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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

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4 In the Matter of the Continued) Docket No. UT-003013
5 Costing and Pricing of)
6 Unbundled Network Elements and) Volume II
7 Transport and Termination.) Pages 55-123
8 _____)

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8 A hearing in the above matter was
9 held on June 23, 2000, at 1:05 p.m., at 1300
10 Evergreen Park Drive Southwest, Olympia, Washington,
11 before Administrative Law Judges LARRY BERG and C.
12 ROBERT WALLIS.

13

14 The parties were present as
15 follows:

16 US WEST COMMUNICATIONS, INC., by
17 Lisa A. Anderl, Attorney at Law, 1600 Seventh Avenue,
18 Room 3206, Seattle, Washington 98191.

18 THE COMMISSION, by Shannon Smith,
19 Assistant Attorney General, 1400 S. Evergreen Park
20 Drive, S.W., P.O. Box 40128, Olympia, Washington
21 98504-0128.

21 NEXTLINK WASHINGTON, ELECTRIC
22 LIGHTWAVE, INC., ADVANCED TELCOM, INC., NEW EDGE
23 NETWORKS, INC., NORTHPOINT COMMUNICATIONS, McLEOD
24 USA, AT&T, GLOBAL CROSSING, and GST TELECOM, by
25 Gregory J. Kopta, Attorney at Law, Davis, Wright,
26 Tremaine, LLP, 2600 Century Square, 1501 Fourth
27 Avenue, Seattle, Washington 98101-1688.

24 GTE, by Jennifer McClellan and W.
25 Jeffery Edwards, Attorneys at Law, Hunton & Williams,
26 951 E. Byrd Street, Richmond, Virginia, 23219
27 (Appearing via teleconference bridge.)

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1 TRACER, RHYTHMS LINKS, INC.,
TELIGENT SERVICES, INC., and BROADBAND OFFICE
2 COMMUNICATIONS, INC., by Arthur A. Butler, Attorney
at Law, Ater Wynne, Two Union Square, Suite 5450, 601
3 Union Street, Seattle, Washington 98101.

4 SPRINT, by Eric S. Heath, Attorney
at Law, 330 S. Valley View Boulevard, Las Vegas,
5 Nevada 89152.

6 COVAD, MGC COMMUNICATIONS, INC.,
and ICG COMMUNICATIONS, by Terry Berman, Attorney at
7 Law, Miller Nash, 400 Two Union Square, 601 Union
Street, Seattle, Washington 98101 (Via teleconference
8 bridge.)

9 WORLDCOM, INC., by Ann E.
Hopfenbeck, Attorney at Law, 707 17th Street, Suite
10 3600, Denver, Colorado, 80202.

11 WITA and SBC TELECOMMUNICATIONS,
by Scott A. Bird, Attorney at Law, 2405 Evergreen
12 Parkway, Suite B-3, Olympia, Washington 98502.

13 PUBLIC COUNSEL, by Simon J.
ffitch, Assistant Attorney General, 900 Fourth
14 Avenue, Suite 2000, Seattle, Washington 98164.

15 RHYTHMS LINKS, INC., by Doug
Hsiao, Attorney at Law, 9100 E. Mineral Circle,
16 Englewood, Colorado 90112 (Appearing via
teleconference bridge.)

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24 Barbara L. Nelson, CSR
25 Court Reporter

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1 JUDGE BERG: This conference will please
2 come to order. This is a prehearing conference
3 before the Washington Utilities and Transportation
4 Commission in Docket Number UT-003013. This is the
5 matter of the continued costing and pricing of
6 unbundled network elements and transport and
7 termination.

8 This prehearing conference is being held in
9 Olympia, Washington, on June 23rd, Year 2000. My
10 name's Larry Berg, and I'm one of the presiding
11 administrative law judges in the proceeding. I'd
12 like to begin this morning's session, or this
13 afternoon's session now by taking appearances from
14 the parties who are present, both in the room and by
15 teleconference, and let's begin with those who are
16 present in the room, and we'll start on my left and
17 work our way around the table.

18 Let me just interject. For those Counsel
19 who have previously entered an appearance, please
20 just state your name and party who you represent.

21 MR. BUTLER: Arthur A. Butler, appearing on
22 behalf of Tracer, Rhythms Links, Inc., Teligent
23 Services, Inc., and Broadband Office Communications,
24 Inc.

25 MR. KOPTA: Gregory J. Kopta, of the Law

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1 Firm Davis, Wright, Tremaine, LLP, on behalf of
2 Nextlink, ELI, ATG, North Point, New Edge and McLeod
3 USA.

4 JUDGE BERG: Mr. Kopta, do you also
5 represent GST Telecom?

6 MR. KOPTA: I do. At the moment, GST has
7 other problems that it's dealing with, as opposed to
8 participating in this docket, but would like to
9 retain its party status.

10 JUDGE BERG: All right. Thank you.

11 MS. HOPFENBECK: Ann E. Hopfenbeck, Senior
12 Attorney representing WorldCom, Inc.

13 MR. HEATH: Eric Heath, representing Sprint
14 Corporation.

15 MR. FFITCH: Simon ffitch, Assistant
16 Attorney General for the Office of Public Counsel.

17 MR. BIRD: Scott Bird, for Richard Finnigan
18 today, representing Washington Independent Telephone
19 Association and SBC Telecommunications.

20 MS. SMITH: Shannon Smith, Assistant
21 Attorney General, representing Commission Staff,
22 substituting and replacing Ann Rendahl, 1400 South
23 Evergreen Park Drive, S.W., P.O. Box 40128, Olympia,
24 Washington 98504-0128. My phone number is
25 360-664-4912.

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1 JUDGE BERG: Ms. Smith, were you planning
2 to file an official written substitution?

3 MS. SMITH: Yes.

4 JUDGE BERG: Thank you.

5 MS. ANDERL: Lisa Anderl, representing US
6 West Communications.

7 JUDGE BERG: All right. And the parties on
8 the bridge line?

9 MR. HSIAO: Douglas Hsiao, with Rhythms.
10 Last name is spelled H-s-i-a-o.

11 JUDGE BERG: Mr. Hsiao, have you previously
12 entered an appearance?

13 MR. HSIAO: Yes, I have.

14 JUDGE BERG: All right. Thank you. And
15 for GTE.

16 MS. McCLELLAN: Jennifer McClellan and Jeff
17 Edwards.

18 JUDGE BERG: All right. Ms. McClellan, has
19 Mr. Edwards also entered an appearance here
20 previously?

21 MS. McCLELLAN: Yes, he has.

22 JUDGE BERG: All right. Is there any party
23 representatives for AT&T present?

24 MR. KOPTA: Yes, I'm here on behalf of
25 AT&T, as well.

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1 JUDGE BERG: All right. And any party
2 representatives for Global Crossing?

3 MR. KOPTA: That would be me, too.

4 JUDGE BERG: All right.

5 MR. FFITCH: How about Al's Auto Supply?

6 MR. KOPTA: That's me, too. Oh, I'm sorry.
7 No, that's Art.

8 JUDGE BERG: Let me ask if there's anyone
9 in the room that desires to appear in this proceeding
10 in a representative capacity who has not stated an
11 appearance?

12 MS. BERMAN: Yes, I'm on the conference
13 bridge.

14 JUDGE BERG: Yes, who's speaking, please?

15 MS. BERMAN: Terry Berman. I'm
16 representing Covad, MGC Communications, Inc., and ICG
17 Communications.

18 JUDGE BERG: Ms. Berman, are you with
19 Miller Nash?

20 MS. BERMAN: Yes, I am.

21 JUDGE BERG: All right. And are you
22 substituting in for Mr. Harlow or will you be a lead
23 party representative in this case?

24 MS. BERMAN: No, I'm substituting for Mr.
25 Harlow.

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1 JUDGE BERG: All right. Thank you very
2 much. Any other persons either in the room or on the
3 bridge line who will be appearing in a representative
4 capacity? Let the record show that there is no other
5 response.

6 In turning to the agenda for the meeting,
7 under administrivia, I would like to just touch on
8 four points. First of all, I'll call the parties'
9 attention to the Second Supplemental Order in this
10 proceeding, where McLeod USA's petition to intervene
11 was granted on June 16th, so the parties should
12 revise their service list to make sure that McLeod
13 USA is included. The party representative is
14 Attorney Mark Trincherro, Davis, Wright, Tremaine,
15 Portland, and Mr. Kopta is standing in for Mr.
16 Trincherro at today's conference.

17 MR. KOPTA: That's correct.

18 JUDGE BERG: Also, number two, I'd just
19 like to let the parties know that there will be
20 corrections to parties' names in the representatives
21 list made in the prehearing conference order arising
22 out of today's session. In particular, there was a
23 previous request filed by Mr. Butler relating to
24 parties Tracer, Broadband, and SBC.

25 Ms. Hopfenbeck, I also wanted to confirm

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1 that you should be substituted into the parties'
2 representative list as the primary contact for
3 WorldCom?

4 MS. HOPFENBECK: That's correct.

5 JUDGE BERG: All right. The third point on
6 my list is --

7 MR. KOPTA: Excuse me, Your Honor. Before
8 we leave part two, I would also note for the record
9 that we will be substituting for Sara Miller as a
10 representative of Global Crossing. We will provide a
11 written notice of that to the Commission and to the
12 parties.

