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24 Kathryn T. Wilson, CCR

25 Court Reporter

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

2 JUDGE RENDAHL: Let's be on the record. We  
3 are here for a prehearing conference this morning in  
4 Docket Nos. UT-003022 and 003040, which is the request  
5 by U S West for 271 approval and also review of its  
6 SGAT. Today is Wednesday, October 4th. We are here in  
7 Olympia, Washington. I am Ann Rendahl, the  
8 administrative law judge presiding over this matter.  
9 Let's take appearances starting with Qwest, and we have  
10 here in the hearing room Mr. Beck.

11 MR. BECK: This is Steve Beck, senior  
12 attorney for Qwest Corporation. Do we need any more  
13 identification?

14 JUDGE RENDAHL: If your information is still  
15 the same, I don't think we need that. If anyone has  
16 already given full information for the record, that  
17 being name, who you represent, your address, phone  
18 number, fax, and e-mail, then you don't need to give it  
19 today. If you are appearing before us today for the  
20 first time, then please give us that information.  
21 Lisa?

22 MS. ANDERL: Lisa Anderl on the bridge line,  
23 senior attorney representing Qwest Corporation.

24 JUDGE RENDAHL: AT&T?

25 MS. TRIBBY: Mary Tribby on behalf of AT&T.

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1 JUDGE RENDAHL: Mr. Harlow?

2 MR. HARLOW: Brooks Harlow appearing on  
3 behalf of WorldCom and Covad. We are not appearing on  
4 behalf of our other clients at this prehearing this  
5 morning.

6 JUDGE RENDAHL: Thank you. On the bridge  
7 line starting with Ms. Rackner.

8 MS. RACKNER: Lisa Rackner on behalf of  
9 TRACER, Rhythms, Broadband Office, and Teligent.

10 JUDGE RENDAHL: Ms. Rackner, I believe we  
11 have your information for the record. At the last  
12 prehearing conference, Mr. Butler with the assistance  
13 of, I believe it was Ms. Hopfenbeck, we have most of  
14 your information. If you could give us your phone, fax  
15 number, and e-mail, that would be helpful.

16 MS. RACKNER: My phone number is (503)  
17 226-1191. My e-mail address is lfr@aterwynne.com, and  
18 my address is 222 Southwest Columbia, Suite 1800,  
19 Portland Oregon, 97201.

20 JUDGE RENDAHL: Would you please give us your  
21 fax number?

22 MS. RACKNER: (503) 226-0079, and I  
23 appreciate everybody's indulgence in the shifting of  
24 attorneys here while Art is on sabbatical.

25 JUDGE RENDAHL: There is quite a lot of

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1 shifting going on, so it's not just you. Ms. Anderson?

2 MS. ANDERSON: Renee Anderson with Echelon  
3 Telecom, Inc., and I am listening on behalf of Karen  
4 Clauson.

5 JUDGE RENDAHL: Has Echelon appeared in this  
6 proceeding before?

7 MS. ANDERSON: I believe Karen did listen in  
8 on the last one.

9 MR. HARLOW: I think Mr. Ehlers (phonetic)  
10 initially intervened for Echelon.

11 MS. ANDERSON: Karen has not taken over the  
12 position for the company.

13 JUDGE RENDAHL: If you could send into the  
14 records center a notice of substitution of counsel,  
15 that would be helpful.

16 MS. ANDERSON: Okay.

17 JUDGE RENDAHL: Is Ms. Harris on the line?  
18 Mary Steele?

19 MS. STEELE: Mary Steele of Davis Wright  
20 Tremaine representing Nextlink Washington, Electric  
21 Lightwave, and Advanced Telcom Group.

22 JUDGE RENDAHL: Mr. Heath?

23 MR. HEATH: Eric Heath for Sprint  
24 Corporation.

25 JUDGE RENDAHL: Ms. Strain?

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1 MS. STRAIN: Paula Strain, Commission staff.

2 JUDGE RENDAHL: I should let all of you know  
3 I've delayed sending out the prehearing conference  
4 order from the August prehearing because many of these  
5 issues as I started to write it started shifting, and I  
6 still didn't have resolution of our follow-up workshop  
7 dates, so I'm going to send out an order by the end of  
8 the week combining both prehearing conferences.

9 Let's start talking about Workshop 2. First,  
10 let's talk about Qwest's request to shift Section 272  
11 issues to a further workshop. I don't necessarily want  
12 to get into the issue now as to which workshop that  
13 should go into. It seemed to me from the parties'  
14 responses that no one was really objecting to that in  
15 that it could be moved to another workshop; although, I  
16 do understand AT&T had certain issues about the  
17 process. Mr. Beck or Ms. Anderl, do you have any  
18 additional comments you want to make about your request  
19 to shift 272, or can we go on your written submission?

20 MR. BECK: Judge, if we are merely talking  
21 about the issue of whether it should be taken out of  
22 Workshop 2 and put somewhere else --

23 JUDGE RENDAHL: That's all we are talking  
24 about.

25 MR. BECK: -- then I think we are fine on

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1 our submission.

2 JUDGE RENDAHL: Ms. Tribby.

3 MS. TRIBBY: I'm trying to work within the  
4 parameters here that you just set.

5 JUDGE RENDAHL: I guess I should say I know  
6 AT&T has concerns and I would like to hear them, and  
7 after that, I would give Qwest an opportunity to  
8 respond. I just want to know, should it be moved. If  
9 it should be moved, we can discuss about where later,  
10 but I also do want to give you an opportunity to  
11 address the issue that you raised in your letter.

12 MS. TRIBBY: With respect to the first issue,  
13 I think it has to be moved out of Workshop 2 because  
14 it's just not ready.

15 JUDGE RENDAHL: Mr. Harlow?

16 MR. HARLOW: Covad and WorldCom concur. It's  
17 not ready for Workshop 2 and should be moved somewhere,  
18 and we will address the where when you are ready.

19 JUDGE RENDAHL: Anyone else on the bridge  
20 line wish to comment on whether 272 issues should be  
21 moved?

22 MR. HEATH: Sprint would concur in WorldCom  
23 and Covad and AT&T's position that Section 272 should  
24 be moved from the second workshop.

25 MS. STEELE: We also agree.

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1 MS. RACKNER: My clients also concur.

2 JUDGE RENDAHL: At this point, we will not be  
3 addressing 272 issues in Workshop 2, and when we get to  
4 discussing future workshops, we will talk about where  
5 that should be handled.

6 I'd also like to talk about Qwest's request  
7 to address the interLATA issue in the November  
8 workshop, and maybe if you could explain, Ms. Anderl or  
9 Mr. Beck, what your proposal is, that would be very  
10 helpful.

11 MS. ANDERL: The interLCA?

12 JUDGE RENDAHL: Yes. By letter dated  
13 September 28th, Qwest proposed to withdraw its interLCA  
14 proposal and revise the language in the SGAT and  
15 recommend that this language be addressed in the  
16 November workshop under interconnection, and I guess it  
17 would be helpful to have a little more explanation as  
18 to what exactly the proposal is.

19 MS. ANDERL: Your Honor, I'll see what I can  
20 do to address that. I would think that the intent is  
21 to submit language in the interconnection section of  
22 the SGAT, whether we submit a revised SGAT, that  
23 reflects a withdrawal of the interLCA proposal that  
24 Qwest had originally set forth and had actually been  
25 decided adversely to Qwest in the initial parts of the

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1 proceeding. I think what we thought was that it was  
2 maybe too awkward to discuss changes to the SGAT  
3 language to reflect our change in position on a paper  
4 record, and it might just be a good opportunity, since  
5 it was linked with interconnection issues, to take it  
6 up, if any parties did have issues about it, during the  
7 November workshop.

8 JUDGE RENDAHL: Ms. Tribby or Mr. Harlow, any  
9 thoughts on this?

10 MS. TRIBBY: I don't have an objection  
11 specifically to dealing with that issue at the next  
12 workshop.

13 JUDGE RENDAHL: Mr. Harlow.

14 MR. HARLOW: We don't quite know where we are  
15 on this. WorldCom has not been able to complete its  
16 review of the revisions but perceive that there are  
17 still some problems and issues with the Qwest revision,  
18 and frankly, we think that this filing shouldn't be  
19 permitted by Qwest. They should have to proceed with  
20 the record as it was prior to this filing or as it is,  
21 I guess, until this filing is permitted.

