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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In the Matter of the Joint)
 Application of)
 4)
 QWEST COMMUNICATIONS) Docket No. UT-100820
 5 INTERNATIONAL INC. AND) Volume I
 CENTURYTEL, INC.) Pages 1 - 39
 6)
 for Approval of Indirect)
 7 Transfer of Control of Qwest)
 Corporation, Qwest)
 8 Communications Company LLC,)
 and Qwest LD Corps.)

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10 A prehearing conference in the above matter
 11 was held on June 1, 2010, at 1:30 p.m., at 1300 South
 12 Evergreen Park Drive Southwest, Olympia, Washington,
 13 before Administrative Law Judge MARGUERITE FRIEDLANDER.

14

15 The parties were present as follows:

16 QWEST COMMUNICATIONS INTERNATIONAL, by LISA
 A. ANDERL, In-house Counsel, 1600 Seventh Avenue, Suite
 17 1506, Seattle, Washington 98191; telephone, (206)
 345-1574.

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19 CENTURYTEL, INC. (CENTURYLINK), by CALVIN K.
 SIMSHAW, Senior Counsel, 805 Broadway, Vancouver,
 Washington 98660; telephone, (360) 905-5958.

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21 WASHINGTON UTILITIES AND TRANSPORTATION
 COMMISSION, by JENNIFER CAMERON-RULKOWSKI, Assistant
 Attorney General, 1400 South Evergreen Park Drive
 22 Southwest, Post Office Box 40128, Olympia, Washington
 98504; telephone, (360) 664-1186.

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24 Kathryn T. Wilson, CCR

25 Court Reporter

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1 INTEGRA TELECOM OF WASHINGTON, INC.; ELECTRIC
2 LIGHTWAVE INC.; ADVANCED TELECOM, INC.; UNITED
3 COMMUNICATIONS, INC., D/B/A, UNICOMM, ALL COLLECTIVELY
4 INTEGRA; XO COMMUNICATIONS SERVICES, INC.; TW TELECOM
5 OF WASHINGTON, LLC; MCLEODUSA TELECOMMUNICATIONS
6 SERVICES, INC., D/B/A PAETEC BUSINESS SERVICES;
7 PAC-WEST TELECOMM, INC.; CHARTER FIBERLINK WASHINGTON
8 CCVII, LLC; COMCAST PHONE OF WASHINGTON, LLC; COVAD
9 COMMUNICATIONS COMPANY, by GREGORY J. KOPTA, Attorney
10 at Law, Davis, Wright, Tremaine, 1201 Third Avenue,
11 Suite 2200, Seattle, Washington 98101; telephone,
12 (206) 757-8079.

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14 LEVEL 3 COMMUNICATIONS, LLC, by ARTHUR A.
15 BUTLER, Attorney at Law, Ater Wynne, 601 Union Street,
16 Suite 1501, Seattle, Washington 98101; telephone,
17 (206) 623-4711.

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19 360NETWORKS (USA) INC., by MICHEL SINGER
20 NELSON (via bridge line), In-house Counsel, 370
21 Interlocken Boulevard, Suite 600, Broomfield, Colorado
22 80021; telephone, (303) 854-5513.

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1 UNITED STATES DEPARTMENT OF DEFENSE AND ALL
2 OTHER FEDERAL EXECUTIVE AGENCIES, by STEPHEN S.
3 MELNIKOFF (via bridge line), Senior In-house Counsel,
4 901 North Stuart Street, Suite 700, Arlington, Virginia
5 22203; telephone, (703) 696-1643.

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7 PUBLIC COUNSEL, by SIMON J. FFITCH (via
8 bridge line), Senior Assistant Attorney General, 800
9 Fifth Avenue, Suite 2000, Seattle, Washington 98104;
10 telephone, (206) 389-2055.

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

2 JUDGE FRIEDLANDER: Good afternoon. We will
3 go on the record. This is Docket UT-100820. My name
4 is Marguerite Friedlander. I'm the administrative law
5 judge presiding over this matter. We are here today
6 before the Washington Utilities and Transportation
7 Commission on Tuesday, June 1st, 2010, for a prehearing
8 conference in the matter of the joint application of
9 Qwest Communications International, Inc., and
10 CenturyTel, Inc., for approval of an indirect transfer
11 of control of Qwest Corporation, Qwest Communications
12 Company, LLC, and Qwest LD Corps. Let's go ahead and
13 start by taking appearances. Ms. Anderl, if you want
14 to begin.

15 MS. ANDERL: Thank you, Your Honor. Lisa
16 Anderl, in-house attorney representing Qwest. I'll
17 give you the full appearance. My mailing address is
18 1600 Seventh Avenue, Room 1506, Seattle, Washington,
19 98191. My telephone is (206) 345-1574. My fax is
20 (206) 343-4040, and my e-mail is lisa.anderl@qwest.com.

