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

2 JUDGE BERG: This is a prehearing conference
3 before the Washington Utilities and Transportation
4 Commission in Docket No. UT-003013. This docket is
5 captioned, in the matter of the continued costing and
6 pricing of unbundled network elements, transport and
7 termination.

8 This prehearing conference is being convened
9 at the commission's offices in Olympia, Washington.
10 Today's date is May 1, 2002. This prehearing
11 conference is being conducted pursuant to due and
12 proper notice served to parties on March 29th, 2002, as
13 part of the 31st Supplemental Order. My name is
14 Lawrence Berg. I'm the administrative law judge that
15 has been appointed to preside in this case.

16 The purpose of the prehearing conference
17 today is to deal with any matters that parties need to
18 address prior to the hearing that's scheduled to begin
19 on Monday, May 6th, and to number all exhibits that
20 will be used during the course of the hearing. What I
21 would like to do now is to take appearances from
22 parties. I'll just indicate for the record that all
23 counsel have previously entered their appearance, so at
24 this time, it is only necessary to state your name,
25 your affiliation, and the party who you represent.

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1 Subsequent to taking appearances, we will have a brief
2 discussion regarding the order of witnesses and
3 scheduling, and we will just make a few notes for the
4 record about the proceeding to follow. Then we will go
5 off the record and number exhibits in succession.

6 So at this time we'll start with appearances,
7 and we'll move from my right to left. Then I'll go
8 ahead and assist the parties on the conference bridge
9 line by prompting them to state their appearance. I
10 would just remind parties on the bridge line that you
11 may need to speak just a little slower than usual to
12 help our reporter accurately record your appearance and
13 comments to follow. So at this time, we will take
14 those appearances.

15 MS. TENNYSON: My name is Mary M. Tennyson,
16 senior assistant attorney general representing
17 commission staff.

18 MR. TRAUTMAN: Greg Trautman, assistant
19 attorney general for commission staff.

20 MS. DOBERNECK: Megan Doberneck on behalf of
21 Covad Communications Company.

22 MS. ANDERL: Lisa Anderl representing Qwest.

23 JUDGE BERG: For Verizon?

24 MS. MCCLELLAN: Jennifer McClellan on behalf
25 of Verizon Northwest, Inc.

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1 JUDGE BERG: Ms. McClellan, would you state
2 your law firm affiliation?

3 MS. MCCLELLAN: Hunton Williams.

4 JUDGE BERG: Ms. Singer Nelson?

5 MS. SINGER NELSON: Michel Singer Nelson on
6 behalf of WorldCom.

7 JUDGE BERG: Mr. Kopta?

8 MR. KOPTA: Gregory Kopta of the law firm
9 Davis Wright Tremaine, LLP, on behalf of AT&T.

10 JUDGE BERG: Mr. Kopta, am I to understand
11 that XO will not be appearing during this proceeding?
12 Mr. Kopta, are you there? I think we lost Mr. Kopta.
13 I will take that up when he rejoins us. Let me just
14 ask, is there any other person either in the room or on
15 the bridge that wishes to enter an appearance at this
16 time? Let the record reflect that there was no
17 response. Welcome back, Mr. Kopta.

18 MR. KOPTA: Thank you. I apologize.

19 JUDGE BERG: I was just ready to pose a
20 question. Am I to understand that XO is not appearing
21 at the Part D hearing?

22 MR. KOPTA: That is correct, Your Honor.

23 JUDGE BERG: Thank you. So n-o XO. I'll
24 just indicate for the record that there have been some
25 discussions about witnesses appearing at the hearing,

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1 and parties have been discussing the possibility of
2 stipulating to the admission of certain witness
3 documents and exhibits, and as a consequence, those
4 witnesses not being required to appear for
5 cross-examination at the hearing.

