,
11 San Francisco, California 94105; telephone, (415)
778-1487.

12
13 ELECTRIC LIGHTWAVE, LLC, by CHARLES L. BEST,
Associate General Counsel, 4400 Northeast 77th Avenue,
Vancouver, Washington 98662; telephone, (360)
14 816-3311.

15 WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION,
by RICHARD A. FINNIGAN, Attorney at Law, 2112 Black
16 Lake Boulevard Southwest, Olympia, Washington 98512;
telephone, (360) 956-7001.

17
18 BROADWING COMMUNICATIONS, LLC, by EDWARD W.
KIRSCH (via bridge line), Attorney at Law, Bingham
McCutchen, 2020 K Street Northwest, Washington, DC
19 20006; telephone, (202) 373-6677.

20 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by JONATHAN THOMPSON, Assistant Attorney
21 General, 1400 South Evergreen Park Drive Southwest,
Post Office Box 40128, Olympia, Washington 98504;
22 telephone, (360) 664-1225.

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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.

3 We're here before the Washington Utilities and
4 Transportation Commission this morning, Wednesday, July
5 19th, for a prehearing conference in Docket No.
6 UT-063038. It's a complaint filed by Qwest Corporation
7 against Level 3 Communications, LLC, and a number of
8 other companies.

9 I'm Ann Rendahl, the administrative law judge
10 presiding over this proceeding. The purpose of our
11 prehearing conference this morning is to take
12 appearances, to address any petitions to intervene,
13 identify the issues, discuss a number of procedural
14 issues, and set a procedural schedule for this
15 proceeding.

16 Before we go any further, let's take
17 appearances from the parties and those appearing, and
18 so that we can have a complete record for both our
19 records center and for our purposes and your purposes
20 in communicating with each other, you need to state
21 your full name, the party you represent, your address,
22 telephone number, fax number, and e-mail address. So
23 let's begin with the Complainant, Qwest.

24 MS. ANDERL: Lisa Anderl representing Qwest
25 Corporation. My business address is 1600 Seventh

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1 Avenue, Room 3206, Seattle, Washington, 98191. My
2 telephone is (206) 345-1574. My fax is (206) 343-4040,
3 and my e-mail is lisa.anderl@qwest.com.

4 JUDGE RENDAHL: Ms. Anderl, I noted in the
5 Complaint that Qwest had also included Mr. Sherr. Do
6 you wish him to be included on our electronic list?

7 MS. ANDERL: The electronic list, yes, but
8 I'll be the person for hard-copy documents.

9 JUDGE RENDAHL: Is there anyone else from
10 Qwest you want included on the courtesy list when we
11 send out notices or an order?

12 MS. ANDERL: Not at this time, Your Honor,
13 but I likely will be adding one or more attorneys down
14 the road. I don't have anybody I know for a fact wants
15 that right now.

16 JUDGE RENDAHL: I'm also thinking since
17 Mr. Reynolds is in the room, do you want him on the
18 list?

19 MS. ANDERL: Yes. That would be great, and
20 it's mark.reynoldsIII@qwest.com.

21 JUDGE RENDAHL: Thank you. For Level 3?

22 MR. ROGERS: Appearing on behalf of Level 3,
23 Greg Rogers, and our business address is 1025 Eldorado
24 Boulevard in Broomfield, Colorado. The zip is 80021.
25 My phone number is (720) 888-2512. Fax number is (720)

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1 888-5134, and my e-mail is greg.rogers@level3.com.

2 JUDGE RENDAHL: And similar to Ms. Anderl, is
3 there anyone else you would like to be included for
4 Level 3 as a part of the electronic courtesy list? We
5 create a list of e-mails that we send notices for and
6 orders out.