13 JUDGE BERG: Okay. Thank you for bringing
14 that up. The third point on my list is I want to
15 remind the parties that it is not necessary to file
16 data requests or responses to data requests with the
17 Commission or with the judges in this matter. And in
18 fact, it's our preference that you do not.

19 And the fourth point I just wanted to make
20 was to remind the parties to adhere to the filing
21 requirements in Appendix A, attached to the First
22 Supplemental Order. Are there any other points the
23 parties would want to bring up at this time?

24 MS. ANDERL: Your Honor, if I might.

25 JUDGE BERG: Ms. Anderl.

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1 MS. ANDERL: We've been getting quite a lot
2 of things via e-mail, and I don't really have a
3 problem with that, except that when there are
4 multiple dockets going on, it's really helpful, for
5 purposes of distribution and sorting, if the subject
6 line on the e-mail contains the docket number.
7 Because I got data requests in both this docket and
8 in the SGAT/271 docket kind of all on the same day,
9 and it was just a big confused mess in my e-mail.

10 Just so -- since it's an administrative
11 kind of thing, I thought I'd bring that up. The
12 docket number helps you sort things out.

13 JUDGE BERG: We've had to deal with that
14 internally here, as well. And I would like all
15 parties, the first item to appear in the subject line
16 is the docket number. Sometimes it's also helpful to
17 make an actual verbal reference to what the
18 proceeding is. And even though this is a
19 continuation of the generic proceeding, it might be
20 helpful for the parties to remind their peers that
21 this is the generic proceeding, and that way, if the
22 parties don't recognize the numbers right off the
23 bat, they'll certainly understand what the context
24 is, and then state the typical subject line for the
25 communication. I found that to be very helpful and

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1 would endorse the parties to do that here.

2 MS. ANDERL: After having brought it up,
3 I'd like to ask forgiveness if we're the first party
4 that messes it up.

5 MR. FFITCH: Your Honor, you've really set
6 the stage perfectly for my administrivia item, which
7 was to ask if there is a popular name that has come
8 in common use for this proceeding?

9 JUDGE BERG: Well, I like Quatro, but there
10 isn't -- we have tried to wean ourselves away from
11 Phase IV, to try and distinguish this from the other
12 docket.

13 MR. FFITCH: President Nixon's economic
14 plan.

15 JUDGE BERG: So I think that if we were to
16 call this the continued generic proceeding, that
17 seems to be what would work with what I've worked
18 with so far. But if the parties have something to
19 suggest, we'd certainly be open.

20 JUDGE BERG: Let's be off the record for a
21 moment.

22 (Discussion off the record.)

23 JUDGE BERG: Back on the record. After a
24 brief discussion about how best to refer to this
25 proceeding in some sort of shorthand nomenclature,

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1 it's agreed that parties may refer to this proceeding
2 as Phase IV, and likewise, as the either new or
3 continued generic proceeding, and that will be
4 acceptable to Commission, and likewise, the parties
5 will understand what is being referred to.

6 Anything else? All right. Next point on
7 the agenda is to very quickly review Part A of the
8 hearing schedule for Part A. And I know I have
9 somewhat of an advantage to the parties, because I
10 drew up a little color-coded calendar, but I just
11 wanted to remind the parties of the schedule that we
12 will be on.

13 Presently, hearings are scheduled to start
14 on August the 21st, extend through -- that's Monday,
15 August the 21st, extend through Saturday, the 26th of
16 August, resume again on Monday, August 28th, and
17 extend through Friday, September the 1st.

18 While that may look like there's actually
19 11 days for that hearing, that is not the case. At
20 this point in time, there are two open meetings
21 scheduled during that time period, which means that
22 not only will the Commissioners be involved in open
23 meetings for the mornings on two dates, but there
24 will be two other mornings where the Commissioners
25 are involved in briefing sessions as a preparation

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1 for those open meetings.

2 We are inquiring as time goes on to see
3 whether it's necessary to have two open meetings at
4 the end of August, but the parties should be prepared
5 that, in fact, that schedule will be retained.

6 Also, I want to advise the parties that the
7 Commissioners are presently double booked on Friday,
8 September the 1st, in between this matter and another
9 significant case. While this case will take
10 precedence, if that additional time is needed, it's
11 the Commission's preference that we conclude on
12 Thursday, the 31st. Excuse me. Yes, Thursday,
13 August 31st.

14 And so the parties certainly have been in
15 these proceedings before and know how things tend to
16 stretch out, so we're going to have to go into that
17 Part A hearing with a very focused presentation to be
18 sure that we get through the material in a timely
19 fashion. Any comments that anybody would like to
20 make with regards to this agenda item?

21 MR. BUTLER: Could you tell us which
22 mornings are already booked?

23 JUDGE BERG: Yes. Presently, there is a
24 Commissioners' conference on the morning of Monday,
25 the 21st, open meeting on the morning of Wednesday,

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1 the 23rd, a Commissioners' conference on the morning
2 of Tuesday, the 29th, and an open meeting on the
3 morning of Wednesday, the 30th.

4 MS. ANDERL: So Your Honor, would we be
5 starting, then, on the 21st simply after that or in
6 the afternoon of the 21st?

7 JUDGE BERG: Yes, I'm sufficiently
8 concerned about having sufficient time that we're
9 going to conduct this hearing on a trailing basis.
10 And as soon as the hearing room can clear from the
11 open meeting, we'll begin setting up and getting
12 underway in this case. Anything else?

13 MS. McCLELLAN: Your Honor, this is
14 Jennifer McClellan. In the First Supplemental Order,
15 it identified a prehearing conference to be held on
16 August 16th or 17th. Has it been determined which
17 day the prehearing conference will be held?

18 JUDGE BERG: No, it has not.

19 MS. McCLELLAN: Okay.

20 JUDGE BERG: Certainly, as -- I would hope
21 to nail that down certainly by the middle of next
22 month, if not in this prehearing conference order.
23 If parties, at this point in time, have any known
24 preference, it would be welcome. All right. Well,
25 we'll try and get that set for the parties just as

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1 soon as possible. Any other scheduling questions or
2 issues with regards to Part A?

3 All right. Let's go ahead and address
4 Agenda Item Four. The purpose of Agenda Item Four is
5 to try and not discuss inventory cost models, but to
6 inventory cost models that various parties intend to
7 sponsor, either cost studies that are presently filed
8 or parties intend to file, just to try and get a
9 handle on what we have to deal with, as well as to
10 determine which cost studies or models will be
11 addressed in Part A, Part B, or both.

12 And what I'd like to do is start with GTE,
13 and I understand that GTE has already filed a OSS
14 cost study, as well as a collocation cost study. Is
15 that right, Ms. McClellan?

16 MS. McCLELLAN: That's right, as well as a
17 line sharing cost study.

18 JUDGE BERG: Will any of those cost studies
19 be further revised, to your knowledge?

20 MS. McCLELLAN: To our knowledge, no. We
21 filed some revisions to the OSS cost study earlier
22 this week, and to our knowledge, those will be the
23 only changes made in Phase A.

24 JUDGE BERG: So then, I take it that both
25 transition and transaction costs are addressed in the

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1 same OSS study?

2 MS. McCLELLAN: That's right.

3 JUDGE BERG: All right. Are there any
4 other cost studies that GTE intends to file in the
5 course of this proceeding?

6 MS. McCLELLAN: They're still making that
7 decision, but as of today, they're planning to file
8 in Phase B their ICM study, a nonrecurring cost
9 study, a study for dark fiber cost, for high-cap,
10 high-capacity loop cost, and for inside wire costs.

11 JUDGE BERG: Those are all separate
12 studies?

13 MS. McCLELLAN: Yes.

14 JUDGE BERG: And what does ICM stand for?

15 MS. McCLELLAN: The integrated cost model.

16 JUDGE BERG: All right. And let me turn to
17 US West and ask US West the same core questions.

18 MR. KOPTA: Your Honor, may I interject at
19 this point? I'm not sure you want to deal with it
20 right now, but there are some issues in terms of
21 what's supposed to go where, that --

22 JUDGE BERG: We'll come back to that, Mr.
23 Kopta, unless -- do you think it makes more sense to
24 deal with it before hearing US West?

25 MR. KOPTA: I'm happy to deal with it

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1 whenever. I just wanted to make sure that that was
2 going to be part of this discussion.

3 JUDGE BERG: All right. Let me find out,
4 just laying on the table what parties' intentions
5 are, and we'll go back up to the top of the list and
6 start working through issues. Ms. Anderl.

7 MS. ANDERL: Thank you, Your Honor. In
8 Part A, US West has filed a collocation cost study,
9 OSS cost studies and, let's see, a line sharing cost
10 study or -- a line sharing cost study and, what, a
11 separate cost analysis with regard to the OSS costs
12 associated with line sharing. Just tell me when
13 you're ready for me to go on.

14 JUDGE BERG: Thanks. Go ahead.

15 MS. ANDERL: For Part B, we're going to
16 file cost studies associated with high-capacity
17 loops, the provisioning of subloops and the
18 provisioning of dark fiber. There are some other
19 kind of more granular elements that may also require
20 cost support that we'll probably get into when we
21 talk about what pieces of the SGAT are going to go
22 into the generic docket or the new generic
23 proceeding.

24 For example, anybody who was here might
25 remember that there was an issue about one or two of

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1 our rate elements in connection with poles, ducts and
2 conduits. I don't know if we're going to be able to
3 negotiate a resolution on that issue with Nextlink,
4 who's the only party who brought it up, or if we'll
5 actually have to file cost support.