22 This kind of exemplifies the moving target  
23 problem I alluded to before we went on the record and  
24 we will be talking about later when we talk about a  
25 revised SGAT. It's very difficult for the parties, and

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1 I would think for the Commission, to have to kind of  
2 follow a moving target and have an orderly proceeding  
3 when Qwest keeps shifting its position at the last  
4 minute.

5 If the Commission were to permit this filing,  
6 then WorldCom would like the opportunity, if need be  
7 when it completes its review, to file supplemental  
8 response testimony on the Qwest proposed revision.

9 MS. ANDERL: Your Honor, when the other  
10 parties are done commenting, I would like a brief  
11 response, if I may.

12 MS. TRIBBY: Let me just say that this filing  
13 does raise a lot of the concerns I was alluding to  
14 earlier. With respect to specifically dealing with it  
15 in the next workshop, and that is presuming another  
16 issue that we will talk about going forward, which is  
17 that we get the revised SGAT which shows this language  
18 sufficiently in advance of the workshop, we have no  
19 objection to that, but I do have additional issues  
20 which I will wait until you want to discuss.

21 JUDGE RENDAHL: Is there anyone else on the  
22 bridge line that would like to discuss the issue of  
23 Qwest's proposal to withdraw its interLCA proposal and  
24 revise the SGAT language?

25 MR. HEATH: Sprint does not object to moving

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1 this issue to a different workshop; however, it has not  
2 completed its review of this change and would like to  
3 reserve the right to comment on in at a future date  
4 when it is discussed.

5 JUDGE RENDAHL: Any further comments on the  
6 bridge line? Ms. Anderl?

7 MS. ANDERL: I just wanted to note that I  
8 don't believe that WorldCom's objections are well taken  
9 and maybe give a little bit of explanation as to why we  
10 presented the filing that we've presented.

11 A week or two, maybe even longer ago, Qwest  
12 made some public announcements with regard to some  
13 changes in positions that it would take. One of those  
14 publicly announced changes in position was a withdrawal  
15 of its advocacy on the interLCA proposal, and we were,  
16 therefore, faced with a decision of do we let the  
17 Commission proceed to decide an issue that we don't  
18 think the Commission has to decide any longer, or do we  
19 notify the Commission in a formal way that it's  
20 appropriate to the docket that we have revised our  
21 position, and we chose the latter, I think, as the  
22 better course of action, and we don't think that is  
23 objectionable, and we don't think it ought to prompt an  
24 opportunity for either additional delay or additional  
25 testimony, except to the extent it's appropriate to

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1 discuss it in the next workshop. Second, I thought  
2 that a little bit of context in the record may help  
3 explain why we did what we did.

4 JUDGE RENDAHL: Thank you.

5 MR. HARLOW: May I respond?

6 JUDGE RENDAHL: Briefly.

7 MR. HARLOW: We appreciate the announcements,  
8 and the problem is, we have to work from a record in  
9 this proceeding, number one. Number two, the devil is  
10 in the details, and while we might appreciate in  
11 principle this change of position by Qwest, until we  
12 see the details and know whether the changes have been  
13 made properly to the SGAT, we really don't know if this  
14 issue goes away or whether it creates new issues we  
15 have to address, and that's why at a minimum, I think  
16 we need a chance to have full opportunity to evaluate  
17 it, and if need be, to file supplemental responsive  
18 testimony.

19 JUDGE RENDAHL: Let's turn next to the issue  
20 that Ms. Tribby raised about Qwest filing changes to  
21 the SGAT, and I guess I would like to hear from Qwest  
22 at this point as to what its plans are and when we  
23 might see those revisions filed here. Mr. Beck or  
24 Ms. Anderl?

25 MS. ANDERL: I'm prepared to address it.

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1 Mr. Beck and I didn't actually decide who was going to  
2 address this ahead of time.

3 MR. BECK: Go ahead, Ms. Anderl.

4 MS. ANDERL: I was just reviewing the  
5 transcript from the August 29th prehearing conference,  
6 and there are a number of references in that document  
7 to the submission of the revised SGAT prior to the  
8 workshop. At that point in time, no one discussed a  
9 deadline for such revision, and I would be happy if we  
10 wanted to discuss that at this point. I think that our  
11 intent was to submit it approximately a week ahead of  
12 the workshop in order that there be a balance between  
13 time for parties to review the language and close  
14 enough in time to the workshop so all of the most  
15 recent and relevant changes were reflected, so that  
16 will be our proposal would be the 30th of October.

17 JUDGE RENDAHL: The schedule that we  
18 currently have is that responsive testimony is due on  
19 October 9th and Qwest's reply testimony is due on the  
20 20th, and then you're proposing to file something on  
21 the 30th, which would include, I guess, the revised  
22 SGAT language on the interLCA modification as well as  
23 other matters, and I'm sensitive to the parties' need  
24 to be able to effectively respond to that in the  
25 workshop.

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1           My thought is that Qwest may need to file  
2 SGAT changes earlier than the 30th in order to  
3 accommodate a need for the parties to file supplemental  
4 testimony just on the issues of whatever additional new  
5 SGAT language that the parties have not seen and need  
6 to address. First, I'll hear from Qwest and then I'll  
7 hear from other parties on that.

8           MS. ANDERL: Thank you, Your Honor. I  
9 understand your concerns in the desire to see things  
10 earlier. I guess the reality is that when we come to  
11 the workshop on November 6th, most of the parties in  
12 attendance will have been to other workshops and will  
13 know the, quote unquote, most current state of affairs  
14 and will be wanting to probably talk about where we are  
15 right at that moment in time, and whether that's  
16 through a fairly recently filed SGAT and supplemental  
17 testimony or whether it's through just oral testimony  
18 presented at the workshop, I think we are best served  
19 by keeping as current as we can, and certainly, the  
20 workshops have been more than just an opportunity for  
21 the participants to repeat their prefile testimony.

22           I think that we've gone into a great deal  
23 more detail and even gone outside what the parties set  
24 forth in their prefile in order to fully develop the  
25 issues, so we don't object to people addressing the

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1 SGAT language through discussion at the workshop  
2 itself, and maybe that's the best way to handle it.

3 JUDGE RENDAHL: Ms. Tribby?

4 MS. TRIBBY: Thank you, Your Honor. This  
5 raises a concern that has come up within the last two  
6 weeks in other jurisdictions, in the multistate this  
7 week and in Colorado two weeks ago, where these same  
8 issues that are scheduled for Workshop 2,  
9 interconnection and collocation, are being discussed.

10 U S West filed its revised SGAT on these  
11 issues a week ago, a week before the multistate was  
12 going to address them starting yesterday, and filed  
13 them the night before the workshop was scheduled to  
14 start in Colorado. We objected in both of those  
15 dockets saying that we did not have adequate time to  
16 review or comment on the new information. The  
17 multistate is still working through those issues this  
18 week. What happened in Colorado is although U S West  
19 was allowed to present its proposals orally, no one was  
20 expected to be in a position to comment on those, and  
21 yet another follow-up workshop on interconnection and  
22 collocation is scheduled, even though they've already  
23 had seven days on those issues in Colorado.

24 One thing I don't understand is if this SGAT  
25 is ready and it's new and it's been filed two weeks ago

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1 in Colorado, why isn't it filed in Washington yet? And  
2 maybe they intend to put issues in that happened this  
3 week in the multistate, but the moving target problem  
4 continues to be a concern. First of all, if we don't  
5 have an opportunity to file responsive testimony such  
6 that the SGAT is filed before our responsive testimony  
7 is due, then your record is incomplete on any of the  
8 new issues.

9           Second, if we get it before the workshop, any  
10 shorter than two weeks before the workshop, we don't  
11 have an opportunity to review it to even try to make an  
12 oral record with respect to this. I'm sensitive to you  
13 guys not wanting to move workshop dates and how tight  
14 the calendar is, but we simply can't come in and help  
15 you create a full and complete record, either written  
16 or oral, if we don't have these materials in advance  
17 enough to file written comments or at least be able to  
18 address them orally with the possibility of a follow-up  
19 workshop or following responsive testimony. It just  
20 makes it too difficult. What you have then is you have  
21 testimony in the record that's all based on an earlier  
22 SGAT, and then you have a new SGAT making the previous  
23 testimony stale or at least out of date.