6 I'll let parties know that we have compiled a
7 list of proposed cross-examination time for all
8 witnesses that's correct except in one respect, and
9 that is the matrix indicates that staff had a 10-minute
10 estimate of cross-examination for Mr. Cabe and no time
11 for Mr. Gates and that needs to be corrected. Staff
12 estimated 10 minutes for Mr. Gates and no time for
13 Mr. Cabe. With that correction, let me just indicate
14 that any party wishing to arrange for one of its
15 witnesses to not appear should just pay attention to
16 all parties that have estimated cross-examination, and
17 if all parties agree, then the Bench will excuse the
18 witness from appearing for cross-examination purposes.

19 Those arrangements can continue to be made
20 off the record outside of the hearing here today, and
21 parties can just inform the Bench of their stipulated
22 agreements during the first half hour of the hearing on
23 Monday morning, May the 6th. I'll indicate that any
24 witnesses that do not appear as the result of a
25 stipulation among all parties estimating

1 cross-examination will be subject to Bench requests
2 from myself or through me from Dr. Gabel if we have any
3 questions for those witnesses.

4 The next item to talk about is, in fact, the
5 order of witnesses and the schedule that has been
6 prepared. At this time, the only limitation on
7 appearance of witnesses that I'm aware of is that
8 Mr. Griffith, staff witness, wishes to appear on
9 Thursday. Is that correct, Mr. Trautman, Ms. Tennyson,
10 or is that a carryover from the last proceeding?

11 MS. TENNYSON: That was in the last
12 proceeding.

13 JUDGE BERG: So let me just open it up. Do
14 parties have any restraints or conflicts with their
15 witnesses appearing in the order of parties in this
16 proceeding?

17 MS. DOBERNECK: Your Honor, one of our
18 witnesses, John Donovan, is currently only available
19 Thursday afternoon and Friday morning due to testimony
20 he is obligated to provide in a Bell South cost
21 proceeding. I have asked Mr. Donovan to the extent he
22 becomes available earlier in the week next week to let
23 us know to create availability, but currently, it's
24 just Thursday afternoon and Friday that he will be
25 available.

1 JUDGE BERG: Will Mr. Donovan be here on
2 Thursday morning?

3 MS. DOBERNECK: Yes. He flies in early
4 Thursday. I guess he gets in around midnight, one a.m.
5 Wednesday night, Thursday morning, so then he will make
6 his way down here and get some sleep and then be
7 available.

8 JUDGE BERG: By the schedule, he is scheduled
9 near the very end. If by some reason by the start of
10 the afternoon session, Mr. Donovan has not been called
11 and it looks like we may run over into Friday, then we
12 will go ahead and move Mr. Donovan up the list. I'll
13 indicate that Qwest estimate cross-examination of
14 Mr. Donovan is one hour, and I'm sure all counsel will
15 be doing what they can to conclude hearings on Thursday
16 and not go into Friday, if necessary, but Friday is
17 available. Any other witness conflicts or concerns?

18 MS. MCCLELLAN: This is Jennifer McClellan.
19 I'm not sure if the list you have is the same as the
20 list that was distributed on April 8th, and I just
21 wanted to verify that Mr. Richter would be able to
22 testify on Monday.

23 JUDGE BERG: Yes, he would. The intent was
24 that Mr. Richter would go first. Thank you for
25 bringing that up, and I think all parties are cognizant

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1 at this time that Mr. Richter drew the short straw, or
2 excuse me, that Mr. Richter is an indispensable witness
3 for Verizon, and he will be adopting the testimony of
4 both Mr. Dye and Mr. Steele.

5 MS. ANDERL: Your Honor, my only witness
6 issue availability is that Ms. Albersheim is not
7 available on Monday, but I don't believe there is any
8 circumstances where she would be expected to testify
9 then, so it should not present a problem.

10 JUDGE BERG: I would agree. Anything else,
11 counsel? Let me again just for purpose of clarity
12 confirm the order of witnesses on a party-by-party
13 basis. From Qwest's perspective, is there any change
14 in the order of witnesses as indicated on that
15 cross-examination matrix?