7 MR. ROGERS: We would like to include both
8 Rogelio Pena, who is outside counsel for Level 3, and
9 Gregg Strumberger.

10 JUDGE RENDAHL: Could you spell Strumberger?

11 MR. ROGERS: S-t-r-u-m-b-e-r-g-e-r.

12 JUDGE RENDAHL: Does Mr. Strumberger have a
13 direct line?

14 MR. ROGERS: Yes, he does. You are going to
15 test my memory here.

16 JUDGE RENDAHL: You can give it to me later.

17 MR. ROGERS: Okay.

18 JUDGE RENDAHL: Would his e-mail be similar
19 to yours, gregg.strumberger@level3.com?

20 MR. ROGERS: Yes. He spells his name with
21 two g's at the end, however.

22 JUDGE RENDAHL: I think I can find Mr. Pena's
23 e-mail address.

24 MR. FINNIGAN: It's on the master service
25 list for this case. Your Honor, that raises a

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1 question. For service among parties, to what extent is
2 this list we are doing this morning to be service among
3 the parties, or are we designating service among the
4 parties just to lead counsel?

5 JUDGE RENDAHL: I guess I will leave that up
6 to you as a matter of how you all wish to address
7 service among yourselves. I understand the APA in our
8 rules allow the parties to agree to forego paper
9 service, but if you are going to do that, I would like
10 you to send us a letter letting us know you are going
11 to do that.

12 The reason for this list is we will attach
13 this list to the prehearing conference order so you all
14 have everybody's information and everybody's e-mail
15 addresses, and then you can use those for either
16 courtesy service or the electronic service, and that is
17 really up to you all for how you want to do that.

18 MS. ANDERL: But for clarification, unless
19 Your Honor specifies otherwise, paper copy service will
20 be sufficient, one copy per party to the person
21 appearing here today?

22 JUDGE RENDAHL: Correct. You don't need to
23 serve more than one copy. Likewise, we will be serving
24 to the person who is appearing today a paper copy and
25 sending courtesy e-mail copies to everybody's e-mail

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1 addresses we have. For Pac West?

2 MR. KOPTA: Gregory J. Kopta of the law firm
3 Davis, Wright, Tremaine, LLP, on behalf of Pac West
4 Telecomm, Northwest Telephone, Broadwing
5 Communications, and Global Crossing Local Services.
6 Our address is 2600 Century Square, 1501 Fourth Avenue,
7 Seattle, Washington, 98101-1688; telephone, (206)
8 628-7692; fax, (206) 628-7699; e-mail,
9 gregkopta@dwt.com.

10 In addition to me for electronic service, in
11 our answer, we have included contact information, but I
12 will just let you know to confirm that for e-mail
13 service, we would like to include Ethan Sprague on
14 behalf of Pac West, Andrew Metcalfe on behalf of
15 Northwest Telephone, Larry Strickling on behalf of
16 Broadwing, Michael Shortley on behalf of Global
17 Crossing, and Mr. Kirsch will discuss his separate
18 appearance as co-counsel for Broadwing. He is on the
19 bridge line.

20 JUDGE RENDAHL: Mr. Kirsch?

21 MR. KIRSCH: My name is Edward Kirsch. I'm
22 representing Broadwing Communications, LLC, a
23 co-counsel. I'm with Bingham, McCutchen, LLC. We are
24 located at 2020 K Street Northwest, Washington, DC
25 20006. Telephone number is (202) 373-6677; fax, (202)

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1 424-7647; e-mail address, edward.kirsch@bingham.com,
2 and I would also like to add to the service list Tamar
3 Finn, and her e-mail is tamar.finn@bingham.com --

4 JUDGE RENDAHL: If there is someone on the
5 bridge line who is speaking other than Mr. Kirsch, if
6 you could mute your line. Thank you. So tamar.finn at
7 bingham.com?

8 MR. KIRSCH: Correct, and her direct line is
9 (202) 373-6617. Her fax number is the same.

10 JUDGE RENDAHL: So the fax number is (202)
11 424-7647?

12 MR. KIRSCH: That is correct, Your Honor.

13 JUDGE RENDAHL: Going next down the line, for
14 TCG Seattle?

15 MR. CASTLE: I'm Gregory L. Castle appearing
16 on behalf of TCG Seattle. I'm employed by AT&T
17 Services, Inc. My business address is 525 Market
18 Street, Room 2022, San Francisco, California, 94105.
19 My telephone number is (415) 778-1487. My fax number
20 is (415) 974-1999, and my e-mail address is
21 gregory.castle@att.com.