24           JUDGE RENDAHL: Mr. Harlow?

25           MR. HARLOW: I'll state that Covad and

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1 WorldCom are concerned as well, but I think that's  
2 perhaps a huge understatement. Again, as I mentioned  
3 prior to going on the record, we are in the process of  
4 drafting testimony that likely will be rendered at  
5 least stale -- more likely, some of it may be rendered  
6 moot -- by the revised SGAT, and we've really got a  
7 cart-before-the-horse problem here.

8 I would guess, because we have seen the  
9 filing in the multistate -- I'm not personally a  
10 participant in Colorado, and Covad, by the way, is not  
11 a participant in the multistate, so not all the parties  
12 will necessarily have seen this revised SGAT, but I  
13 think Ms. Anderl's point is a good one the other way,  
14 which is that they've been through this exercise of  
15 revising the SGAT. We can't really file our testimony  
16 and address it to an SGAT that's been filed in another  
17 state because we'll have problems procedurally with our  
18 record, number one.

19 Number two, there are some revisions that are  
20 state specific that I assume Qwest will be making. We  
21 can't address those or predict those, but they are of a  
22 nature that Qwest could -- if you really held their  
23 feet to the fire, I'll bet they could file a revised  
24 SGAT by the end of this week. I think if you gave them  
25 a week to do it, that would be more than enough time

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1 for Qwest to get its revised SGAT in here, and that  
2 would at least allow us a reasonable opportunity to  
3 file supplemental responsive testimony, perhaps 10 days  
4 or so after that revised filing, and we would be in a  
5 better position to join in the issues by the time the  
6 workshops start in this state.

7 JUDGE RENDAHL: Any comments from anyone on  
8 the bridge line?

9 MS. TRIBBY: I was just going to comment on  
10 Mr. Harlow's suggestion. If that's the approach and  
11 Qwest agrees to file their revised SGAT, I would ask  
12 that the October 9th date be moved, and instead of the  
13 burden being put on us to file two sets of comments  
14 that we simply have an opportunity to review it and  
15 file one set of comments. I know that's going to  
16 crunch the times before the workshop, but I think  
17 that's the only appropriate way to do that.

18 MR. HARLOW: We would support that suggestion  
19 as well, Your Honor.

20 JUDGE RENDAHL: Anyone on the bridge line  
21 aside from Qwest?

22 MS. RACKNER: I'd like to second for my  
23 client Ms. Tribby's suggestion.

24 MR. FFITCH: Simon ffitich, Public Counsel. I  
25 want to apologize, Your Honor. I had calendars that

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1 said the start time was 9:30. Clearly, you are under  
2 way.

3 JUDGE RENDAHL: We started at 9:00, and  
4 basically, we are just launching into some of the  
5 issues involved in Workshop 2, and I think we've agreed  
6 that 272 issues will be moved, and we'll talk about  
7 where they will go to in a little bit, and right now,  
8 we are talking about the issue of Qwest's likely filing  
9 a new SGAT with new language and how that affects the  
10 parties' ability to file responsive testimony or the  
11 need to file supplemental testimony.

12 MR. FFITCH: Thank you, Your Honor. I think  
13 our primary interest is in the subjects to be taken up  
14 at the various workshops.

15 JUDGE RENDAHL: Is there anyone else on the  
16 bridge line who would like to comment on this issue?

17 MS. STEELE: We agree that the only way to  
18 develop a coherent record here is to require Qwest to  
19 file their SGAT early enough that the parties can file  
20 comments, and we would agree with the suggestion of  
21 Mr. Harlow.

22 MR. HEATH: Sprint would concur with those  
23 remarks as well.

24 JUDGE RENDAHL: Any follow-up by Qwest?

25 MS. ANDERL: I think that the parties'

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1 comments are really issues that we have been aware of  
2 all along, or at least the participants in the workshop  
3 should have been aware of all along. I think we get  
4 both benefit and, indeed, some pain by not being first  
5 in the workshop process, but as I said, we've known  
6 that all along.

7         If we file an SGAT next week, which I'm not  
8 aware whether we can or not because, literally,  
9 everyone involved in the 271 process except myself and  
10 Mr. Beck are in Utah in the six-state process right  
11 now, but if we were to file one next week and then we  
12 come to the workshop on November 6th, we are faced with  
13 criticism that our SGAT language does not reflect the  
14 most recent agreements reached by the parties.

15         If we file an SGAT later than next week, we  
16 are faced with criticisms during the workshop that we  
17 did not give the parties enough time to review the  
18 revised SGAT, so its kind of the classic  
19 rock-and-hard-place situation, and I think that the  
20 Commission just has to select the lesser of those two  
21 evils because there is no solution that avoids those  
22 two evils. Either we have potentially stale SGAT  
23 language or potentially stale testimony. I don't think  
24 that the issue of potentially stale testimony is a bad  
25 thing, because if some of our changes to our SGAT

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1 render some of the testimony moot, that should make the  
2 other parties happy. It likely means that we've  
3 changed in the direction that they wanted to see us  
4 move all along, and the process is working, and this  
5 workshop is benefitting from not being first in the  
6 workshop process, so we would, therefore, propose that  
7 it is of more value to have in the current record to  
8 allow us a long enough time to update the SGAT to  
9 reasonably reflect the current situation prior to the  
10 workshop and allow the parties a week to review it and  
11 comment on it orally during the proceeding. I think  
12 it's very likely that they will be able to do that  
13 because it's very likely the changes made to the SGAT  
14 will reflect changes that resulted from workshops in  
15 which those other parties have been participating in,  
16 and therefore, we think that is the better way to go of  
17 the two choices that are before you.

18 JUDGE RENDAHL: I think I'm ready to make a  
19 decision on this. I do think the parties need to be  
20 able to comment on Qwest's proposed SGAT changes, and  
21 given that it appears that some of these changes are  
22 already being proposed in other states, I would like to  
23 go ahead with the October 9th filing date just on the  
24 existing general issues. There are enough general  
25 issues that I'm sure the parties are already

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1 addressing. I think it's important to go ahead and  
2 keep the October 9th testimony date.

3 I'm going to ask Qwest at the time they file  
4 their responsive testimony on the 20th to file an  
5 updated SGAT at that time. I think that would give  
6 Qwest sufficient time to incorporate the current  
7 changes that have been proposed and to give parties an  
8 opportunity to file supplemental responsive testimony  
9 on October 30th, and that will give Qwest a week before  
10 the workshop to review those testimony responses.

11 MR. HARLOW: One clarification. Can the  
12 parties withhold testimony on issues that they expect  
13 are going to be addressed or changed significantly as a  
14 result of the revised SGAT, and I have specifics in  
15 mind. I think ATM collocation and the CLEC  
16 cross-connects are a couple of issues we expect to be  
17 addressed with the October 20th filing, or do we have  
18 to file our testimony opposing the record as it is  
19 today only to have it rendered moot on the 20th?

20 JUDGE RENDAHL: I understand the issue of  
21 keeping a proper record in this proceeding, but this is  
22 a little bit different than other proceedings, and I  
23 guess what I would suggest is if you were aware through  
24 your involvement in other jurisdictions there are going  
25 to be significant changes on collocation and certain

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1 issues that you discuss that in your responsive  
2 testimony on the 9th and indicate you will be  
3 addressing it in your October 30th testimony.

4 MR. HARLOW: Kind of a placeholder approach,  
5 Your Honor?

6 JUDGE RENDAHL: Exactly.

7 MS. TRIBBY: Did you give a date for  
8 additional comments by CLECs?

9 JUDGE RENDAHL: October 9th will be the  
10 responsive testimony date. October 20th is the date  
11 that Qwest will file its reply testimony and revised  
12 SGAT, and October 30th is the date that parties will  
13 file supplemental responsive testimony.

14 MS. TRIBBY: Your Honor, that's fine. We  
15 will certainly attempt to review the new SGAT and file  
16 new testimony in 10 days. It obviously depends on the  
17 scope of those changes whether we will be able to file  
18 full and complete testimony on all of those changes on  
19 the 30th.