6 JUDGE BERG: All right. Then, just again,
7 going around the table on sort of our first review of
8 this issue, Ms. Anderl, is there something else?

9 MS. ANDERL: Sorry. I had one other thing,
10 and that is a question about the common channel
11 signaling rate elements. There's kind of an open
12 issue from Phase Two about the Commission's
13 disposition of those rate elements. The Commission
14 ordered a per query cost, has not yet ruled on a port
15 cost.

16 And I recall an order or orders of the
17 Commission saying anything that we haven't resolved
18 to date goes into the new costing proceeding, and so
19 there's an open question, in our mind, at least, as
20 to whether or not we need to provide additional cost
21 support in the new proceeding for common channel
22 signaling or SS7 rate elements, or if the Commission
23 will make a decision on the costs based on the
24 evidence that's already been submitted in the prior
25 docket.

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1 JUDGE BERG: Was that part of your
2 compliance filing?

3 MS. ANDERL: We noted it in our compliance
4 filing. We noted the issue as the per-port cost
5 being still undecided, and we did file a rate element
6 for the per-query cost, because that has been
7 ordered.

8 JUDGE BERG: All right. Let's go around
9 the table, then, and see what other parties may
10 intend to present in the way of cost studies or cost
11 models. Mr. Butler.

12 MR. BUTLER: Rhythms, together with Covad,
13 filed a line sharing cost study.

14 JUDGE BERG: Mr. Kopta.

15 MR. KOPTA: None of my clients filed any
16 cost studies in Part A. At this point, one or more
17 may be considering filing a cost study for Part B,
18 but I don't think that decision has been made at this
19 point.

20 JUDGE BERG: And as tentative as that is,
21 if they were to file a cost study, do you have any
22 information about the subject or the scope of a
23 possible filing?

24 MR. KOPTA: It may be taking cost studies
25 that have already been filed as part of the prior

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1 docket and using them for pricing things like
2 sub-loop elements. I'm not sure that there's been
3 much discussion beyond that in terms of whether there
4 will be anything else, but I suspect that there
5 probably won't be a whole lot more than that, just
6 based on tentative discussions that we've had, but at
7 this point, there's nothing certain.

8 JUDGE BERG: All right. Ms. Hopfenbeck.

9 MS. HOPFENBECK: WorldCom has not filed any
10 kind of a cost study and doesn't intend to in Part A.
11 Similar to Mr. Kopta's representations, WorldCom has
12 not made any definite decisions about their approach
13 to Part B, and frankly, getting clarity on the issues
14 that are going to be determined in Part B may impact
15 those decisions. But I think it is unlikely that
16 WorldCom will be sponsoring any cost study.

17 I do think it is possible that WorldCom
18 would rely on some of the cost studies that have been
19 previously filed in 960369 to use probably to
20 critique and/or use for affirmative recommendations
21 on Part B issues.

22 JUDGE BERG: Mr. Heath.

23 MR. HEATH: Thank you, Judge. Sprint did
24 not file any cost studies in Part A and has not made
25 a decision as to whether they will in Part B.

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1 JUDGE BERG: Mr. ffitch.

2 MR. FFITCH: Your Honor, Public Counsel has
3 not filed any cost studies and, likewise, has not
4 made a decision about Part B.

5 JUDGE BERG: Mr. Bird.

6 MR. BIRD: Your Honor, I'm not in a
7 position to answer that question today. I'm going to
8 defer to Mr. Finnigan as to whether there's going to
9 be a filing of a cost study for WITA or SBC
10 Telecommunications. I apologize.

11 JUDGE BERG: Ms. Smith.

12 MS. SMITH: Thank you. The Commission
13 Staff is considering filing the cost model used by
14 the FCC, the hybrid model that's been developed by
15 the FCC, although Staff is unsure at this time
16 whether or not it actually will use that cost study.

17 JUDGE BERG: And that would be a Part B?

18 MS. SMITH: Yes.

19 JUDGE BERG: All right. Ms. Berman.

20 MS. BERMAN: As Mr. Butler mentioned
21 previously that Covad filed a line sharing cost study
22 with Rhythms. And with respect to Part B, I don't
23 believe my clients have made any decisions yet on a
24 cost study pending -- (inaudible).

25 JUDGE BERG: Could you just repeat the last

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1 sentence? You trailed off.

2 MS. BERMAN: Excuse me. With respect to
3 Part B, I believe that none of my clients have made
4 any decisions with respect to cost studies at this
5 point.

6 JUDGE BERG: All right. Thank you. Before
7 we turn to other questions, let me ask both GTE
8 first, and then US West, whether they expect to
9 revise their unbundled loop prices in this
10 proceeding. Ms. McClellan first.

11 MS. McCLELLAN: GTE has not made that
12 decision yet.

13 JUDGE BERG: All right. Ms. Anderl.

14 MS. ANDERL: That's an interesting
15 question, and we don't know the answer to it. One of
16 the reasons why we were desirous of having this
17 prehearing today is because we didn't know if such a
18 revision were permissible under the scope of issues
19 set forth for consideration in this docket. It does
20 say recurring UNE rates, and I believe there are
21 other orders of the Commission that may be taken as
22 an invitation for parties to do so. But we weren't
23 sure whether that would be something that would be
24 permitted or not.

25 And if it were permitted, we've not made a

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1 decision about whether we'd make a proposal. As a
2 practical matter, we thought it might be a good idea
3 to let the -- give the newly-established rates a
4 chance for a little while.

5 JUDGE BERG: If it were to be addressed, do
6 you see it as being more appropriate in Part A or
7 Part B?

8 MS. ANDERL: You know, definitely Part B,
9 but honestly, if we do address it in Part B, for
10 example, everything I've heard today indicates that
11 the only way it would be addressed as to US West's
12 costs might be if Staff introduces the HCPM model.
13 And frankly, I don't know if there's enough time
14 built into the schedule if that's what happens, but
15 it would definitely be a Part A issue. I think it
16 would have had to -- a Part B issue.

17 It would have had to have been introduced
18 in the May 19th testimony if it were going to be Part
19 A, and so that's already passed.

20 JUDGE BERG: Ms. Smith, I see your head
21 nodding. Is there anything you would --

22 MS. SMITH: No.

23 JUDGE BERG: Okay. Any other parties want
24 to comment on that?

25 MS. McCLELLAN: GTE believes that it would

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1 also be a Phase B issue, because as a practical
2 matter, ICM would provide those costs for us, as
3 well.

4 JUDGE BERG: Dr. Gabel, are there any
5 questions you want to ask on this point?

6 DR. GABEL: Well, I have a question for
7 GTE. By introducing ICM, is it your intention to
8 propose new prices for the loop in the switch and for
9 transport or are you introducing it for some other
10 purpose, and if so, what is that purpose?

11 MS. McCLELLAN: The company is trying to
12 decide whether it would need ICM to propose rates for
13 sub-loop unbundling and UNE-Ps or whether it would
14 only file ICM if it was going to revise all of its
15 UNE costs. So the short answer is I don't know.

16 MR. KOPTA: Your Honor, if I might just
17 interject. It seems that a decision will need to be
18 made on that point prior to the filings, just because
19 we are going to be dealing with sub-loop elements,
20 and one assumes that the total cost of the sub-loop
21 elements will equal the cost of the loop, so that any
22 filings made on that issue would either need to be
23 reconciled to the loop price that was established in
24 the former generic cost docket or would end up in a
25 default proposal for a loop rate.

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1 MS. HOPFENBECK: That observation would
2 certainly also be true with respect to proposals made
3 on pricing the UNE platform, given that the loop is a
4 component of that UNE platform.

5 JUDGE BERG: Dr. Gabel, were you able to
6 hear Ms. Hopfenbeck?

7 DR. GABEL: No, I was not.

8 MS. HOPFENBECK: Oh, excuse me, Dr. Gabel.
9 I was just making the observation that the same would
10 be true for the UNE platform, since the loop is a
11 component of the UNE platform price. We'd have to
12 have some sense of where we were going with the UNE
13 loop rate in order to address that issue.

14 JUDGE BERG: Ms. Anderl.

15 MS. ANDERL: Mr. Reynolds just pointed out
16 to me that the point that Mr. Kopta just made in
17 terms of the loop, the sub-loop components adding up
18 to the loop price is, I guess, an issue that is maybe
19 made more difficult by the fact that there were
20 multiple models used to establish the old loop price
21 and cost in the old generic docket.

22 And so, you know, would it be easier to
23 just use US West's RLCAP to establish a new loop
24 price?

25 MR. FFITCH: Yes.

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1 MS. ANDERL: And then establish sub-loop
2 elements therefrom, yes, of course, but would that
3 raise a whole 'nother set of very contentious issues,
4 yes, of course it would, too.

5 JUDGE BERG: We would hope not to have to
6 cover ground that we've already been over, but yet
7 come up with the most reliable prices that can be
8 derived in this proceeding.

9 DR. GABEL: Judge, just one other question
10 I'd like to ask any of the parties to address, and
11 that is -- I believe it's Ms. Anderl indicated that
12 she thought that the Commission had provided some
13 guidance on what issues they wanted to hear in the
14 new proceeding, including the degrees to which they
15 were interested in hearing new evidence on the cost
16 of the UNE elements where prices were set for those
17 UNE elements in the first generic cost docket.