22 JUDGE RENDAHL: In the answer that TCG
23 Seattle filed, you also listed Mr. Foley. Do you want
24 him included on the electronic list?

25 MR. CASTLE: Yes, please, Your Honor.

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1 JUDGE RENDAHL: And that would be
2 dan.foley@att.com?

3 MR. CASTLE: That's correct.

4 JUDGE RENDAHL: Thank you. For Electric
5 Lightwave?

6 MR. BEST: Your Honor, Charles L. Best,
7 associate general counsel, Electric Lightwave, LLC,
8 4400 Northeast 77th Avenue, Vancouver, Washington,
9 98662. Telephone is (360) 816-3311. Fax is (360)
10 816-0999. E-mail is charles best@eli.net.

11 We also have with us our respondent
12 representative, who is Dennis Robins. I would like him
13 to be added to the electronic list. I don't know if
14 you have his e-mail address or not.

15 JUDGE RENDAHL: I'll just clarify.
16 Mr. Robins, is it dennis robins@eli.net?

17 MR. ROBINS: Yes.

18 JUDGE RENDAHL: So for Eschelon, Mr. Ahlers?

19 MR. AHLERS: This is Dennis D. Ahlers,
20 A-h-l-e-r-s, from Eschelon Telecom. The address is 730
21 Second Avenue South, Suite 900, Minneapolis, Minnesota,
22 55402. Phone number is (612) 436-6249. Fax number is
23 (612) 436-6349. E-mail address is
24 ddahlers@eschelon.com.

25 JUDGE RENDAHL: Thank you. For MCI Metro or

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1 now Verizon Access?

2 MR. ROMANO: This is Gregory M. Romano on
3 behalf of MCI Metro Access Transmission Services, LLC,
4 doing business as Verizon Access Transmission Services.
5 The address is 1800 41st Street, Everett, Washington,
6 98201. Telephone number is (425) 261-5460. Fax number
7 is (425) 261-5262, and e-mail address is
8 gregory.m.romano@verizon.com.

9 JUDGE RENDAHL: Is there anyone else that
10 Verizon Access would like listed on the electronic
11 list?

12 MR. ROMANO: No, thank you.

13 JUDGE RENDAHL: For Staff?

14 MR. THOMPSON: Jonathan Thompson, assistant
15 attorney general. My street address is 1400 South
16 Evergreen Park Drive Southwest, and it's PO Box 40128.
17 My telephone number is (360) 664-1225. The fax is
18 (360) 586-5522, and my e-mail address is
19 jthompso@wutc.wa.gov.

20 JUDGE RENDAHL: Thank you. We have two
21 petitions to intervene. We will begin with you,
22 Mr. Finnigan, since you are in the room.

23 MR. FINNIGAN: Thank you. Richard A.
24 Finnigan on behalf of the Washington Independent
25 Telephone Association. My address is 2112 Black Lake

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1 Boulevard Southwest, Olympia, Washington, 98512.
2 Telephone number is (360) 956-7001. Fax is (360)
3 753-6862. E-mail is rickfinn@localaccess.com, and I
4 will be the only person on the list.

5 JUDGE RENDAHL: Thank you, Mr. Finnigan, and
6 I do have a petition to intervene from CenturyTel. Is
7 Mr. Simshaw (phonetic) on the line? All right. Well,
8 Mr. Simshaw filed a petition to intervene on behalf of
9 CenturyTel, and I've gathered most of the information
10 from his petition to intervene, so pending the
11 discussion of the petition during this conference, we
12 will include him on the list, and I will include my
13 information on the list should you need to contact me
14 as well. So thank you for going through that somewhat
15 tedious process, but now we have all the information we
16 need.

17 Before we go on, I just want to let those
18 folks on the bridge line know that if you are going to
19 speak, you need to identify yourself first because
20 there are many people here, and there are several of
21 you on the bridge line.

22 Let's address the petitions to intervene,
23 beginning with you, Mr. Finnigan. First I would ask if
24 is there anyone who objects to WITA's petition to
25 intervene in this proceeding?

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1 JUDGE RENDAHL: Hearing nothing, I don't
2 think there is a reason to deny, so WITA's petition to
3 intervene will be granted. Is there anyone who objects
4 to the petition to intervene by CenturyTel?