20 The other request that I would make, because  
21 like Ms. Anderl, my entire interconnection and  
22 collocation team is in Utah this week for the  
23 multistate through Friday. I would request that the  
24 date of the 9th be moved a day or two to let them get  
25 back in the office and complete the testimony to file

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1 in Washington next week.

2 JUDGE RENDAHL: Does Qwest have an objection  
3 to that?

4 MS. ANDERL: Unfortunately, we do. That  
5 creates a little bit of a difficulty for us.  
6 Ms. Tribby and I talked about this before the hearing  
7 today, and she graciously offered the date of the 20th  
8 could also slip a day or so, but unfortunately, our  
9 witnesses are in workshops until the week of the 23rd,  
10 so we, therefore, only have the time between when we  
11 get the other parties' responsive testimony, either on  
12 the 9th or the 11th, until the 19th to do our testimony  
13 effectively, so extra days beyond that do not help us,  
14 and fewer days between the 9th or the 11th and the 19th  
15 actually is a fairly significant issue for us, so while  
16 a two-day request is an apparently small thing and we  
17 would like to say no problem, it actually does cause us  
18 a bit of a problem.

19 MS. TRIBBY: Your Honor, unlike what we are  
20 being asked to do with new information, Qwest is aware,  
21 particularly with respect to the old SGAT, of what our  
22 rebuttal testimony has generally looked like in other  
23 states. I don't think that that's burdensome to give  
24 us two additional days and take two days away from  
25 their 11-day response time.

01005

1 MS. ANDERL: And I guess I would only respond  
2 that if that is the case and it's similar to what is  
3 being done in other states, then it shouldn't be a  
4 problem to turn it around in a month.

5 MS. TRIBBY: Particularly given that we are  
6 being asked to put placeholders in and indicate what we  
7 think we might be filing new responsive testimony on,  
8 that's something that I believe our team can only do  
9 after the workshop is completed this week.

10 JUDGE RENDAHL: I understand the time crunch  
11 that everyone is involved with. We are experiencing  
12 the same thing in terms of trying to schedule this  
13 matter in terms of all the other matters that are going  
14 on.

15 I believe that it's appropriate, given the  
16 parties' involvement in other states, I'm going to give  
17 the parties an additional day until October 10th. I  
18 realize that's not the two days that you requested, but  
19 I think there is a short enough turnaround time for  
20 Qwest, and given their involvement that two days would  
21 be a severe impact, so Ms. Anderl, I'm going to give an  
22 additional day for responsive testimony, and if you do  
23 need a request later on for an additional day until  
24 Monday, I'm sure that will not be a problem.

25 MS. ANDERL: Thank you very much. I think if

01006

1 we received the testimony on the 10th, either  
2 electronically or fax or some other way, preferably  
3 electronically, that will be workable for us, but we  
4 would ask until the 23rd if it turns out that we need  
5 it.

6 MR. HARLOW: I'm assuming that the date for  
7 filing the revised SGAT would not move to the 23rd,  
8 however?

9 JUDGE RENDAHL: I think it would. Out of  
10 fairness, I think if Qwest needs until the 23rd, then  
11 I'm prepared to grant that, and if you would like an  
12 additional day until the 31st for your responsive  
13 testimony, I'm happy to move the schedule, but I'm not  
14 looking at moving more than a day or two.

15 MS. TRIBBY: Your Honor, these days,  
16 everybody in our industry is working weekends so that's  
17 three days, and we cannot respond to an entire new  
18 SGAT, which is over 100 pages long, in seven days.

19 MR. HARLOW: I don't see why the SGAT can't  
20 be something that they are working on without seeing --  
21 it wouldn't seem like they are going to be making these  
22 revisions in response to AT&T's testimony filed next  
23 Tuesday. The SGAT is something they are working on a  
24 response to issues that they've already decided as well  
25 as agreements reached this week in Utah, so that's why

01007

1 I didn't think there was any need to move the SGAT if  
2 you did end up moving the rebuttal testimony.

3 JUDGE RENDAHL: Response from Qwest?

4 MS. ANDERL: I wish I could enlighten you.

5 I'm not in immediate contact with the people who are  
6 going to be doing that work, so I can't know if it's  
7 easier to kind of just do it all at once, but I  
8 actually sympathize with Ms. Tribby's complaint that  
9 Saturdays and Sundays do count.

10 JUDGE RENDAHL: At this point, let's be  
11 prepared to file responsive testimony on October 10th,  
12 the SGAT on October 20th, any reply testimony on the  
13 23rd, if need be -- the 20th preferably, the 23rd if  
14 you need it -- and October 30th, I guess, 31st, for  
15 responsive testimony.

16 MS. ANDERL: At this point, we are planning  
17 on filing the revised SGAT and the rebuttal testimony  
18 on the 20th. We will ask if we need the 23rd.

19 JUDGE RENDAHL: If you need the 23rd for your  
20 responsive testimony, then I will move the supplemental  
21 responsive testimony date to the 31st, so I'll recap  
22 that: The responsive testimony will be due on Tuesday,  
23 October 10th, and I would recommend that everyone send  
24 an electronic version or by fax so that everyone can  
25 receive it on that day. Qwest will file at this point

01008

1 its SGAT and reply testimony on the 20th but may  
2 request an extension to the 23rd for its reply  
3 testimony to the 23rd. Barring that request for a  
4 delay to the 23rd, supplemental responsive testimony  
5 will be due the 30th. If Qwest requests an extension,  
6 then the supplemental responsive testimony will be due  
7 on the 31st.

8 I think we've spent enough time on this  
9 topic, and I would like to move on to the last issue  
10 involving the November workshop, and that's our  
11 follow-up workshop dates. As I'm sure you are all  
12 aware, the dates that were set in the supplemental  
13 interpretive and policy statement for the 28th and 29th  
14 of November will not work because of the generic  
15 proceedings that week. We had proposed having a  
16 follow-up hearing for the week of the two days, Monday  
17 and Tuesday, November 20th and 21st. However, many of  
18 the parties have expressed a preference that that will  
19 not work for them, and in addition, the generic  
20 proceedings are going on that week so we would have  
21 limited time and wouldn't have the benefit of two full  
22 days. Given that, it doesn't appear that it will be  
23 workable to schedule follow-up workshops in November.

24 Given the schedule that we have in the  
25 generic proceeding and in other cases, the likelihood

01009

1 is that we would not be able to schedule a follow-up  
2 workshop for this Workshop 2 until January. Another  
3 proposal we had discussed is whether we need a  
4 follow-up workshop in this case. It appears that it  
5 has been necessary in other states and jurisdictions,  
6 and I would like to have some discussion about January  
7 or no follow-up at this point just very briefly.  
8 Qwest?

9 MS. ANDERL: I am not at this point prepared  
10 to say that we can do without a follow-up workshop  
11 because of our experience in the other states. Perhaps  
12 the environment will have changed by January because we  
13 will have had follow-up workshops in the other states,  
14 obviating the need for one in Washington, but certainly  
15 at this point, I don't think I'm in a position to  
16 represent that there won't be a need for follow-up  
17 workshops, especially since it's not wholly within any  
18 one parties' control.

19 MS. TRIBBY: I would agree with that.

20 MR. HARLOW: We would agree, and January  
21 looks like a good time to schedule that.

22 JUDGE RENDAHL: Comments from the bridge  
23 line?

24 MR. HEATH: I would agree as well for Sprint.

25 MS. STEELE: I agree as well.

01010

1 MS. RACKNER: I agree. Particularly, January  
2 is quite open compared to any month.

3 MR. FFITCH: Public Counsel would agree with  
4 that.

5 JUDGE RENDAHL: I have a calendar. Does  
6 anyone else have calendars for January 2001?

7 MR. BECK: Yes, Judge, I have one. One thing  
8 I can tell you, Judge -- I don't know if this will  
9 help -- it looks like the witnesses we have for  
10 Workshop 2 will be tied up the week of the 8th and 22nd  
11 in Colorado workshops. I should say it's a substantial  
12 possibility the week of the 8th. The week of the 22nd,  
13 we will definitely have an overlap problem.