18 What did you have in mind, Ms. Anderl, when
19 you said you believed that the Commission provided
20 some direction on what they wanted to hear and what
21 they did not want to hear? Which particular order do
22 you think the Commission provided some guidance on if
23 they wanted to hear new evidence, say, on the price
24 of the loop or not hear evidence on that topic?

25 MS. ANDERL: Dr. Gabel, I don't have them

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1 in front of me, but it was either the 24th or 25th
2 Supplemental Order where the reference was made to
3 the HCPM model, and I thought it was in a footnote,
4 although maybe it was in the text where the
5 Commission indicated either that it was interested in
6 exploring those costs or that parties who wished to
7 do so could. Something like that.

8 Mr. Spinks is sitting next to me and is
9 looking through those orders, and maybe he'll be able
10 to help us with an exact quote.

11 DR. GABEL: Thank you. Judge, I don't have
12 any other questions.

13 JUDGE BERG: Let me ask -- Ms. Anderl, are
14 you in the process of responding to --

15 MS. ANDERL: Yes, Your Honor. Mr. Spinks
16 just provided me with the 24th Supplemental Order,
17 which is the deaveraging order, and in paragraph 65,
18 the Commission states that any party wishing to do so
19 may present further evidence on this topic in Docket
20 003013. And when they say -- when the Commission
21 said any party wishing to do so, they're referencing
22 distance-sensitive rates, I think.

23 That's not actually the reference to the
24 HCPM I was thinking of, but it is one of the other
25 references that I was referring to when I said that

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1 the Commission seemed to open up some other issues
2 for consideration in this docket.

3 JUDGE BERG: Do you want to follow up, Dr.
4 Gabel?

5 DR. GABEL: No, I do not.

6 JUDGE BERG: All right. Let me ask the
7 parties if the same cost study information on line
8 sharing would provide the data for reviewing or
9 revising the unbundled loop price?

10 MS. ANDERL: No.

11 MR. KOPTA: My read of the testimony is
12 that the proposals are not based on the development
13 of the loop prices in the first phase, that they are
14 instead taking that loop price as a given and either
15 suggesting a portion of that or no recurring charge
16 as part of line sharing, so that I don't see, based
17 on what's been filed to date, that there's going to
18 be any evaluation of the underlying cost for the loop
19 itself.

20 MR. BUTLER: That is correct, that's my
21 understanding.

22 JUDGE BERG: Ms. Hopfenbeck?

23 MS. HOPFENBECK: On the other hand, it is
24 possible, and I'm not sure, you know, who might take
25 this position, but I do think that it is possible

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1 that short of re-examining the underlying costs that
2 support the currently established loop rate, the line
3 sharing position can have an impact on the -- I mean,
4 a party could take a position based on what's been
5 filed that the unbundled loop rate itself would be
6 affected by the Commission's decision on line
7 sharing.

8 JUDGE BERG: And Ms. McClellan, I'd just
9 presume to the extent that GTE is sponsoring a
10 separate line sharing cost study and the ICM, that
11 you would see those as separate?

12 MS. McCLELLAN: That's correct. GTE's
13 approach is that its line sharing study filed in
14 Phase A is really just the incremental cost of
15 providing the higher frequency and does not really
16 have anything to do with the underlying cost of the
17 loop itself.

18 JUDGE BERG: All right. I'd like to ask
19 the -- well, Ms. Anderl, do you want to comment on
20 that?

21 MS. ANDERL: No, but Your Honor, my one
22 word answer before, which was no, of course, and you
23 can never give a one word answer, at least I can't.
24 I've been asked to clarify that our position with
25 regard to the line sharing is we have used the line

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1 -- the loop price established in the prior order as
2 the basis for establishment of the price for line
3 sharing.

4 And I had understood your question to be
5 the other way, did the line sharing information give
6 you any basis to re-establish loop rates, and that
7 was a no. And I just wanted to make sure I kind of
8 answered both sides of it.

9 JUDGE BERG: Let me go around and ask the
10 parties if the Commission were to open up Part B to
11 include presentation of cost studies for the issue of
12 -- or the purpose of revising the unbundled loop
13 rates, what would be the consequences, both in terms
14 of procedure and substance?

15 MR. BUTLER: You can probably keep the same
16 schedule for month and day, but change the year.

17 MS. ANDERL: Well said.

18 MR. KOPTA: In large measure, a little more
19 seriously, I would fear that it would extend the
20 schedule, but I think it would depend on how far the
21 Commission would open it up. I mean, there are a lot
22 of different aspects of the decision that went into
23 the development of the loop price, including things
24 like, you know, percentage of sharing and underground
25 and plowing costs and those sorts of things.

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1 And to the extent that the Commission would
2 say that it's going to keep those inputs and
3 assumptions constant, but instead would be reviewing
4 different models, then it would still be, I think, a
5 process-lengthening decision, but not quite as much
6 so as if we were to reargue every single thing that
7 went into the price development phase of the first
8 proceeding.

9 So I think it would depend ultimately on
10 how much of an opportunity the Commission wants to
11 give parties to re-examine that issue.

12 JUDGE BERG: Ms. Hopfenbeck, then Mr.
13 ffitich. We'll give everybody a chance to speak at
14 least once on this point.

15 MS. HOPFENBECK: I would have to say that
16 that decision would shift significantly WorldCom's
17 way of thinking about their approach to Part B of
18 this docket, and we would want the time -- well, at
19 this point in time, we are not preparing to submit
20 direct testimony in Part B, but rather only
21 responsive testimony, because we had no intention of
22 sponsoring an affirmative cost model and an
23 affirmative case on the issues that are currently
24 presented. We're pretty much going to respond to
25 other parties.

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1 Were the Commission to decide that it
2 wanted to potentially review other models on the
3 loop, for example, even if it were a limited basis in
4 the sense that we've agreed on the inputs, but now we
5 just want to look at different models, my client
6 would like the opportunity to consider whether or not
7 we would want to sponsor the most recent version of
8 Hatfield in that proceeding.

9 But we would not have sufficient time
10 between now and the date that testimony is due in
11 July in Part B to make that decision, because -- and
12 in fact, given our resources for this fiscal year, if
13 you wanted to hear from us with the more recent
14 version of Hatfield, it is my belief that my client
15 would basically tell me, if they can do it next
16 fiscal year, we can do it, but not this fiscal year.
17 That's really where I think we are.

18 JUDGE BERG: Mr. ffitch.

19 MR. FFITCH: I guess just a couple of
20 observations, with no representation about how cogent
21 they are. It does seem like there's an empty chair
22 at the table with regard to models, which is the
23 federal HCPM model. If the Commission is going down
24 the road of looking at revisions to loop price, that
25 may be a useful additional set of information to have

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1 in front of it here. And I'm encouraged that the
2 Staff is taking a look at possibly pursuing that.

3 The other observation that I have is that
4 the model which GTE mentions, the integrated cost
5 model, has been the subject of comment by the
6 Commission in prior orders, and not particularly
7 complimentary comment. I'm not sure if there's a
8 preclusive ruling on that, but you know, sort of
9 under the heading of not re-plowing old ground, we
10 have some models which have been presented to the
11 Commission on at least one, if not more prior
12 occasions by the ILECs, thinking of the RLCAP and the
13 ICM models, which I'm not sure how far advances
14 things just to keep having those be brought back
15 before us.

16 The Commission's narrowed things a bit by
17 its 369 order, and now the FCC has taken another shot
18 at trying to find the holy grail, and I think that's
19 a better direction to go in.

20 JUDGE BERG: Ms. Smith, and then Mr. Bird.

21 MR. BIRD: Your Honor, I apologize. I'm
22 not in a position to answer that question. I'll have
23 to defer to Mr. Finnigan on that. So I'll pass on
24 any comment.

25 JUDGE BERG: All right. I'm going to keep

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1 putting you on the spot, though.

2 MR. BIRD: Okay.

3 MS. SMITH: This is Shannon Smith, for
4 Commission Staff. I want to clarify the earlier
5 comment that I made on behalf of Staff with respect
6 to our interest in looking at the HCPM model. I
7 should have qualified that by saying that we were
8 interested in using that model for the deaveraged
9 zone rates, not to go back and rehash the \$18.60
10 rate that's already been established.

11 JUDGE BERG: All right. Ms. Anderl, and
12 then we'll take Ms. Berman and Ms. McClellan.

13 MS. ANDERL: Your Honor, if the Commission
14 were to open the docket for consideration or
15 reconsideration of UNE loop prices, we believe that
16 that part of the docket would need to be peeled out
17 and set on a much more extended schedule. If, in
18 fact, parties were to offer the HCPM or some new
19 version of Hatfield, US West would certainly be
20 offering a new loop model, new loop costing model
21 that it has developed, also, which is not the RLCAP
22 model.

23 So if it's going to be re-looked at, I
24 think it would need to be re-looked at on a different
25 schedule, much longer track. We wouldn't want that

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1 to hold up the Commission's consideration of the
2 other elements that are already set in this docket,
3 such as the high-capacity loops, the sub-loop
4 unbundling, the dark fiber, et cetera, because we
5 believe it's important to have at the outset some
6 TELRIC-based costs and prices for those elements
7 which have not been dealt with before.