5 MR. KOPTA: Your Honor, not an objection but
6 simply a clarification. Perhaps Mr. Finnigan can
7 address it. Is CenturyTel a member of the Washington
8 Independent Telephone Association? If so, are their
9 interests separate, or are they going to work together,
10 or how is that going to work as a matter of procedure
11 going forward?

12 MR. FINNIGAN: CenturyTel is a member of
13 WITA. CenturyTel is appearing on its own behalf in
14 this proceeding. Certainly we will coordinate items as
15 much as possible. I believe in talking with
16 Mr. Simshaw of CenturyTel, they may have factual issues
17 specific to it.

18 MR. KOPTA: We don't object. We just wanted
19 that clarification. Thank you.

20 JUDGE RENDAHL: I will note that Mr. Simshaw
21 didn't let me know he was not going to be here this
22 morning, so that is a slight problem, but in the event
23 you are representing CenturyTel through WITA,
24 Mr. Finnigan, is there anything you want to address?

25 MR. FINNIGAN: No. I will let you know that

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1 in talking about this morning's proceedings with
2 Mr. Simshaw, he did intend to be on the bridge, but he
3 is traveling and out of state so there may have been
4 something in his travel schedule that prevented him
5 from being here. I know he intended to be here by
6 telephone.

7 JUDGE RENDAHL: Okay. Again, is there any
8 objection to CenturyTel intervening in this proceeding?
9 Hearing no objection, we will grant CenturyTel's
10 petition. Is there anyone else on the bridge line or
11 here in the room who wishes to petition to intervene in
12 this proceeding? Hearing nothing, I think we know now
13 who the parties are in this proceeding.

14 That does raise one issue. In preparation
15 for the prehearing, although I noticed many of you
16 indicated the representatives in your answers or your
17 initial pleadings, the Commission's rules and in the
18 prehearing conference require parties and those who are
19 petitioning to intervene to file a notice of appearance
20 so we know who actually will be here, because sometimes
21 that changes between your answer or your initial
22 pleading.

23 So in the future, appearing for the
24 Commission -- I don't think it's necessary to have all
25 of you file a notice of appearance since you've just

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1 stated your appearance and we have all the information
2 on record, but in the future, if you could make sure
3 you do that before the prehearing, it makes things a
4 little bit easier.

5 The next issue is a protective order. Do the
6 parties see any need for a protective order in this
7 proceeding?

8 MS. ANDERL: It may be likely that one will
9 be necessary. It certainly doesn't hurt.

10 JUDGE RENDAHL: Is there any objection to
11 having a protective order in this proceeding? And I
12 assume that would be the standard protective order, not
13 the highly confidential version of the protective
14 order?

15 MS. ANDERL: That's correct, Your Honor.

16 JUDGE RENDAHL: So we will issue a standard
17 protective order in this proceeding either before or
18 after the prehearing conference order goes out.

19 The issue of discovery, have the parties
20 discussed the need for discovery? Is there a need for
21 invoking the Commission's discovery rules in this
22 proceeding?

23 MS. ANDERL: Your Honor, Qwest would
24 specifically request that the discovery rule be invoked
25 and that it be permitted to conduct discovery.

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1 JUDGE RENDAHL: Is there any objection to
2 invoking the discovery rules in this proceeding? All
3 right. We will invoke the discovery rules. Are there
4 any particular discovery issues we need to talk about
5 now?

6 MS. ANDERL: No, Your Honor. The only thing
7 that just occurred to me is it's likely that Qwest will
8 be doing discovery first or at least simultaneously
9 with other parties, requesting information back and
10 forth, and maybe we ought to revisit the protective
11 order question and see if any of the respondent's or
12 intervenors feel as though they might be asked any
13 information that they might be asked to produce that's
14 relevant to claim that to be highly confidential. I'm
15 not asking for a highly confidential designation, but
16 mine isn't the only word here that matters.

17 JUDGE RENDAHL: Let's revisit the protective
18 order issue. I guess it depends on the types of
19 questions or information that Qwest seeks, and I'm not
20 sure we know what that information is at this point,
21 but I'll open the floor to anyone who wants to speak to
22 that.