14 JUDGE RENDAHL: The week of the 8th is not  
15 good for me. My husband will be out of town, and I  
16 don't want to risk not being able to be here if there  
17 is a child sick, so the week of the 8th is not a good  
18 week.

19 MS. TRIBBY: Unfortunately, January is  
20 looking sort of full. It looks like the week of the  
21 16th there are workshops and also the week of the 22nd  
22 at this point.

23 MR. BECK: The week of the 15th are emerging  
24 services workshops that are, at least from our  
25 perspective, not an overlap.

01011

1 MS. TRIBBY: We have the same witness on all  
2 of these topics.

3 JUDGE RENDAHL: I would assume if there is a  
4 workshop going on, that everyone's witnesses are not  
5 available, so it looks like we are working in the week  
6 of the 22nd and the week of the 29th; is that correct?

7 MR. BECK: I think that's what I'm hearing.

8 MS. TRIBBY: There is a ROC workshop  
9 scheduled the 3rd through the 5th.

10 JUDGE RENDAHL: It looks like we're looking  
11 at the week of the 29th then.

12 MR. BECK: The 3rd through the 5th is on the  
13 performance assurance plan, so I don't think that's the  
14 same witnesses you have for Workshop 2.

15 MS. TRIBBY: It may or may not be. We can  
16 look at that week as well and try to work around that.

17 JUDGE RENDAHL: I think it would be  
18 preferable to go as early as possible, because  
19 obviously, having a follow-up workshop late in January  
20 will -- moving this to January anyway is going to move  
21 the schedule that we had proposed for proposed workshop  
22 dates. I'd like to schedule it now, if we can, so  
23 let's tentatively work on that week of the 2nd, and if  
24 not, we'll go to the week of the 29th. Is there anyone  
25 from the bridge line who has any additional thoughts on

01012

1 dates?

2 MS. ANDERL: I just thought that the 4th and  
3 the 5th of January looked promising.

4 MS. TRIBBY: I'm happy to discuss them today,  
5 but without knowing the calendars of the lawyers and  
6 witnesses, I can't give you a firm answer today.

7 JUDGE RENDAHL: I understand that, and if we  
8 can confirm that maybe by the end of the week, that  
9 will be helpful. Does anyone on the bridge line have  
10 any conflict with scheduling a workshop either the 3rd  
11 and 4th or the 4th and 5th?

12 MR. FFITCH: No, Your Honor.

13 MR. HEATH: No.

14 MS. RACKNER: No.

15 MS. STEELE: No.

16 JUDGE RENDAHL: We have based our  
17 post-workshop schedule on having the follow-up workshop  
18 in late November. If we schedule a follow-up workshop  
19 on January 4th and 5th or 3rd and 4th -- I guess I'll  
20 ask, do we think we need three days or two based on the  
21 experience in other states?

22 MS. TRIBBY: Given that these topics have  
23 gone seven in Colorado with an additional two or three  
24 scheduled, I think I would schedule three, and then if  
25 we could back off of that, I would be happy to.

01013

1 JUDGE RENDAHL: We will tentatively schedule  
2 the 3rd through the 5th. What do the parties need for  
3 filing their post-workshop brief?

4 MS. ANDERL: Had we previously agreed upon  
5 two weeks or three?

6 JUDGE RENDAHL: I think it was dependent on  
7 the generic schedule. It was December 20th, which I  
8 think is a three-week period.

9 MS. ANDERL: But that's because we were all  
10 in hearings?

11 JUDGE RENDAHL: Yes.

12 MS. ANDERL: Then I would suggest the 19th.

13 MS. TRIBBY: Your Honor, I'll work with that  
14 if that's your choice. Looking at this schedule and  
15 knowing the schedule of my lawyers and witnesses, I'm  
16 extremely concerned in January.

17 MR. BECK: I don't know if we need to go off  
18 the record on this, but will that allow sufficient time  
19 for transcript production?

20 JUDGE RENDAHL: Let's go off the record.

21 (Discussion off the record.)

22 JUDGE RENDAHL: After a break and some  
23 off-the-record discussion, we have reached some  
24 conclusions on scheduling for Workshop 2. The  
25 follow-up workshop will be scheduled on January 3rd

01014

1 through 5th, the year 2001, unless I hear back from the  
2 other parties by the end of the week that those dates  
3 will not work for a follow-up workshop. Barring any  
4 problems with that schedule, post-workshop briefs on  
5 Workshop 2 are due here at the Commission in hard copy  
6 on January the 22nd. The draft initial order will be  
7 sent out to the parties electronically and by mail on  
8 February the 12th, 2001, and comments on that draft  
9 initial order are due in hard copy at the Commission on  
10 February 6th, 2001, and a presentation to the  
11 commissioners I will attempt to schedule the week of  
12 March 5th.

13 We had extensive discussion on what topics  
14 should be scheduled in Workshops 3 and 4 and determined  
15 that a fourth workshop is, in fact, necessary, given  
16 Qwest's request to shift 272 issues and the need to  
17 address emerging services, public interest, Track A  
18 issues and performance, so the parties agreed, unless I  
19 hear on the record now, that the following topics will  
20 be addressed in Workshop 3: That will be Checklist  
21 Items No. 2, UNEs; No. 4, bloopers; No. 5, transport;  
22 No. 6, switching, and emerging services.

23 MR. BECK: Judge, just so the record is  
24 clear, it wasn't really an agreement on Qwest's part,  
25 but there certainly appears to be consensus in the room

01015

1 that those are the topics, but we would prefer to see a  
2 little more in there.

3 JUDGE RENDAHL: The schedule that was set at  
4 the August 29th prehearing conference for Workshop 2  
5 remains the same, and that is the workshop will be held  
6 on March 12th through 16th; the follow-up workshop  
7 March 26th and 27th. The post-workshop briefs are due  
8 on April 17th with a draft initial order due on May  
9 11th. Comments on that draft are due on May 25th, and  
10 a presentation to the commissioners has yet to be  
11 scheduled.

12 For Workshop 4, as Mr. Beck correctly noted,  
13 it's not Qwest's preference, but this appears to be the  
14 best way to address the matter. Workshop 4 will  
15 address Section 272 issues, public interest, Track A,  
16 and performance issues. Several parties noted that  
17 there is a possibility of performance issues. If the  
18 ROC has not completed its audit of the performance  
19 measures by the end of April as is currently scheduled  
20 that we will need to be discussing scheduling for  
21 performance issues, and whether that means we take  
22 performance issues and move them to a fifth workshop or  
23 delay the fourth workshop entirely to address  
24 performance issues, we will deal with that at a later  
25 date, but we did agree on some scheduling for the

01016

1 fourth workshop.

2       As noted in the supplemental interpretive and  
3 policy statement, Qwest's initial testimony is due on  
4 May 16th with answering testimony due June 7th and  
5 rebuttal testimony due on June 21st. We scheduled a  
6 five-day workshop beginning Monday, July the 9th, a  
7 three-day follow-up workshop scheduled July 31st  
8 through August 2nd with post-workshop briefs due August  
9 24th.

10       The draft initial order is due on September  
11 14th. Comments on that draft initial order are due on  
12 September 28th with a conference with the commissioners  
13 yet to be scheduled, and as I noted off the record,  
14 it's premature at this point to discuss what we do  
15 following the fourth workshop in terms of when Qwest  
16 would file its request with the FCC and when the  
17 Commission's report to the FCC would be due, and I  
18 assume that we will discuss that prior to the fourth  
19 workshop.

20       We also discussed off the record the issue  
21 that AT&T had raised concerning whether parties may  
22 file affidavits instead of the prefiled testimony  
23 required by the Commission's procedural rules, and I've  
24 noted that I will grant the request to suspend WAC  
25 480-09-736, sub 7 and 8, of the hearing guidelines, but

01017

1 that does not mean that that's a blanket requirement  
2 for all parties. If any party wishes to file their  
3 testimony in the form of an affidavit, they may do so,  
4 keeping in mind that we need to have line numbers,  
5 three-hole punched. The same requirements, just it  
6 doesn't have to be in a Q and A format.

7 I believe that is what we discussed off  
8 record. Does anybody have any comments, anything I  
9 missed in my recap of our discussion? Hearing nothing,  
10 Ms. Tribby had also noted at the beginning of this  
11 prehearing conference that she had some overall  
12 procedural concerns that she wished to raise, and I  
13 will now turn the mike over to Ms. Tribby.