8 JUDGE BERG: Ms. Berman.

9 MS. BERMAN: I'm not sure I can comment on
10 this issue right now.

11 JUDGE BERG: All right. Ms. McClellan.

12 MS. McCLELLAN: From GTE's perspective, if
13 the Commission opens it up, we are prepared to meet
14 the current schedule, but also would not object to
15 extending it. And I'd also just like to clarify that
16 GTE has never filed ICM in a generic cost proceeding
17 in Washington before.

18 JUDGE BERG: Mr. Heath, did we skip you
19 over?

20 MR. HEATH: Yeah, but that's quite all
21 right. I don't really have much to add, other than
22 that foreseeable lengthening -- I mean, Sprint
23 foresees lengthening of the schedule if these other
24 items are brought into the mix, but I don't know to
25 what extent Sprint would be able or willing to

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1 produce any sort of cost study or analysis on that --
2 I mean, on those issues, so --

3 JUDGE BERG: Do parties want to revisit the
4 loop rate? I'll just open that up to anybody that
5 wants to comment. Do parties want to revisit the
6 loop rate in this proceeding?

7 MS. ANDERL: Your Honor, for US West, the
8 answer is no.

9 MR. KOPTA: That's a complicated question,
10 unfortunately. I think certainly from my clients'
11 perspectives, we have some problems with the
12 statewide average loop rates that were established in
13 the prior docket, but on the other hand, the question
14 is would we have the resources to go through a
15 protracted proceeding that lasts another three years
16 to do something about them.

17 I don't know that there's been any real
18 thought about that, but those are the two sort of
19 competing concerns that are going on, and so we can't
20 really give you a clear yes or no.

21 I think part of the problem, too, is how
22 we're going to balance this with developing costs for
23 ICM and whether we're going to be getting into new
24 models, anyway. As I understand GTE, they are going
25 to be putting in a new model, so we may already be

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1 going down the path of the model wars. And then,
2 perhaps, as I understand US West, they are going to
3 be using the model that they had presented in the
4 prior cost docket for sub-loop unbundling, but if
5 that's not the case, if they're updating their model,
6 then there may be some additional issues, modeling
7 issues that go along with that. I see Lisa shaking
8 her head, but --

9 MS. ANDERL: No, I don't think I said --

10 DR. GABEL: Lisa, before you start, could
11 the speakers just identify themselves before
12 speaking? Was that Mr. Butler?

13 MR. KOPTA: No, that was Mr. Kopta.

14 DR. GABEL: Mr. Kopta, okay.

15 MR. BUTLER: But Mr. Butler will echo
16 exactly what he said.

17 MS. ANDERL: And Ms. Anderl will say that
18 the reason she was shaking her head is because I
19 wasn't indicating that we were going to use our RLCAP
20 model to support the sub-loop unbundling. We're
21 still developing exactly how we're going to propose
22 dividing those elements up. But my only comment was
23 that it was complicated by the fact that the price
24 wasn't based on a single model.

25 MR. KOPTA: And I understand that, and I

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1 was just trying to sort of as much as possible, based
2 on what people have said, understand what's going to
3 be filed in July and what we're facing in terms of
4 having to deal with new models and the inevitable
5 disputes with respect to how those models are
6 developed and how they estimate costs.

7 And so it may be that whether or not it's a
8 conscious decision, we end up opening up the loop
9 price just because the models used to develop
10 sub-loops are different and you have to go through
11 the modeling aspect of things, and while we're doing
12 the sub-loops, we might as well do the whole loop,
13 because we're not going to do anything more than with
14 the sub-loops.

15 So all of these factors go into answering
16 your question, so there's both theoretical and
17 practical aspects to it.

18 JUDGE BERG: Ms. McClellan, let's take it
19 head on. Does GTE want to revisit the unbundled loop
20 rate?

21 MS. McCLELLAN: Well, just to go back to
22 what started this whole discussion is GTE has not yet
23 decided, first of all, whether it wants to revisit
24 the already established prices, cost and prices, and
25 also whether or not it needs to file ICM to address

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1 sub-loops and the other issues that are currently
2 going to be addressed in Phase B. The reason I said
3 that, as of today, they're planning to file ICM is
4 because, as usual, you plan to do more work than you
5 may necessarily need to do just to give yourself the
6 time to file it if that's what they decide to do, but
7 really, they have not decided yet.

8 JUDGE BERG: Anybody else? Dr. Gabel.

9 DR. GABEL: I have no questions.

10 JUDGE BERG: Mr. ffitch.

11 MR. FFITCH: I guess, just for the record,
12 Your Honor, I also would echo the general thrust of
13 Mr. Kopta's and Mr. Butler's comments. The loop
14 prices that have been set by the Commission do not
15 appear, in our view, to have been conducive to the
16 entry of local competition in Washington, and as a
17 legal and technical matter, we believe that the order
18 setting those rates is subject to the challenge on
19 appeal. It's our understanding of the procedural
20 status right now that the order is not a final
21 appealable order at this point.

22 So by saying that we don't wish to revisit
23 it, Public Counsel's not waiving any rights that we
24 may have with regard to that original decision.
25 However, the practical implications of revisiting

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1 loop rates are very significant for the resources of
2 our office.

3 JUDGE BERG: I'll just remark. I think in
4 both Phase II and Phase III, parties have raised
5 issues as to whether or not there should be final
6 orders in those proceedings, and so that, I think, is
7 something that is -- those are issues that have been
8 raised, but have not been fully addressed.

9 MS. HOPFENBECK: This is Ann Hopfenbeck,
10 for WorldCom. I wanted to go on record also echoing
11 the sentiments that Mr. Kopta referenced, but I also
12 wanted to raise the following two issues. WorldCom
13 also views the unbundled -- the statewide average
14 unbundled loop rate, and that was the rate from which
15 the deaveraged rates were developed, as having
16 certain problems.

17 Looking forward to a possibility of
18 re-examining the loop rate, we find ourselves in a
19 very different position than we were in three years
20 ago with respect to the resources that we have
21 available to take on that kind of a task. That's on
22 the one hand, which makes it difficult to say yes
23 with enthusiasm to re-examining the loop rate,
24 because, frankly, even if we were to have that
25 belief, I'm not sure that we have the ability to back

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1 that up with, you know, some really meaningful
2 participation that would aid the Commission in
3 setting a better rate.

4 The other factor that I would raise is that
5 I'm not sure that, at this point in time, the HCPM
6 model is at a point where it is capable of being
7 re-used to establish prices for unbundled network
8 elements. I know there is work being done to have
9 that -- put that model in a position where it can do
10 so, but it does seem to me that that is probably a
11 model that if this Commission were to re-examine the
12 unbundled loop rate, they would want to consider.

13 It seems to me appropriate to have a pretty
14 good handle on what stage that model is in relative
15 to its ability to be used for that purpose before
16 embarking on that kind of a proceeding.

17 JUDGE BERG: Mr. Kopta, when we had
18 inventoried the various cost studies that were being
19 raised, you did have some response to GTE's list or
20 some issue to raise. Is that something that would
21 coincide with Number Seven, the actual discussion and
22 clarification of issues to be addressed in Part A and
23 B, or is there some other --

24 MR. KOPTA: That would be probably an
25 appropriate place to discuss it, because it is -- the

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1 concerns that we have are addressed to in which phase
2 a couple of issues need to be addressed or should
3 have been addressed.

4 JUDGE BERG: I understand Five, Six and
5 Seven are very closely related, but let me see if I
6 can get some commitment from GTE with regards to
7 Number Five, and US West, and Number Six, just to
8 further develop that line of inquiry.

9 With regards to -- let's start with US West
10 under Five. How are issues being coordinated between
11 this case and the Section 271/SGAT proceeding?

12 MS. ANDERL: An excellent question, Your
13 Honor. We attempted in the SGAT proceeding to file a
14 three-part matrix that kind of identified issues for
15 resolution in the 271 proceeding as one set of
16 issues, issues for resolution in a separate SGAT
17 proceeding as a second type of issues, and then cost
18 and pricing issues as a third type.

19 Judge Wallis has asked us to come up with a
20 more granular definition of that third group; i.e.,
21 the cost and pricing issues in terms of identifying
22 what costs and prices or rates from the SGAT rate
23 sheet we think need to be developed or addressed in
24 this new generic proceeding.

25 And we have done so on a fairly detailed

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1 level, which I have written notes here, and would be
2 prepared to have those typed up and distributed to
3 the parties on Monday in terms of which line item
4 elements I think are going to be needed to be taken
5 up in the new generic docket. Most, if not all of
6 them, are encompassed by the list of issues that
7 we've already had defined as issues that need
8 resolution in this docket, such as the prices for
9 enhanced extended loops, or EELs, the prices for
10 sub-loop unbundling, the prices for line sharing,
11 things like that, but there are some that are maybe
12 not that crystal clear.

13 JUDGE BERG: Let me ask if it would seem
14 fair to the parties that after that distribution is
15 made, whether if the Commission were to provide
16 notice for parties to file written comments, whether
17 -- all right. Judge Wallis reads tea leaves better
18 than I do, and he's aware that parties will have an
19 interest in filing comments, so let's go ahead and
20 talk about setting up a schedule for something like
21 that.

22 Ms. Anderl, when you say that you'd have
23 that ready on Monday, that would be ready for service
24 to the parties, could you fax serve that to other
25 parties?

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1 MS. ANDERL: Sure. I can e-mail it, as
2 well.