23 MR. ROGERS: I guess Level 3 would agree that
24 we don't know at this point in time necessarily whether
25 a highly confidential protective order would be

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1 necessary, but if any party feels that is, in fact, the
2 case, we would like to reserve the opportunity to
3 review that, to request highly confidential treatment.

4 JUDGE RENDAHL: I would say why don't we just
5 wait, and we can always modify the protective order to
6 add a highly confidential.

7 MS. ANDERL: I just didn't want to waive it.

8 JUDGE RENDAHL: We will hold onto that issue
9 until we know if we need it. Have the parties had any
10 discussion about identifying the issues for discussion?
11 I doubt it given the stage we are in the proceeding,
12 but it's something I would like to know about.

13 MR. ROGERS: I would just raise as far as the
14 discovery issues, and somewhat related to that question
15 is we think there ought to be a good likelihood that
16 Level 3 and Qwest could agree that the discovery that's
17 been conducted in other proceedings to date, because
18 there have been multiple other proceedings, would be
19 allowed to be used, I guess, in this proceeding, and
20 that we not necessarily have to go through a whole
21 other round, but that, of course, depends on whether or
22 not, in fact, the information is the same, I suppose,
23 but I would just raise that and say that that may be an
24 opportunity, at least for the two of us, to expedite or
25 have a more efficient discovery process.

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1 JUDGE RENDAHL: Okay. I'll leave that up to
2 the parties to discuss. When we discuss the schedule,
3 we will talk about whether it's appropriate to include
4 time in there for a discovery conference just to make
5 sure we have time to address any issues, but we will
6 get to that later.

7 Let's move on to the procedural issues that
8 we know about. Is Qwest planning to amend the
9 Complaint to address the Verizon Access and Broadwing
10 Company status issues?

11 MS. ANDERL: Yes. We wanted to wait until
12 today to make sure that those were all of the issues
13 with regard to proper identification of the
14 Respondents, but we will file -- it was our intention
15 to simply file a letter with the Commission requesting
16 that the Complaint be deemed amended. If it's the
17 Commission's preference that we refile the Complaint
18 itself just with changes to the identification of
19 parties, we can do it that way as well.

20 JUDGE RENDAHL: I don't think that you need
21 to do that. I think the letter is sufficient, and we
22 can address it via order.

23 Are there any other party identification
24 issues that we need to address that Ms. Anderl might
25 need to know about before she files this letter?

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1 MR. BEST: Your Honor, we've been designated
2 as an "Inc.," and it's a minor issue, but we are an
3 LLC.

4 JUDGE RENDAHL: Thank you. That's the kind
5 of thing we need to know about.

6 MR. KOPTA: Your Honor, before we move on,
7 just a clarification for procedural reasons, the letter
8 is certainly fine with us, but is the contemplation
9 that then the caption would be changed to reflect the
10 actual names of the parties so that in future, we
11 change the caption that we have up to now?

12 JUDGE RENDAHL: Yes. So me intent would be
13 to follow-up with an order granting the request to
14 amend the Complaint, and the caption would be modified
15 in this order.

16 MR. KOPTA: Thank you.

17 JUDGE RENDAHL: Let's take up the issue, are
18 we anticipating prefiled testimony or live testimony in
19 this matter?

20 MS. ANDERL: It was Qwest's contemplation
21 that it would be kind of the standard prefiling, three
22 rounds of testimony.

23 JUDGE RENDAHL: We can get into how many
24 rounds when we talk about the schedule. Did anyone
25 anticipate live testimony? I didn't think so, so we

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1 will proceed with the prefiled format.

2 The issue I spoke about before we went on the
3 record when I was talking about the agenda, in this
4 case and also in Docket UT-063006, which is Level 3's,
5 arbitration petition with Qwest, we are also addressing
6 the issues of VNNX. I am the presiding officer in both
7 cases, and there is one staff person at the Commission,
8 Bob Williamson, who is our technical expert, and he had
9 agreed to work with me as a technical adviser in the
10 arbitration proceeding before this complaint was filed.
11 We haven't had any discussions yet. The case hasn't
12 proceeded to that point, but he is also the likely
13 person to be an advocate for Staff in this case.