14 MS. TRIBBY: Thank you, Your Honor. Mostly,  
15 I want to raise some issues that I think we need to be  
16 concerned about going forward, and the comments here  
17 today about procedures have simply highlighted the  
18 concerns that AT&T has.

19 We objected at the beginning in every state  
20 to this workshop process that has now been undertaken  
21 by all of the states that are looking at 272 issues.  
22 Our concern being that the way the Federal Act was set  
23 up was that it intended that a party would file an  
24 application with a state when it was prepared to  
25 satisfy that application and was prepared to go to the

01018

1 FCC, and just what we feared would happen has happened.  
2 U S West, we think, prematurely filed its applications,  
3 and what we see now is a process where we sit in weeks  
4 and weeks and weeks of workshops helping U S West  
5 decide how it's going to comply with the Federal Act,  
6 and what we see is instead of coming in with a fully  
7 compliant application, U S West continues to modify and  
8 change its positions, and this is only highlighted by  
9 the fact that after they chose to file a 272 case in  
10 one of the other jurisdictions, after they received the  
11 testimony from the other parties indicating that we did  
12 not believe they satisfied Section 272, they pulled  
13 that from the record in all states, and as Mr. Beck has  
14 indicated today, don't even know at this point who  
15 their long-distance subsidiary is going to be. That  
16 being the case, there is no way they are compliant  
17 today with their 271 and 272 obligations, and we think  
18 that it is a waste of the Commission's resources and  
19 all the parties' resources to be going through this  
20 process at this point in time.

21           Something else that's happened in the last  
22 couple of weeks also highlights the problem. We went  
23 through Workshop 1 issues in this state, which were  
24 considered sort of the noncontroversial issues. Those  
25 had started in Arizona a year ago, had been fully

01019

1 litigated there. They've been fully litigated in all  
2 the other proceedings with the exception of the  
3 multistate and maybe Oregon.

4           We went through the workshop here. We filed  
5 briefs. We had a staff order. We filed comments on  
6 that. We had another staff order, filed comments on  
7 that, and we went through the Commission presentation,  
8 all of this a year after the issues began in Arizona.  
9 Following that, U S West has filed a change in position  
10 on those issues. They've pulled out previous proposals  
11 and put in this new interLCA proposal, which we still  
12 have yet to even see the language on. Mr. Beck filed  
13 also this week a change in SGAT language on Checklist  
14 Item 3 -- pulls, ducts, conduits -- something that in  
15 our opinion the record has been closed on in  
16 Washington.

17           Obviously, we don't want to discourage U S  
18 West compliance. We just think it's out of process,  
19 and the question I raise today and I think we need to  
20 deal with in Washington going forward is should we even  
21 be going to the step of having draft orders, and  
22 certainly, should we go to the step of having  
23 Commission presentations when these checklist items  
24 continue to be a moving target, and our recommendation  
25 would be -- I filed a motion to stay, and I did that

01020

1 based on all of these concerns. If we are going to go  
2 forward with this process, it is critical that if you  
3 do go through filing a draft order that that remain  
4 simply a draft until we finally get to a point where U  
5 S West is willing to say, This is our position on these  
6 checklist items and this is what we are willing to go  
7 to the FCC with.

8 Another issue that will highlight the  
9 problem, we agreed in this state and in other states  
10 that U S West had satisfied its directory listings  
11 obligations, one of the initial checklist items that we  
12 discussed, based on U S West's very adamant  
13 representation in these and other states that CLECs and  
14 U S West were treated alike with respect to directory  
15 listings and that the performance data would bear that  
16 out. The ROC process has now issued an exception  
17 saying that they have found that, in fact, those  
18 representations were not true. CLECs, or at least some  
19 of the CLECs' data is input manually, while all of U S  
20 West retail data is put in mechanically.

21 Again, we've got to go back and reopen the  
22 record and look at these issues that we previously had  
23 given them a pass on or that we previously had issued  
24 orders on and reopen the record, and Ms. Anderl said  
25 today in discussing the interLCA proposal that they

01021

1 brought in this new proposal because they had failed in  
2 the Commission's initial orders. Well, we don't think  
3 that's the right process. We don't think that all of  
4 us should sit through workshops, file testimony, you  
5 should issue an order telling them what they don't pass  
6 on, and then they come in and give it another shot. We  
7 think that's a waste of resources, and we are concerned  
8 with this commission and the parties going forward with  
9 this moving target. We've been concerned from the  
10 beginning and we continue to be concerned.

11 The ROC OSS test is starting to file  
12 significant and numerous exceptions showing that there  
13 is problems with Qwest's data. Again, we think that  
14 their application is premature. I guess where we are  
15 is if this Commission decides to continue to go forward  
16 with what is, as U S West has admitted themselves, a  
17 premature application because they are not currently  
18 compliant, at least with 272, that you set up some  
19 procedures or try to going forward, and obviously, we  
20 are willing to help you do that, as we have been trying  
21 to do today, to make sure that we are using the most  
22 efficient process that we can in creating the best  
23 record for the FCC.

24 Our concern at this point is that we are  
25 going to have an extremely muddy record for both the

01022

1 Commission to make its decision on and the FCC to make  
2 its decision on, and based on our initial concerns and  
3 all of the things that have happened recently to  
4 support our concerns about their application being  
5 premature, we would ask that you seriously consider  
6 holding off on any further review of U S West 271  
7 applications and actually let these processes in the  
8 other states play through as U S West has continually  
9 said will be a benefit to everyone, because what we are  
10 seeing right now is even though those are playing out  
11 in other states, it continues to be a moving target  
12 making it very difficult for us as well as for the  
13 staff to follow the process and create a clean record.

14 I wanted to raise these concerns as early as  
15 possible and to explain to you the reason for my motion  
16 to stay that was filed last week.

17 JUDGE RENDAHL: Thank you. I'm going to give  
18 Qwest an opportunity to respond. I did want to note  
19 that if you are making motions, and I did understand,  
20 Ms. Tribby, what you were doing is making a motion.  
21 Unfortunately, it was in the context of a letter, and  
22 not that we need to formalize things endlessly, but it  
23 does help to have things formalized in a more formal  
24 motion. It gives Qwest an opportunity to respond and  
25 other parties to weigh in, so in the future, we will

01023

1 handle things that way, but I do understand your  
2 request the way you made it.

3 MS. TRIBBY: I apologize, Your Honor. I will  
4 do that in the future.

5 JUDGE RENDAHL: Ms. Anderl or Mr. Beck?

6 MR. BECK: I'd be happy to address this,  
7 Judge. I'm not sure where to start here, but I think  
8 one place to start is a statement, Judge, you made  
9 earlier today. This proceeding is a different animal  
10 than any other proceeding that at least I've ever been  
11 involved in in the regulatory arena. It is a type of  
12 proceeding endorsed by the FCC. The workshop process  
13 is something that the FCC has embraced, and that is  
14 part of why we filed our cases the way we have in our  
15 various states. The FCC has noted that this really  
16 should be considered litigated negotiation, and as  
17 such, this is not going to come up with the cleanest of  
18 records compared to a typical contested case. That's  
19 part of the nature of the beast.

20 That, to some degree, is unfortunate, but  
21 actually in the end, it's quite fortunate, because it  
22 ends up with the parties agreeing on most issues rather  
23 than disputing most issues. It ends up allowing and  
24 encouraging a party like Qwest to come forward with  
25 many concessions on issues, and I'll note, even on many

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1 issues where it's pretty clear we were legally not  
2 required to do so, and now that Qwest has actually  
3 upped the pace of those concessions, mostly to AT&T's  
4 concerns, we find the rather ironic response from AT&T  
5 is to raise a further cry about the process.

6         What that makes me wonder about is what may  
7 be the motives. There are obviously two reasons, if  
8 you are someone like AT&T, to get involved in this sort  
9 of process. One is to open the local markets up to  
10 competition. Another is to foreclose entry into your  
11 cash-cow market long-distance, and quite frankly, we  
12 were very impressed with AT&T's attitude at the  
13 beginning of this process because AT&T seemed to be  
14 focusing primarily on the first of those goals, i.e.,  
15 trying to push openness of local markets. Now, we may  
16 have disagreed as to how they did it sometimes as to  
17 whether they were pushing beyond the limits of the law,  
18 but I think that primarily that appeared to be their  
19 focus for a number of months.