3 JUDGE BERG: All right. And then follow up
4 with a paper copy, as well. And could other parties
5 then file comments by Friday?

6 MR. KOPTA: Probably.

7 MS. HOPFENBECK: Sure.

8 MS. ANDERL: I mean, it's -- you know, it's
9 pretty straightforward. I can even photocopy my
10 handwritten notes and distribute those today if the
11 parties would like a jump on it. I just -- there
12 were some things I needed to check internally to be
13 sure that we were going to put them down for
14 consideration.

15 JUDGE BERG: All right. I'll let other
16 parties informally contact you if they want to have a
17 copy of your handwritten notes. Thank you for making
18 that available to them.

19 MS. ANDERL: Sure. Otherwise, I'll get it
20 out by Monday, for sure.

21 JUDGE BERG: All right.

22 MS. HOPFENBECK: I did have a question to
23 ask perhaps for Ms. Anderl's consideration, which I
24 notice that in response to the initial question as to
25 what studies US West was contemplating filing, there

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1 wasn't any mention of any kind of nonrecurring cost
2 studies. And I know that -- I don't know what's on
3 your list for the SGAT, but certainly I've noticed
4 that on Exhibit A that was filed with the SGAT, there
5 are certainly a number of nonrecurring costs
6 associated with various elements that have not yet
7 been considered by this Commission and that are
8 specifically footnoted as falling under -- I think
9 it's footnote six that -- well, that indicates that
10 they're TELRIC based when required, but they haven't
11 been addressed yet in Phase I or Phase II.

12 I was just wondering whether you intend to
13 modify your representation with respect to cost
14 studies you intend to file based on -- I mean, is it
15 possible you're going to file more than you've
16 represented to date based on further development of
17 what issues will be addressed in Phase B?

18 MS. ANDERL: That's certainly possible. I
19 think I tried to leave that open, that there were
20 some issues that were more granular that we needed to
21 develop as to whether or not there would be cost
22 support required. I don't think we broke out
23 nonrecurring costs as a separate piece, you know. I
24 think if there's -- that there are nonrecurring costs
25 for, like, high-capacity loops, for example, those

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1 nonrecurring costs I would have meant to be included
2 when I said we would file a cost study for a
3 high-capacity loop.

4 There are some nonrecurring charges for the
5 UDIT transport element that I believe we will or are
6 considering filing nonrecurring cost studies for, as
7 well. But we're just not that detailed yet in terms
8 of being able to identify exactly beyond the high-cap
9 loop, sub-loop and dark fiber.

10 JUDGE BERG: All right. Let's move on to
11 Item Six. Ms. McClellan, GTE Witness Tanimura states
12 that GTE doesn't propose to litigate all collocation
13 terms and conditions in this proceeding. Can you
14 tell me what is the status of GTE's collocation
15 tariff filing?

16 MS. McCLELLAN: Honestly, Your Honor, no, I
17 can't.

18 JUDGE BERG: Could you please review the
19 status and respond in writing on Monday?

20 MS. McCLELLAN: Okay.

21 JUDGE BERG: I have some concern that GTE
22 make known to the parties its position on the scope
23 of the collocation terms and conditions to be
24 addressed in this proceeding and what it may think
25 appropriate elsewhere.

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1 MS. McCLELLAN: That I can address. It was
2 GTE's belief that this proceeding was to address just
3 cost and prices and not terms and conditions. So we
4 decided not to file any direct testimony on terms and
5 conditions.

6 JUDGE BERG: I think that's right. My
7 concern is where the line might be a little fuzzy,
8 and I'd like to try and get as many details as
9 possible about what GTE specifically intends to
10 address here and elsewhere, so other parties will
11 have a chance to review it and take whatever action
12 they deem appropriate.

13 MS. McCLELLAN: Okay.

14 JUDGE BERG: I was in a brief sidebar with
15 Judge Wallis. With regards to Item Seven, then,
16 unless somebody has anything else they want to state
17 with regards to the inquiry with GTE -- Mr. Kopta.

18 MR. KOPTA: Thank you, Your Honor.
19 Actually, this is sort of a segue into Item Seven.
20 GTE has filed in a separate docket a proposed
21 collocation tariff for the state of Washington.
22 Actually, they have -- this is sort of a continuing
23 filing that they have made revisions to since the end
24 of last year.

25 And the concerns that we have are that at

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1 least at this point, GTE is asking for an effective
2 date of that tariff of August 1st, and it does
3 include rates that are different than the rates that
4 the Commission has established as interim rates
5 pending review of all collocation rates in this new
6 docket. And the concern that we have is having this
7 looming other docket that establishes collocation
8 rates outside of this docket, which was established
9 to determine collocation rates, is a lingering
10 concern of ours.

11 And I'm not sure what the Commission is
12 going to do or what GTE is going to do. Obviously,
13 our preference would be for GTE to hold its tariff
14 filing in abeyance until the rates have been
15 established, at which point, if there are concerns
16 with the terms and conditions with the tariff, those
17 can be raised at that time. If, however, GTE wants
18 to continue to try and make effective a
19 state-specific tariff for collocation, then our
20 position is that that should be suspended and
21 investigated and perhaps consolidated with this
22 proceeding, at least with respect to the rates in
23 that tariff filing.

24 So this sort of spills over into that other
25 docket, but we just wanted to voice those concerns,

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1 because we only want to deal with collocation issues
2 once, not in two separate dockets in two different
3 kinds of proceedings.

4 JUDGE BERG: Ms. McClellan, in filing GTE's
5 position on the status of that collocation tariff
6 proceeding, would you also state GTE's position
7 regarding whether any statutory clocks are currently
8 running for any action to take place?

9 MR. EDWARDS: Judge Berg, this is Jeff
10 Edwards. In response, when you ask about statutory
11 clocks, are you talking about at the state level?

12 JUDGE BERG: Yes, please.

13 MR. EDWARDS: All right.

14 JUDGE BERG: Just as part of a report on
15 the status, so --

16 MR. EDWARDS: Right.

17 JUDGE BERG: So we'll know how that works
18 into the schedule.

19 MR. EDWARDS: The issue raised is clearly a
20 valid issue. And as the Commission well knows, there
21 are a number of matters ongoing with respect to GTE,
22 as well, some of which include its merger with Bell
23 Atlantic, and certain merger conditions that apply
24 there that also have some impact on the filing of
25 state tariffs. My hope is that we can at least poll

00103

1 all the parts of the company that need to be polled
2 in order to be able to respond by Monday.

3 JUDGE BERG: What I'd like to have GTE do
4 is file on Monday, and if there's some reason why it
5 can't fully respond, to state so, and indicate when
6 it could fully respond.

7 MR. EDWARDS: Right. That's fair enough.

8 JUDGE BERG: All right. Ms. Smith, is
9 there any position of Staff that can be communicated
10 at this time with regards to this -- or information
11 regarding the status of the GTE collocation tariff
12 filing?

13 MS. SMITH: Your Honor, Commission Staff
14 believes that GTE has extended the effective date of
15 that tariff. We don't know at this time when that
16 tariff is coming up for review.

17 JUDGE BERG: All right, thank you. And
18 let's just then go ahead into Item Seven on the
19 agenda, the discussion and clarification of issues to
20 be addressed in Part A and Part B. I know I had a
21 few issues to bring up. I know the parties probably
22 have a list of their own.

23 I wanted to confirm that whether the
24 identification, cost and pricing of UNEs necessary
25 for line sharing were a Part A or Part B type of an

00104

1 issue. Likewise, I'm presuming that the xDSL
2 requirements would be a Part B, and then I had some
3 concerns regarding NRCs. It seemed that there were
4 some NRCs that would be addressed in Part A, such as
5 NRCs, nonrecurring charges, to access individual
6 loops. But then there would be other nonrecurring
7 charges that would come up in Part B, such as UNE-P,
8 nonrecurring charges.

9 And those all come out of my review of
10 prefiled testimony, so I'd certainly want some
11 clarification on those elements and any others that
12 the parties may have questions or concerns about.

13 So let me just start with my list again.
14 With regards to UNEs, which may be considered
15 necessary for line sharing, do the parties have a
16 position as to whether or not that's part of Part A,
17 where line sharing is to be addressed, or is that
18 Part B?

19 MS. ANDERL: Part A, I think, Your Honor.

20 JUDGE BERG: Mr. Kopta.

21 MR. KOPTA: That's the way that I read it.

22 JUDGE BERG: All right.

23 MR. BUTLER: Yes, that was my

24 understanding.

25 JUDGE BERG: Okay, Mr. Butler. With

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1 regards to requirements for xDSL, likewise, there
2 were some items that were identified as possible UNEs
3 and other items which would just be services that
4 might be necessary. Any -- Ms. Anderl.

5 MS. ANDERL: I'm not too sure I understand
6 that issue with crystal clarity, but to the extent
7 that those issues touch on high-capacity loops, that
8 would definitely be Part B.

9 JUDGE BERG: All right. What I saw was,
10 particularly in the -- I think it was the testimony
11 of Mr. Zulevic for GTE, or for Covad.

12 MR. BUTLER: Covad and Rhythms, right.

13 JUDGE BERG: Yes. He indicated what he
14 considered to be the DSL pieces, such as the high
15 bandwidth portion of the loop as unbundled network
16 element, interoffice transport as an unbundled
17 network element, and then there were other
18 arrangements, the tie cable arrangements, jumpers
19 between tie pair appearances and splitters were
20 referred to, and I just wanted to confirm that those
21 issues would be addressed in Part B.