16 MS. ANDERL: No.

17 JUDGE BERG: I know from WorldCom that
18 WorldCom intends to begin with Mr. Price and then
19 follow with Mr. Lathrop. Is that correct, Ms. Singer
20 Nelson?

21 MS. SINGER NELSON: Yes, it is, Judge.

22 JUDGE BERG: Then that would be followed by
23 Mr. Gose, if he appears, Morrison, Lehmkuhl, Caputo,
24 and Gates?

25 MS. SINGER NELSON: Yes. The only thing I

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1 would say is if Mr. Gose does appear, he would be after
2 Mr. Morrison.

3 MS. ANDERL: Your Honor, I apologize for
4 jumping back in. I think we would like to make a
5 hearing room decision as to whether we take Mr. Hubbard
6 before Mr. Craig or after, but that would be the only
7 reordering we would want to do, and we would know that
8 on Monday.

9 JUDGE BERG: You can let us know when you
10 know. For Covad, other than the contingency for
11 Mr. Donovan, ideally you would begin with Mr. Cabe
12 followed by Mr. Donovan?

13 MS. DOBERNECK: Yes.

14 JUDGE BERG: With regards to the schedule, I
15 would like all counsel to be present at nine o'clock on
16 Monday morning, and the first half hour on Monday will
17 just be for cleaning up any loose ends and other
18 administrivia we may have to deal with. I would like
19 to begin with Mr. Richter's testimony as close to 9:30
20 as possible.

21 We will have a full day of cross-examination
22 on Monday and Tuesday. I'll indicate to parties that
23 we will need to conclude Tuesday's session somewhere
24 between 4:45 and 4:54, and then on Wednesday, we do
25 have room 108 reserved if the parties choose to conduct

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1 proceedings on Wednesday morning, but the schedule, at
2 least as I see it, does not require us to do so.

3 There is an open meeting on Wednesday
4 morning. Some counsel may have matters that are on the
5 open meeting agenda, but rather than address that now,
6 I think we should just wait to see where we are on
7 Tuesday. If we did have to conduct any proceedings at
8 all on Wednesday morning, it would be subject to some
9 break in order for counsel to take care of business in
10 the open meeting. Would anyone like to comment on
11 that?

12 MS. ANDERL: Yes, Your Honor. I believe that
13 Judge Rendahl has also scheduled a prehearing
14 conference, perhaps by prior agreement with you, on the
15 morning of the 8th, and I think Ms. Singer Nelson and
16 Ms. Doberneck and others of us will attend that, if
17 it's all the same to you.

18 JUDGE BERG: I don't want anybody to think
19 less of Judge Rendahl, so I will confess, she did
20 arrange that with me, and I neglected to file it away
21 in the memory bank, so that will be the case. We will
22 start our hearing at 1:30 on Wednesday, and then we
23 will just continue on Wednesday until we feel we are at
24 a good place in the schedule with the idea of trying to
25 conclude on Thursday but having Friday available to us

1 if there is no way to conclude on Thursday.

2 Any other questions or comments about the
3 schedule? All right, not hearing anything, we will be
4 off the record.

5 (Discussion off the record.)

6 JUDGE BERG: We'll be back on the record.
7 While off the record, parties have worked together in a
8 rather extensive and tedious exercise of numbering all
9 the exhibits to be referred to during the course of the
10 hearing. I want to thank everyone for your patience
11 and for your attention while we did that.

12 I want to bring up as a matter of record that
13 there was some discussion regarding the tentative
14 hearing dates that were set in the Part E proceeding.
15 Those hearing dates which were set for the July time
16 frame will be canceled because there will be
17 insufficient time for parties to prepare and make
18 presentations. A hearing schedule for Part E will be
19 reestablished at the first prehearing conference in
20 Part E that will be noticed and conducted subsequent to
21 service of an order in the Part B proceeding. Is there
22 anything else counsel would like to mention before we
23 adjourn? Hearing nothing, the prehearing conference is
24 adjourned.

25 (Prehearing conference adjourned at 12:15 p.m.)