14 I had discussions with the parties in the
15 arbitration proceeding yesterday outlining the number
16 of options first before this prehearing just to know
17 where we were. The option the parties have agreed to
18 at this point is that they are agreeing to waive any
19 objection they have to any possible ex parte
20 communication that might occur as a result of that
21 differential that Mr. Williamson might play, but that
22 is also pending our discussion here this morning, and
23 because you all are also involved in this case, I
24 simply want to ask any of you whether any of you would
25 have an objection to Mr. Williamson advising me on the

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1 technical network issues in the arbitration proceeding,
2 and then being on the other side of the wall in this
3 proceeding, if Staff chooses to take an advocacy
4 position, so I open the floor to any of you.

5 MS. ANDERL: Your Honor, just for the record
6 in this docket, I will confirm that your
7 representations about the discussion yesterday are
8 accurate for Qwest. Qwest is willing to allow without
9 objection for Mr. Williamson to play both roles.

10 MR. ROGERS: Level 3 would do the same.

11 MR. FINNIGAN: No objection, Your Honor.

12 MR. ROMANO: Verizon has no objection.

13 MR. BEST: Electric Lightwave has no
14 objection.

15 MR. KOPTA: No objection.

16 JUDGE RENDAHL: Is there anyone on the bridge
17 line who has a concern about Mr. Williamson's
18 participation in the two cases?

19 I very much appreciate your willingness to
20 waive any concerns. I've asked the parties in the
21 Level 3 arbitration to indicate their waiver of an
22 objection in writing, and I would request that all of
23 you do so in this case as well just so we have it on
24 the record. So if you could submit a letter indicating
25 that, I would appreciate it.

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1 MR. ROGERS: Your Honor, should we be sure to
2 do that in both dockets?

3 JUDGE RENDAHL: Yes. If you want to take
4 care of it in this docket, I think Mr. Cecil is aware
5 that he will do it in the other docket.

6 MR. FINNIGAN: Your Honor, in light of your
7 request for a letter, could you restate the arbitration
8 docket number again, please?

9 JUDGE RENDAHL: Yes. It is Docket UT-063006,
10 and it's the Level 3 request for arbitration with
11 Qwest.

12 MR. FINNIGAN: Thank you.

13 JUDGE RENDAHL: The only other issue before
14 we talk schedules is, and it is part of the scheduling
15 discussion, is whether anyone had anticipated as a part
16 of the schedule that we would have any motions
17 involving legal issues or whether this case simply
18 presents factual issues, so I'm not sure if anyone had
19 anticipated that part of the schedule or planned to
20 address that.

21 Actually, you know, I've jumped ahead of
22 myself. There is the issue of the Broadwing and Global
23 Crossing counterclaims. Are we still waiting for an
24 answer from Qwest on that? I didn't see that in my
25 pleadings.

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1 MS. ANDERL: Qwest has not yet filed an
2 answer to those, but we can do so on whatever schedule
3 is established.

4 JUDGE RENDAHL: Why don't we talk about that
5 when we get to the schedules, and in terms of the
6 motions, is there any anticipation of including the
7 motion for summary determination or other motions as a
8 part of the schedule?

9 MR. KOPTA: Your Honor, I don't think that we
10 would anticipate putting in a motion as part of the
11 schedule, depending on what Qwest's answer is to the
12 counterclaims, and if we believe there is a sufficient
13 similarity to decisions that the Commission has reached
14 in Pac-West and Level 3 cases, there may be a motion
15 that we would believe is appropriate for disposing of
16 some or all of the counterclaims along the same lines
17 as the Commission has already determined in those other
18 cases, but at this point, we are not asking that
19 anything be set aside in the schedule to deal with that
20 at this point.

21 JUDGE RENDAHL: Let's talk about the
22 schedule, and a part of that is whether there is a need
23 to schedule a settlement conference at all in this
24 case. This isn't a rate case, so we have a slightly
25 different situation, but I do want to raise the issue.