20         Now we've seen a very abrupt reversal of  
21 course in AT&T's participation not just here in  
22 Washington but in many other fora where they are  
23 pushing for these stays of the process using as  
24 evidence, primarily, the concessions that we are making  
25 to their demands to opening up local competition. It

01025

1 is kind of a rock-and-a-hard-place situation for us. I  
2 hear AT&T asking us to come in here with a hard and  
3 fast set -- the SGAT testimony that we will not vary  
4 on, and they want us to say, We will not concede on  
5 anything. This is it. That's not what this process is  
6 about. That fundamentally robs the efficiency of this  
7 process.

8           It kind of all goes back to this issue of  
9 when do you file the new SGAT? The fact is CLECs raise  
10 new issues at the last day of a workshop or a follow-up  
11 workshop routinely, not just here but elsewhere, and  
12 the fact is we deal with those issues. Those issues do  
13 not go by the wayside because they were raised late.  
14 New language is proposed by CLECs at the last day of a  
15 workshop. We deal with it. It's the nature of the  
16 beast that it's not just litigation. It is negotiation  
17 as well, and for that reason, these concessions  
18 sometimes occur at a less than optimal point. We wish  
19 we could make them all yesterday, and everybody could  
20 take care of their objections starting today and we  
21 would never have to change a thing, but the fact is we  
22 don't know what issues the CLECs are raising. They  
23 raise new issues all the time. We cannot know what  
24 it's going to take to reach consensus in these  
25 workshops ahead of time. Many times, the consensus

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1 goes well beyond the limits of the law, but we are  
2 willing to go there in many cases to get the process  
3 through and to get the entry into long distance, but  
4 for us --

5 JUDGE RENDAHL: Let me ask you a question,  
6 and maybe this goes to both parties. In other  
7 proceedings that the FCC has already considered, I'm  
8 not aware that we had the same type of proceeding that  
9 we have here in other states, which is a combination of  
10 an SGAT proceeding and a 271, which the SGAT involves a  
11 great amount of negotiation and discussion about what  
12 the standard offering will be as opposed to if we  
13 simply had a 271 case what the company's experience is  
14 and how the company is opening up its markets under its  
15 interconnection agreements, and I'm wondering whether  
16 that's part of the issue that's complicating this, and  
17 I just pose that as a question to both of you.

18 MR. BECK: My understanding is that this is  
19 basically very similar to the Texas proceeding. They  
20 had an agreement called the T-2A, the Texas 271  
21 Agreement, that was the focus of most of their  
22 workshops. It was not an interconnection  
23 agreement-based proceeding. I believe New York, they  
24 focused primarily on a model agreement as well, but I  
25 know that's the case in Texas, the most recent approval

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1 from the FCC.

2 MS. TRIBBY: I think that it very much has  
3 complicated the process. The FCC has allowed some of  
4 the RBOCs to rely on an SGAT, so we are stuck in sort  
5 of U S West's decision to do that, but certainly, and,  
6 in fact, this was discussed in the multistate yesterday  
7 when I was there, if we were simply looking at the  
8 interconnection agreements as they exist and whether  
9 U S West is complying with those, I think it would be a  
10 much easier analysis because it takes away the moving  
11 target, which is what is occurring here, and the  
12 problem is that, as U S West has conceded, most of  
13 those interconnection agreements do not contain many of  
14 the concessions that are now being made nor reflect the  
15 change in the law that has occurred since most of those  
16 were entered into.

17 MR. BECK: I'm glad that AT&T has finally  
18 admitted what's going on here. They want to try to  
19 make sure that we cannot in any way make concessions  
20 that may aid our entry into long distance. They want  
21 us to have a frozen record, a frozen point in time, and  
22 what they should be saying is, we are interested in  
23 making sure the markets are open to competition. If  
24 that requires changes in the SGAT, we want to be here  
25 to do that, and we want that to be part of this

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1 process. Instead what they are saying is, We want U S  
2 West in our view not to be compliant with 271. We want  
3 them to stay there. That's not what this is about.

4 MS. TRIBBY: I have a very brief response, if  
5 I might, Your Honor.

6 JUDGE RENDAHL: And then I'll take comments  
7 from the bridge line or Mr. Harlow if people wish to  
8 weigh in.

9 MS. TRIBBY: Mr. Beck wants to call a spade a  
10 spade, and the bottom line is we are more than happy to  
11 see concessions by U S West, but we think there should  
12 be a full and complete due process opportunity to  
13 respond to those to create a full record with respect  
14 to those, and that's all we are asking. The moving  
15 target creates a huge problem for the states and the  
16 CLECs.

17 This is not a change in position for AT&T.  
18 We have argued against this workshop process from the  
19 start. We have always said that we anticipated the  
20 problems we are seeing now, and this is simply raising  
21 it again for your consideration given that there is now  
22 evidence to support the kinds of concerns we had early  
23 on.

24 What I didn't say before and I will say now  
25 is that our concern, such as with 272, is that U S

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1 West's approach is not, Let's see how many concessions  
2 we can make. It's, Let's file a case, see if anybody  
3 objects or catches our noncompliance, and if they do,  
4 we'll refile or start over or put a new SGAT in, and we  
5 don't think that's appropriate. We also think it  
6 creates a very difficult record.

7 All I'm asking today, Your Honor, if you  
8 don't wish to stay the case, which I understand is a  
9 pretty extreme remedy that we are requesting, is that  
10 you do put some procedures in effect to make this work  
11 more efficiently, such as what you have done today.  
12 Make sure CLECs have at least two weeks before a  
13 workshop or before a responsive filing to review new  
14 SGAT language and new positions, which is what you've  
15 done with respect to this next workshop.

16 I also would encourage you, if you are going  
17 to issue draft orders, that those remain draft, given  
18 that U S West is changing its positions even after the  
19 presentations to the Commission and that maybe the  
20 presentations to the Commission should await the  
21 conclusion of the entire process so that they are not  
22 working on what becomes a stale record, as we all are,  
23 when new filings occur after the presentations and  
24 after the draft orders, and I appreciate your  
25 indulgence in listening to this argument today. I just

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1 wanted to raise these concerns as early as possible.

2 JUDGE RENDAHL: Thank you. I would suggest  
3 if you do feel strongly about the issue of draft orders  
4 remaining draft and that the presentations wait until  
5 the end of the process that you make a formal request  
6 and that we allow the commissioners to weigh in on  
7 that, if that is something you feel strongly about.

8 MS. TRIBBY: I know you want to hear from  
9 other parties and I would encourage that, but I would  
10 ask how you want the parties to deal with this  
11 late-filed information that has come in in Workshop 1  
12 since the two draft orders we were issued and the  
13 Commission presentation occurred.

14 JUDGE RENDAHL: Given the schedule you all  
15 have in other cases, is it possible to file something  
16 by next Monday that I can bring to the commissioners  
17 while we are discussing the final order?

18 MS. TRIBBY: As with Mr. Harlow's comments  
19 earlier, we have not had an opportunity, because we've  
20 been in workshops, to fully review these new filings.  
21 I think we can try to do that, and these particular  
22 filings may not require an additional set of responses  
23 by us or an additional workshop. We hope that's the  
24 case, but we'll be able to tell you at least by next  
25 Monday whether we need to file additional comments or

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1 not, if that would be acceptable.

2 JUDGE RENDAHL: That's acceptable.

3 MR. BECK: Are we talking about the Checklist  
4 Item 3 material?

5 MS. TRIBBY: The pulls, ducts, conduits, the  
6 Checklist Item 3, as well as the new interLCA proposal,  
7 which I don't think we've actually seen the new  
8 proposal. I think we've just had a withdrawal of the  
9 old proposal, if I'm not mistaken.

10 MR. BECK: I think we attached new language,  
11 but I don't have it before me.

12 MS. TRIBBY: Which Monday are you referring  
13 to, Your Honor?

14 JUDGE RENDAHL: The 9th.

15 MS. TRIBBY: Because my experts are in the  
16 multistate this week, we can't do it by the 9th. We  
17 can do it later next week, to at least tell you whether  
18 we need an opportunity to have an additional argument  
19 or file written comments.