22 MS. ANDERL: I think I misunderstood. And
23 I think it is -- that's all related to line sharing.
24 The high-capacity, or the high frequency portion of
25 the loop as a UNE is just another way of referring to

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1 the line sharing, so I would change my answer and say
2 that that's Part A.

3 JUDGE BERG: All right. And what about
4 those other elements? If we're talking about the DSL
5 pieces, are we going to deal with some DSL pieces in
6 Part A and some in Part B?

7 MR. BUTLER: Some in Part B. Dealing
8 basically with a copper loop in Part A, and there are
9 other arrangements that would be subject to Part B.

10 MS. ANDERL: That's true. Some of those
11 things would be Part B. Some of them, in our view,
12 are already decided, but we'll get into that in a
13 minute.

14 JUDGE BERG: All right. And to the extent
15 that my questions may cause some furrowed brows, just
16 understand this is part educational for my own
17 benefit, as well as trying to --

18 MR. HSIAO: This is Doug Hsiao, with
19 Rhythms. I actually just missed that last comment,
20 if that was Mr. Butler. I'm not sure who spoke up
21 just a few minutes ago.

22 MR. BUTLER: Yes, one of the last comments
23 was me. Feel free to jump in, Doug.

24 MR. HSIAO: Oh, I guess my feeling on that
25 is that the -- I think the transport portion would go

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1 into Part B, since that -- you know, transport for
2 line sharing or transport for other UNEs is going to
3 be exactly the same. But you raised a good issue
4 about whether tie cable, tie pair or cable augments,
5 those things tend to be considered collocation type
6 costs, so -- and I assume Part B is also dealing with
7 collocation costs?

8 JUDGE BERG: No, collocation costs would be
9 a Part A.

10 MR. HSIAO: Oh, it's a Part A. So okay,
11 then that would be included under Part A.

12 JUDGE BERG: Mr. Kopta.

13 MR. KOPTA: I would make the additional
14 observation that, at least for GTE, they had provided
15 a proposal for loop conditioning charges, which is,
16 again, sort of an xDSL type component. And our
17 belief was that that was to be in Part B, not part A.
18 I noticed that those were costs that were established
19 for US West in the prior docket. The Commission gave
20 GTE an opportunity to come in and provide additional
21 information on that aspect of the costs, but as I
22 say, my understanding was that that was a Part B, not
23 a Part A issue. That was one of the things that we
24 wanted to kind of clarify.

25 MR. BUTLER: This is Mr. Butler. We had

00108

1 the same understanding, that loop conditioning was to
2 be in Part B.

3 MS. ANDERL: Yes, that's US West's
4 understanding, as well.

5 JUDGE BERG: And Ms. McClellan.

6 MS. McCLELLAN: It's GTE's belief that
7 there was some line conditioning that's necessary to
8 provide the higher capacity of the loop, and those
9 line conditioning costs and prices, we believe, would
10 be addressed in Phase A with the line sharing cost
11 pricing, which is also why I didn't identify that as
12 a separate study, because in GTE's mind, it's part of
13 the line sharing.

14 JUDGE BERG: Let's go off the record just a
15 second.

16 (Discussion off the record.)

17 JUDGE BERG: We're back on the record.

18 MS. BERMAN: This is Terry Berman. I
19 wanted to add that Covad believes that the loop
20 conditioning should be part of Part B.

21 JUDGE BERG: All right. Thank you, Ms.
22 Berman. The other issue on my list, I noticed that
23 AT&T's Witness Gillian had indicated his
24 understanding or belief that, in Part A, the
25 nonrecurring charges to be dealt with would relate to

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1 access to individual loops, and other nonrecurring
2 charges, such as UNE platform, would be dealt with in
3 Part B.

4 In the broad outline of issues to be dealt
5 with in A and B, it just showed nonrecurring charges
6 in A. I wanted to raise this for some clarification
7 from the parties, what they expected in the
8 proceeding.

9 MR. KOPTA: This is Greg Kopta, and I think
10 that there was some uncertainty, at least on our
11 part, on that issue in terms of nonrecurring charges.
12 I know that there was some clarification at the
13 prehearing conference in terms of what was to be
14 included in Part A and what was to be included in
15 Part B, and that there was some contemplation that
16 there would be two different types of nonrecurring
17 charges in each part.

18 US West, in their testimony, interpreted
19 the Commission's order as, in our view, narrowly,
20 requiring only a filing if US West were able to
21 realize some cost savings as a result of electronic
22 flow-through, which US West has yet to fully
23 implement, and therefore they didn't have any changes
24 to the nonrecurring charges that the Commission has
25 established in the prior docket.

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1 We take a more expansive view and would
2 like the Commission to recognize that the original
3 docket began in 1996, and cost studies that were
4 provided at that time did not reflect the experience
5 that US West hopefully has had in terms of the
6 provisioning of unbundled loops, for example, and
7 that there should be some additional efficiencies
8 realized in US West's and GTE's experience in
9 provisioning unbundled network elements, and that
10 therefore there should be an opportunity to revisit
11 those issues.

12 And since there was no filing made in Part
13 A, then we would want that to be part of US West's
14 and GTE's filing in Part B, along with the
15 nonrecurring charges for other unbundled elements
16 that are to be determined in that phase.

17 JUDGE BERG: Let's hear from Ms. Anderl,
18 then Ms. McClellan.

19 MS. ANDERL: Thank you, Your Honor. Mr.
20 Kopta correctly read our testimony. What I feel I
21 need to add, though, is that even though that docket
22 did start in 1996, US West's nonrecurring cost
23 studies were updated and refiled in 1999 to reflect
24 additional ordered efficiencies pursuant to
25 Commission decisions in the Eighth Supplemental Order

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1 and others.

2 And so we feel that they are very current
3 and do not leave room for, you know, additional
4 reductions reflecting the heretofore yet unrealized
5 efficiencies. Certainly, Mr. Kopta's clients are
6 free to take their positions in the testimony, but we
7 don't necessarily think that there are other things
8 that need to be bumped over to Part B on those
9 issues.

10 MR. KOPTA: Let me just clarify that we're
11 not talking about the plain vanilla nonrecurring
12 charge for the loop exactly. I think that that one
13 has been pretty well vetted. Our concerns are with
14 the additional charges that are included in a
15 nonrecurring charge for a loop that are specifically
16 directed to, including testing and coordinated
17 cut-overs.

18 I think that certainly there have been
19 issues, as I'm sure we'll discuss in 271 workshops,
20 with problems associated with coordinated cut-overs
21 and experiences, and we would expect that there would
22 be some improvements with regard to the provisioning
23 of loops on a coordinated basis, and that there would
24 be efficiencies to be realized in doing so. And we
25 want that to be part of the nonrecurring charges that

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1 will be considered in Part B.

2 Certainly, again, the nonrecurring charges,
3 like the recurring charges for sub-loops, will be on
4 the table, and to the extent that there are any new
5 methods for estimating costs for sub-loops, as
6 opposed to the entire loop, then there would be an
7 additional opportunity, in our view, to review
8 nonrecurring charges, just as there's an opportunity
9 to review recurring charges.

10 JUDGE BERG: I'm becoming just a little
11 concerned about the time issue for this proceeding,
12 so I want to turn to Ms. McClellan right now, and Ms.
13 McClellan, get your client's perspective on this
14 point, and then I just want to turn to the parties to
15 identify any other issues about Part A, Part B
16 issues, to raise them and quickly get whatever
17 responses are appropriate.

18 It's my hope that we can deal with these
19 issues one way or the other before we actually get to
20 a point of no return, and so I want to use the next
21 several minutes as productively as possible to just
22 pinpoint where the issues of contention are,
23 succinctly identify what the various perspectives
24 are, and then close the prehearing conference.

25 So Ms. McClellan, with that slight

00113

1 digression, what is GTE's position with regard to
2 these nonrecurring charge issues?

3 MS. McCLELLAN: GTE does intend, as stated
4 in the direct testimony of Linda Casey, to file a
5 nonrecurring cost study in Phase B that would address
6 not only the new UNES, but the nonrecurring costs for
7 loops and switches, because they pretty much all are
8 the same thing, as far as GTE is concerned.

9 JUDGE BERG: All right. And let me open it
10 up for other issues that the parties may have become
11 aware of at this point of the proceeding. Mr. Kopta.

12 MR. KOPTA: Thank you, Your Honor. The
13 only other thing that we had that we cannot deal
14 with, based on what we've talked about up till now,
15 is that US West is going to be filing essentially a
16 list of unbundled elements and other items that need
17 to be priced in Part B.

18 And it would be helpful, I think, to have
19 the same thing from GTE in terms of what they are
20 anticipating needs to be addressed in Part B, so that
21 anyone who may want to file direct testimony in Part
22 B will have a clear idea of what elements are on the
23 table, based on US West's list and GTE's list, and
24 then whatever comments the parties may provide in
25 terms of something that's been missed or some other

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1 modifications that need to be determined, so that
2 everyone has a pretty clear road map of what is and
3 is not going to be included in Part B.

4 JUDGE BERG: Ms. McClellan, is that
5 something GTE could provide?

6 MR. EDWARDS: Your Honor, this is Jeff
7 Edwards. I'll respond. Unless I'm missing
8 something, I think that's what we spent the last hour
9 discussing, and I don't think we could provide
10 anything other than what we've been able to say
11 today, or what we could provide based on guidance
12 that I anticipate the Commission's going to give us
13 coming out of this prehearing conference.