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1 MS. ANDERL: I know that Verizon Access's
2 answer mentioned negotiation among the parties. The
3 others did not in particular bring that up. We never
4 have any objection to attempting to engage in
5 settlement discussions. I'm not sure that they would
6 be particularly fruitful, given the parties' fairly
7 extreme and previously clearly articulated positions on
8 the issues in this docket, but we are --

9 Just as a little sneak preview, we are going
10 to be asking for a fairly long amount of time to do
11 discovery and prepare our direct case before we file
12 it. I think certainly if the parties wanted to convene
13 to try to discuss settlement, either as a large group
14 or more discreetly in smaller subgroups, there would
15 probably be time in the schedule without necessarily
16 establishing a formal date for such a conference.

17 JUDGE RENDAHL: Is there someone that wants a
18 formal date in the schedule? All right. Then we will
19 not do so.

20 I intend to go off the record so we can talk
21 about the schedule because that is generally a long
22 process and tedious for the court reporter, but is
23 there anything we need to say on the record before we
24 go off? Let's be off the record to talk about the
25 schedule.

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1 (Discussion off the record.)

2 JUDGE RENDAHL: While we were off the record,
3 we discussed the schedule for this case. At this
4 point, we've decided that answers to the Broadwing and
5 Global Crossing counterclaims are due on July 28th, and
6 prefiled testimony by Qwest, WITA, and CenturyTel, and
7 possibly Staff, depending on their position in the
8 case, on October 27th, along with any testimony by
9 Broadwing and Global Crossing on their counterclaims
10 should they choose to do that.

11 On January 12th, responsive testimony is due
12 from the Respondents in this case and possibly Staff
13 depending on their position, and any Qwest, WITA, or
14 CenturyTel response to the Broadwing and Global
15 Crossing direct testimony, and then rebuttal testimony,
16 depending on where you were prior to that, on February
17 23rd, with a hearing the week of March 12th pending
18 clarification from Ms. Anderl about any problems Qwest
19 might have with that date. Then initial briefs,
20 simultaneous initial briefs would be due on April the
21 20th, and simultaneous responsive briefs would be due
22 on May 11th.

23 We didn't talk about it off the record, but
24 at this point, I would intend for all the filing dates
25 in this case to evoke the electronic submission rule,

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1 so the deadline for submitting items to the Commission
2 is for submitting it electronically. I would set a
3 three o'clock deadline for submitting electronically,
4 and you must follow it up with a paper copy to the
5 Commission the next business day. I will include that
6 in the prehearing conference order. I find that that
7 works particularly in cases such as this where there is
8 a lot of paper flying back and forth.

9 Is there anything else that we talked about
10 off the record that we need to put on the record?

11 MS. ANDERL: No, Your Honor, but with regard
12 to the March 12th date in the schedule, I have found
13 another little set of notes that I have. It doesn't
14 clarify if we are available on March 12th, but it does
15 clarify that we are available the weeks of the 9th,
16 16th, and 23rd. That, of course, would impact the
17 briefing schedule you just established, but in the
18 event my communication to you later today is that we
19 are not available the week of March 12th, I wondered if
20 we could poll the parties.

21 JUDGE RENDAHL: So you said the weeks of
22 April 9th, 16th, and 23rd?

23 MS. ANDERL: Yes.

24 JUDGE RENDAHL: I will not be here all of the
25 week of the 9th. Unless you wanted to start one week

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1 and move into the next, which isn't always preferable
2 with witnesses coming out of town, we should probably
3 look to the 16th and the 23rd as an option. Is there
4 conflicts at that point? I know that April of 2007 is
5 an awfully long way out for most people. So we will
6 wait to hear from Ms. Anderl on that. I will let you
7 all know what I hear.

8 Is there anything else we need to talk about
9 today before we adjourn the prehearing conference? Is
10 there anyone who needs to order a transcript of today's
11 proceeding? Anyone on the bridge line who wishes to
12 order a transcript from today's proceeding.

13 MR. CASTLE: I would like to, please.

14 MS. ANDERL: I would like one.

15 JUDGE RENDAHL: With that, I appreciate your
16 time this morning, and this prehearing conference is
17 adjourned.

18 (Prehearing conference adjourned at 10:30 a.m.)

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