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1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3 FOCAL COMMUNICATIONS                    )  
CORPORATION OF WASHINGTON,            ) Docket No. UT-013019  
4    )  
  ) Volume 1  
5    )  
6 VERIZON NORTHWEST, INC.,            ) Pages 1 to 8  
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8                   A prehearing conference in the above matter  
9 was held on April 23, 2001, at 1:40 p.m., at 1300 South  
10 Evergreen Park Drive Southwest, Room 108, Olympia,  
11 Washington, before Administrative Law Judges TRE  
12 HENDRICKS and LAWRENCE BERG.

13                   The parties were present as follows:

14                   THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION, by BETH REDFIELD AND JING ROTH, 1400 South  
15 Evergreen Park Drive Southwest, Post Office Box 40128,  
Olympia, Washington, 98504-0128.

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                  VERIZON NORTHWEST, INC., via bridge line, by  
17 KIMBERLY NEWMAN, Attorney at Law, Hunton and Williams,  
1900 "K" Street, Suite 1200, Washington, D.C. 20006.

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19                   FOCAL COMMUNICATIONS CORPORATION OF  
WASHINGTON, via bridge line, by GREGORY J. KOPTA,  
20 Attorney at Law, Davis, Wright, Tremaine, LLP, 1501  
Fourth Avenue, Suite 2600, Seattle, Washington 98101.

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Joan E. Kinn, CCR, RPR  
25 Court Reporter

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P R O C E E D I N G S

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JUDGE HENDRICKS: We're here this afternoon  
3 for a prehearing conference in Docket Number UT-013019.  
4 This matter arises from the filing by Focal  
5 Communications Corporation of Washington of a Petition  
6 for Enforcement of Section 252(i). Today is April 23rd,  
7 2001, and we're appearing in Room 108 in the Commission  
8 headquarters building in Olympia, Washington. I'm Tre  
9 Hendricks, and I'm the Administrative Law Judge assigned  
10 by the Commission to this stage of the proceeding. Also  
11 present are Jing Roth from Commission Staff, Beth  
12 Redfield from the Commission's Policy Staff, and Larry  
13 Berg, an Administrative Law Judge, and they're serving  
14 as advisors today.

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I will start by taking appearances from all  
16 parties starting with Mr. Kopta. Please state for the  
17 record your name, who you represent, your address,  
18 telephone, and fax numbers, and an E-mail if you use  
19 one.

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MR. KOPTA: Thank you, Your Honor. This is  
21 Gregory J. Kopta of the law firm Davis Wright Tremaine,  
22 LLP, on behalf of Focal Communications Corporation of  
23 Washington. My address is 2600 Century Square, 1501  
24 Fourth Avenue, Seattle, Washington 98101-1688. My  
25 telephone number is (206) 628-7692. Fax (206) 628-7699.

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1 E-mail, gregkopta, all one word lower case,  
2 gregkopta@dwt.com.

3 JUDGE HENDRICKS: Thank you, Mr. Kopta.

4 And, Ms. Newman.

5 MS. NEWMAN: Yes, good afternoon. My name is  
6 Kimberly Newman of the law firm of Hunton and Williams  
7 on behalf of Verizon. The address for Hunton and  
8 Williams is 1900 "K" Street Northwest, Suite 1200,  
9 Washington D.C. 20006. My telephone number is (202)  
10 778-2225. My fax number is (202) 778-2201. And my  
11 E-mail address is all lower case kneuman@hunton.com.

12 JUDGE HENDRICKS: Thank you, Ms. Newman.

13 Are there any preliminary matters to come  
14 before the Commission at this time?

15 Before reviewing -- I should also ask, are  
16 there any protests or petitions to intervene at this  
17 time or petitions to intervene?

18 Before reviewing the issues presented and the  
19 motion to dismiss, I want to find out if the parties are  
20 engaged in any settlement discussions. I was looking at  
21 the news wire on Friday and saw that Verizon and Focal  
22 have entered into interconnection agreements in seven  
23 other states, and those appear, at least just from the  
24 reading of the news wire, that they address issues that  
25 are in dispute in this case. Can the parties address

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1 that?

2 MR. KOPTA: This is Greg Kopta. I'm not  
3 aware of any discussions that are going on specific to  
4 Washington. There have been some informal discussions  
5 in terms of general alternatives for perhaps resolving  
6 this matter between the parties, but nothing that I  
7 would state is anything as formal as what you were just  
8 referring to, Your Honor. So at this point, my  
9 understanding from talking with representatives of my  
10 client on Friday of last week was that there is no  
11 resolution in Washington and that we need to proceed  
12 with this particular proceeding at this point.

13 JUDGE HENDRICKS: Ms. Newman.

14 MS. NEWMAN: I agree with Mr. Kopta's  
15 representations that there have not been any formal  
16 discussions of settlement between him and myself. I  
17 hasten to add, however, that Verizon is always open to  
18 trying to resolve this matter. Indeed, we have  
19 requested, as you know, Your Honor, a mediation, and we  
20 do believe a resolution is possible, and we would  
21 welcome formal discussions with Focal on this point.