20 JUDGE RENDAHL: I doubt there will be  
21 additional argument time, but why don't you let me know  
22 by October 11th if you wish to file comments, and then  
23 I would like them as soon as possible.

24 MR. BECK: I'm sorry, I didn't get to finish  
25 what I was starting before, and I think I can clarify

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1 some of this. In Colorado, we are already filing  
2 briefs on the Checklist Item 3 stuff, and as we've  
3 already agreed in workshops here in Washington, we will  
4 be filing those briefs here in Washington as well  
5 because they are federal issues, and that will be this  
6 Friday.

7 MS. TRIBBY: What will those be?

8 MR. BECK: Those will be the briefs on the  
9 remaining impasse issues on Checklist Item 3, which are  
10 the same in Washington as in Colorado.

11 MS. TRIBBY: So do you intend to file then an  
12 additional brief in Washington; is that what you are  
13 saying?

14 MR. BECK: Yes. The procedure that had been  
15 set up is that we would just send a copy of that brief  
16 into this record in this proceeding.

17 JUDGE RENDAHL: My understanding was there  
18 was a process ongoing in Colorado to resolve the access  
19 to right-of-way issues, and I think we had agreed in  
20 the workshop and possibly after the workshop to allow  
21 the parties to let us know what the resolution was, or  
22 if there was no resolution, where the parties stood,  
23 and my understanding is this is sort of the final  
24 either conclusion or final discussion of that issue,  
25 and so to the extent that Qwest is filing something on

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1 Friday on the pulls, ducts, and right-of-way issue, I  
2 would expect to allow parties an opportunity to respond  
3 to that.

4 MS. TRIBBY: I guess the only other  
5 outstanding issue then is the interLCA proposal.

6 JUDGE RENDAHL: My copy that I received on  
7 the 28th of the interLCA proposal does include draft  
8 SGAT language attached to it. It does say it's copied  
9 to all parties, so I'm assuming you do have that  
10 language. To the extent that you do wish to file  
11 responses -- I would assume you would want to -- what  
12 is feasible if you receive Qwest's issues on their  
13 discussion on the 6th? Is the 16th of October a  
14 reasonable --

15 MR. BECK: They are filing briefs on the 6th  
16 as well in Colorado.

17 JUDGE RENDAHL: So it just remains to be the  
18 interLCA issue.

19 MS. TRIBBY: Will we be responding to the new  
20 language on interLCA that Qwest proposed, or does Qwest  
21 intend to file additional comments or testimony  
22 discussing that new proposal, or should we go forward  
23 at this point with what's been put into the record?

24 JUDGE RENDAHL: My understanding is if Qwest  
25 is withdrawing the interLCA proposal that it made in

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1 Workshop 1 and proposing an additional language that  
2 will be discussed in Workshop 2 that it may be best to  
3 simply accept their withdrawal. Maybe you want to  
4 comment on whether the Commission should accept the  
5 withdrawal of the interLCA proposal and leave the  
6 discussion of the new language to Workshop 2, so simply  
7 address whether or not it should be withdrawn or not,  
8 if that's helpful in your comments.

9 MS. TRIBBY: I can tell you that at least  
10 from AT&T's perspective, we don't have a problem with  
11 them withdrawing and putting in a new proposal. It's  
12 just having an opportunity to address it, and if it's  
13 going to be addressed in Workshop 2, that's fine. We  
14 can address it there, and then I assume, or should I  
15 assume that the order coming out of Workshop 2 will  
16 then modify the order from Workshop 1 with respect to  
17 that issue?

18 JUDGE RENDAHL: I'm not sure what the form of  
19 the order coming out of Workshop 1 will look like given  
20 Qwest's withdrawal, so I think we may just address them  
21 separately in each workshop, if that helps, so maybe if  
22 we are getting briefs from AT&T and WorldCom and any  
23 other party from Colorado on the 6th, we don't need to  
24 have additional discussion except if you wish to make a  
25 proposal to the Commission to keep orders draft and not

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1 have the commissioners' presentations.

2 MS. TRIBBY: We will consider doing that,  
3 making a formal order. Why don't we go ahead and file  
4 our brief, because I understand now that you are in the  
5 process, you and the commissioners are in the process  
6 of finalizing an order.

7 JUDGE RENDAHL: That's correct.

8 MS. TRIBBY: So you will be considering the  
9 briefs that have been filed as well as the withdrawal  
10 of the proposal?

11 JUDGE RENDAHL: I assume so since we don't  
12 have a final order yet on Workshop 1.

13 MS. TRIBBY: We will then comment on the new  
14 proposal in the Workshop 2?

15 JUDGE RENDAHL: I think that's appropriate.

16 MS. TRIBBY: Thank you. Understanding that  
17 process helps.

18 JUDGE RENDAHL: Any other comments from the  
19 parties, either from the bridge or Mr. Harlow?

20 MR. HARLOW: I guess we are going back to the  
21 stay, and I guess I couldn't really sum it up better  
22 than Ms. Tribby did, our frustrations with procedurally  
23 how these workshops are proceeding and the piecemeal  
24 approach and the moving target problem, if you will. I  
25 think there was an appropriate amount of passion in

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1 that too for our clients.

2           What I can't say because I've been tied up  
3 otherwise for a few days and I haven't seen the letter,  
4 and so I don't know for certain whether WorldCom and  
5 Covad would support a formal stay motion, so to the  
6 extent that AT&T intends that to be a formal motion, I  
7 think you are probably going to need to call for some  
8 responses to that, at which time WorldCom and Covad  
9 would weigh in on whether they think the appropriate  
10 remedy for the procedural problems and concerns they  
11 share would be a full-blown stay of the proceedings.

12           JUDGE RENDAHL: As I mentioned to Ms. Tribby,  
13 I would prefer that if the parties intend to make that  
14 a formal motion that they do so, and for the purposes  
15 of this prehearing, I've understood AT&T's request, but  
16 I think if we intend to bring that to the  
17 commissioners, it needs to be made in a formal proposal  
18 with clear opportunity for the parties to respond. Any  
19 other parties wish to weigh in on this issue?

20           MS. RACKNER: I would just say on behalf of  
21 my clients that we will be very happy to see a formal  
22 motion, and again, I cannot commit my clients would be  
23 joining, but we would certainly be predisposed to do  
24 so.

25           JUDGE RENDAHL: I want to say I'm not saying

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1 I'm inviting it. I'm just saying that's the proper  
2 process to do so. Any other party?

3 MR. FFITCH: We are very sympathetic to the  
4 issues being raised by the CLECs here. Our concern  
5 here is that the process be good enough so that we  
6 don't have premature Section 271 approval, which is  
7 very harmful to residential and small business  
8 customers, so if there is going to be a motion, we  
9 would like an opportunity to respond to it.

10 JUDGE RENDAHL: Thank you, Mr. ffitch. Any  
11 other comments? Hearing nothing, the last issue I had  
12 on my agenda was this issue that I alluded to earlier  
13 of how parties make filings here at the Commission, and  
14 I would request that all of you review the Commission's  
15 Rule 480-09-120, which addresses filing in service here  
16 at the Commission.

17 Whenever anything is filed with the  
18 Commission, it must be filed in hard copy. Facsimile  
19 is allowed, but the hard copy has to be postmarked the  
20 day of the filing, but the Commission does not  
21 currently have a process for accepting electronic  
22 filing. I just want you to be aware of that. It's  
23 been allowed by exception, but I don't want to make it  
24 the rule, so to the extent that we can comply with  
25 those rules, I very much appreciate it. The rules do

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1 allow that parties can receive service by electronic  
2 mailing, but that service is different from filing here  
3 at the Commission.

4 That is all that I have on my agenda. Thank  
5 you all for coming and patching in on the bridge line.  
6 Does anyone have any other issues they want to address  
7 this morning before we go off the record? Hearing  
8 nothing, we are adjourned, and I will attempt to get  
9 out an order by the end of the week or early next week  
10 depending on the responses I get from the parties on  
11 the issues we addressed this morning. Thank you all.

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13 (Prehearing conference adjourned at 11:25 a.m.)

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