14 JUDGE BERG: Mr. Kopta.

15 MR. KOPTA: Yes, thank you, Your Honor.
16 Well, I think that there have been things, and
17 perhaps it's because we've been dealing with an SGAT
18 that does try to be as comprehensible --
19 comprehensive, as well as comprehensible as possible,
20 and once one lists all of the elements that an ILEC
21 makes available to CLECs, it makes it easier to see
22 where there are gaps.

23 For example, we spent the morning talking
24 about interconnection facilities and how
25 interconnection facilities are priced, or at least

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1 how those costs are shared or should be shared, which
2 leads to the issue of how those facilities are
3 priced, and so I think, to the extent that we're
4 trying to clean up what has not been addressed in
5 previous proceedings, interconnection facilities
6 would be one example of something that we would want
7 to see addressed, and maybe that the unbundled loop
8 rates for DS1 and DS3 would also be the same as the
9 price for an interconnection facility.

10 But we just would want to make sure that
11 that's clarified, and to the extent that there needs
12 to be some examination of the cost and price of that
13 facility, that that's addressed in Part B.

14 JUDGE BERG: Mr. Butler.

15 MR. BUTLER: I just wondered if we could
16 get clarification on exactly what's supposed to be
17 addressed when with respect to nonrecurring charges
18 and loop conditioning. As I think we mentioned, loop
19 conditioning is supposed to be in Part B, but GTE has
20 filed in Part A, and NRCs are supposed to be
21 addressed in part A, but GTE has indicated it's not
22 going to file till Part B. It sort of leaves us in a
23 bit of a quandary with marshalling resources of what
24 we're going -- how we're going to address which
25 topics on what time schedule.

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1 JUDGE BERG: I think the parties have
2 fleshed that out. I'll try -- the Commission will be
3 providing some guidance to the parties in the
4 prehearing conference order, and if that order comes
5 at a point in time the parties feel they're
6 prejudiced, they can state so, and we'll look to
7 whether or not some other process is necessary. But
8 we'll try and provide the parties with guidance as to
9 all of these issues discussed here today as soon as
10 possible.

11 MR. BUTLER: If I could just add one
12 request. To the extent to which a single subject
13 matter could be consolidated into one phase, that
14 certainly helps with the resource allocation issue.

15 JUDGE BERG: Fine. Ms. Hopfenbeck.

16 MS. HOPFENBECK: I'll just make one
17 observation with respect to NRCs. While it's true
18 that the Commission's order did identify NRCs as
19 subject matter for Part A, it's WorldCom's view that
20 it's inevitable that NRCs come up to some degree in
21 Part B. So that perhaps it does make sense to move
22 that topic in total to Part B. For example, I think,
23 in addressing the UNE platform, I know that one of
24 the issues is going to be what nonrecurring charges
25 go along with the UNE platform.

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1 JUDGE BERG: With regards to a filing by
2 GTE, somewhat along the lines of what US West intends
3 to do, I think what we'll do is wait to see what, in
4 fact, is provided by US West. And Mr. Edwards, the
5 Commission will keep at the top of its list whether
6 or not there's some additional direction we can
7 provide GTE and what would be useful in this
8 proceeding.

9 Likewise, if the parties have other
10 suggestions as to what would be helpful, I encourage
11 you to share those requests informally or formally,
12 as a data request, and if necessary, to bring
13 something to the Commission. If it's appropriate for
14 the Commission to work with the parties, then please
15 raise these issues with me as soon as possible.
16 We're all moving into some new uncharted territory,
17 and I think we'll all have to work together to come
18 up with a map, so we all get out of this swamp
19 together.

20 MS. BERMAN: This is Terry Berman.

21 JUDGE BERG: Yes, Ms. Berman.

22 MS. BERMAN: Covad has two other points
23 that it wanted to raise.

24 JUDGE BERG: Please raise them as loud as
25 possible.

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1 MS. BERMAN: Okay, I'm sorry. One, we
2 wanted to know if packet switching could be addressed
3 in Part B. We're not sure where that goes, whether
4 it would be part of sub-loop or not.

5 JUDGE BERG: And go ahead and touch on your
6 other point.

7 MS. BERMAN: The other point is we're
8 concerned that -- we have a concern that the sub-loop
9 unbundling price, you know, are not elements, are not
10 ready to price because there are some substantive
11 issues with the way sub-loop elements are being
12 provided and concerns that they're not being provided
13 under the terms and conditions as required by law,
14 and we think that that needs to be addressed.

15 JUDGE BERG: Ms. Anderl, do you have any
16 position in response?

17 MS. ANDERL: I think Covad should file
18 testimony on those issues and, you know, I don't want
19 -- I guess I don't understand what the concerns are.
20 If there are concerns with regards to terms and
21 conditions, if that may be what Ms. Berman is saying,
22 you know, the sub-loop terms and conditions are going
23 to be handled in the SGAT docket, where Covad is, I'm
24 certain, going to participate. I don't know whether
25 Covad's interconnection agreement has terms and

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1 conditions for sub-loop provisioning or not.

2 I guess I'm puzzled as to whether or not
3 it's an appropriate issue in the cost docket, but you
4 know, so -- and maybe she's asking that question, as
5 well.

6 MS. BERMAN: Well, we're saying that, you
7 know, prior to pricing the elements, we need to
8 review what's being provided and the way it's being
9 provided.

10 JUDGE BERG: I think what I'd like to do,
11 to help pull this prehearing conference to a
12 conclusion, is in addition to the other exchanges of
13 information and filings that have been requested, I
14 would like to just ask the parties that on Friday,
15 June 30th, that any parties who have concerns about
16 the scope of issues to be addressed in the Part A or
17 Part B proceedings, to where they should be
18 addressed, to put those concerns in writing, in the
19 form of a letter, and send them to the Commission.

20 This is somewhat similar to the exercise
21 the parties did at the outset, in identifying issues
22 to be addressed. I think it's possible that the
23 parties will walk away from the table or from the
24 speaker phone this afternoon and think of something
25 else that they want to bring up, so let's do that,

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1 and that should help us pull this proceeding to a
2 conclusion, and yet give the parties an opportunity
3 to identify matters that may need some follow-up
4 discussion.

5 And that's to be received here at the
6 Commission no later than conclusion of business on
7 Friday. Fax filing would be acceptable, along the
8 standard terms, if a paper copy is received the next
9 business day. Ms. Anderl.

10 MS. ANDERL: Yes, I just didn't want you to
11 close before I had a chance to raise two other issues
12 in connection with the issues list. I didn't know if
13 you were done going around the table for parties to
14 comment on that or not.

15 JUDGE BERG: Go ahead.

16 MS. ANDERL: We were puzzled about what the
17 Commission hoped to see with regard to shared
18 transport. We really thought that issue had been put
19 to rest, as it were, in Phase II of the old generic
20 docket and thought that we essentially had compliance
21 prices that met what the Commission had asked us to
22 do.

23 As a preliminary matter, at least not
24 hearing anybody say for sure that they were going to
25 file a shared transport cost study in Part B, I guess

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1 that left it still in my mind an open question about
2 what we were looking at there.

3 And then the second piece was the flat
4 rated reciprocal compensation, everyone's favorite
5 subject. We continue to struggle with our ability to
6 comply with what the Commission wants to see there.
7 We're certainly happy to try to explore it, but we
8 wondered if the delineation of that issue meant that
9 all manner of schemes for reciprocal compensation
10 would be open for review in this phase of the
11 proceeding, as well. In other words, if the
12 Commission is going to consider one alternative
13 scheme for reciprocal comp, would others be open for
14 consideration, as well, and we think that they
15 should.

16 JUDGE BERG: My understanding is that it is
17 open, and that the Commission is looking to consider
18 all sponsors of compensation mechanisms that the
19 parties wish to propose, as well as entertain
20 alternative proposals from parties, much in the same
21 way as it has done so in arbitrations where interim
22 mechanisms have been approved.

23 MS. ANDERL: On that basis, we would
24 probably add something along those lines to our list
25 of cost studies that we would plan to file in Part B.

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1 JUDGE BERG: All right. Ms. Smith, do you
2 have a question or --

3 DR. GABEL: Before you move on, let me just
4 ask one clarifying question. Ms. Anderl, when you
5 said you were puzzled by the Commission's position on
6 transport, what statement did you have in mind?

7 MS. ANDERL: Dr. Gabel, it's just in the --
8 it's not a statement so much; it's just in the
9 prehearing conference order of March 16th, the
10 Commission, in paragraph 16, lists issues for
11 consideration in Part B as including shared
12 transport, and there's no further discussion about,
13 you know, what it is about shared transport that we
14 still need to talk about. So that's what puzzled me,
15 is just what is left to be decided.

16 DR. GABEL: Thank you.

17 JUDGE BERG: Anything else, Dr. Gabel?

18 DR. GABEL: No.

19 JUDGE BERG: Anything else that the parties
20 want to raise before we adjourn? All right. Thank
21 you, everyone, for your participation, and we'll try
22 and resolve as many of these issues as soon as
23 possible.

24 All right, everybody. This conference is
25 adjourned. Thanks again.

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(Proceedings adjourned at 2:53 p.m.)