22 JUDGE HENDRICKS: Well, I don't know if that  
23 answers the question well, but why don't we proceed.

24 I would like to ask in this matter from  
25 reading the proceeding, from reading the pleadings,

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1 there don't appear to be any factual issues that are in  
2 dispute. If there are, I'm not sure of their import or  
3 their complexity. Are there issues other than pure  
4 legal issues that are in dispute?

5 MR. KOPTA: This is Greg Kopta. I'm not  
6 aware of any factual issues that are in dispute. My  
7 understanding based on reviewing the response that  
8 Verizon filed is that there are issues of law and  
9 perhaps policy that have been raised, but none of fact  
10 that I'm aware of.

11 JUDGE HENDRICKS: Ms. Newman.

12 MS. NEWMAN: Well, I would take it from  
13 counsel for Focal's representations that they didn't  
14 disagree with any facts as we represented in our  
15 response, but we obviously do have disagreements about  
16 the application of the law.

17 JUDGE HENDRICKS: In light of that now, and  
18 also to Ms. Newman, your petition for -- your motion to  
19 dismiss is couched in terms of a motion to dismiss only  
20 the request for expedited review; is that right?

21 MS. NEWMAN: That is correct, Your Honor.

22 JUDGE HENDRICKS: Okay. And then, of course,  
23 you have answered as well. Now in light of the fact  
24 that there are only legal issues in dispute, those I  
25 think might be resolved within a fairly short time frame

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1 regardless of whether or not the Commission would grant  
2 expedited review under WAC 480-09-530, and so it would  
3 seem to be prudent just to move on to resolving the  
4 issues of Focal's petition, and what I foresee is  
5 resolving that through written briefs on a schedule to  
6 be determined by the Commission. Do the parties agree  
7 that that's a good way to proceed?

8 MR. KOPTA: This is Greg Kopta, we would  
9 agree that that's an appropriate way to proceed.

10 MS. NEWMAN: Your Honor, Verizon agrees as  
11 well.

12 JUDGE HENDRICKS: Okay. And why don't we go  
13 off the record for just a minute to discuss timing for  
14 these briefings.

15 (Discussion off the record.)

16 JUDGE HENDRICKS: After discussing scheduling  
17 for the briefings, the parties will file simultaneous  
18 briefings, opening briefs on May 10th and reply briefs  
19 on May 24th. The Commission will enter a Prehearing  
20 Conference Order in which it will outline the issues  
21 which the Commission would like to have the parties to  
22 address and the schedule for the briefings. Any  
23 objection to the provisions of the order must be filed  
24 within ten days after the entry of the order.

25 Absent such objections, the Prehearing

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1 Conference Order will control further proceedings in  
2 this matter subject to Commission review. The order  
3 will also remind parties that the Commission encourages  
4 the settlement process under 480-09-466 or other means  
5 of alternative dispute resolution which are covered in  
6 480-09-465 in the Washington Administrative Code. The  
7 Commission should be advised of any progress made in  
8 that regard. The Prehearing Conference Order will  
9 include the schedule, as I said, as well as a list of  
10 issues the parties must address.

11 With regard to the filings themselves, the  
12 parties must file the original plus eight copies for  
13 internal distribution at the Commission. Please  
14 remember that all filings must be made through the  
15 Commission's secretary either by mail to the secretary  
16 at the Washington Utilities and Transportation  
17 Commission, P.O. Box 47250, 1300 South Evergreen Park  
18 Drive Southwest, Olympia, Washington 98504-7250. That  
19 information will be provided in the Prehearing  
20 Conference Order as well. We will require the filings  
21 of substance, the briefs, include an electronic copy on  
22 three by five inch diskette in PDF format, Microsoft  
23 Word, or Word Perfect 5.0 or later format. Service on  
24 all parties must be simultaneous with filing. And  
25 ordinarily, the Commission doesn't except these filings

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1 by facsimile without permission, and that is typically  
2 granted only in extraordinary circumstances and won't  
3 apply here.

4           Are there any other matters to come before  
5 the Commission at this time?

6           MR. KOPTA: This is Greg Kopta. I would just  
7 add that it would certainly be our intention to E-mail  
8 an electronic copy of the briefs on the day that they're  
9 due to the Commission, and we would include Ms. Newman  
10 and anyone else at Verizon that would like an electronic  
11 copy at that time as a way of making sure that they get  
12 the brief at the same time that the Commission does.

13           MS. NEWMAN: Thank you very much, and we will  
14 return the favor.

15           JUDGE HENDRICKS: Good, thank you.

16           Is there anything else to come before the  
17 Commission?

18           Hearing nothing, the Prehearing Conference is  
19 adjourned.

20           (Hearing adjourned at 2:00 p.m.)

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