21 JUDGE FRIEDLANDER: Mr. Simshaw?

22 MR. SIMSHAW: Calvin Simshaw. I'm also an
23 in-house attorney here representing CenturyLink. My
24 mailing address is 805 Broadway. That's Vancouver,
25 Washington, 98660. My phone number is area code (360)

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1 905-5958; e-mail, calvin.simshaw@centurylink.com.

2 JUDGE FRIEDLANDER: Then did you have a fax
3 number that you wanted us to include?

4 MR. SIMSHAW: (360) 905-5953.

5 JUDGE FRIEDLANDER: Appearing today on behalf
6 of Staff, Ms. Cameron-Rulkowski?

7 MS. CAMERON-RULKOWSKI: Jennifer
8 Cameron-Rulkowski, assistant attorney general, 1400
9 South Evergreen Park Drive Southwest, Olympia,
10 Washington, 98504-0128. My telephone number is
11 (360) 664-1186. My fax number is (360) 586-5522. My
12 e-mail address is jcameron@utc.wa.gov.

13 JUDGE FRIEDLANDER: Appearing today on behalf
14 of Public Counsel? If anybody is on the bridge line
15 appearing today on behalf of Public Counsel, you might
16 have your mute button on. Hearing nothing, we will go
17 ahead and move on to the CLEC's. Mr. Kopta?

18 MR. KOPTA: Thank you, Your Honor. Gregory
19 Kopta of the law firm Davis, Wright, Tremaine, LLP,
20 1201 Third Avenue, Suite 2200, Seattle, Washington,
21 98101. My phone is (206) 757-8079; fax, (206)
22 757-7079; e-mail, gregkopta@dwt.com, and I am
23 representing Integra Telecom of Washington, Inc.;
24 Electric Lightwave Inc.; Advanced Telecom, Inc., and
25 United Communications, Inc., d/b/a, Unicomm, all

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1 collectively Integra; XO Communications Services, Inc.;
2 tw telecom of Washington, llc; McLeodUSA
3 Telecommunications Services, Inc., d/b/a PAETEC
4 Business Services; Pac-West Telecomm, Inc.; Charter
5 Fiberlink Washington CCVII, LLC; Comcast Phone of
6 Washington, LLC, and Covad Communications Company.

7 JUDGE FRIEDLANDER: Great. I believe we just
8 had someone come onto the conference bridge. Is that
9 Mr. ffitch?

10 MR. FFITCH: Yes, Your Honor. This is Simon
11 ffitch.

12 JUDGE FRIEDLANDER: We are taking appearances
13 right now, if you could go ahead and do that.

14 MR. FFITCH: The name is Simon ffitch, and
15 the title is senior assistant attorney general,
16 appearing on behalf of the Public Counsel section of
17 the Washington State Attorney General's office. My
18 address is 800 Fifth Avenue, Suite 2000, Seattle,
19 Washington, 98164, I believe, subject to checking. The
20 phone number is (206) 389-2055. The e-mail address is
21 simonf@atg.wa.gov, and I apologize, Your Honor. It
22 looks like I apparently have phoned in a bit late. I
23 apologize for that.

24 JUDGE FRIEDLANDER: I'm sorry. Did you give
25 your fax number as well?

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1 MR. FFITCH: It's (206) 464-6451, and just
2 one other thing, which is that I'm afraid I have an
3 unavoidable conflict at 2:30. Our other attorney,
4 Sarah Shifley, will be joining me here and will be
5 available to continue the prehearing conference at that
6 time for our office.

7 JUDGE FRIEDLANDER: Just for clarification,
8 will you be the attorney of record?

9 MR. FFITCH: Yes, Your Honor.

10 JUDGE FRIEDLANDER: Please just let me know
11 when you are signing off.

12 MR. FFITCH: We will do that.

13 JUDGE FRIEDLANDER: Appearing today on behalf
14 of Level 3, Mr. Butler?

15 MR. BUTLER: Arthur A. Butler of the law firm
16 Ater Wynne, LLP, appearing on behalf of Level 3
17 Communications, LLC, and my address is 601 Union
18 Street, Suite 1501, Seattle, Washington, 98101-3981;
19 telephone number, (206) 623-4711; fax, (206) 467-8406,
20 and e-mail is aab@aterwynne.com.

21 JUDGE FRIEDLANDER: Thank you, and appearing
22 today on behalf of 360networks? I believe that's
23 Michel Singer Nelson; is that correct?

24 MS. SINGER NELSON: Thank you. It's Michel
25 Singer Nelson, M-i-c-h-e-l. I'm in-house counsel for

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1 360networks (USA), Inc. My address is 370 Interlocken
2 Boulevard, Suite 600, Broomfield, Colorado, 80021. My
3 phone number is (303) 854-5513. My fax number is (303)
4 854-5100, and my e-mail is mnelson@360.net.

5 JUDGE FRIEDLANDER: Thank you. Appearing
6 today on behalf of the Department of Defense and all
7 other Federal Executive Agencies, Mr. Melnikoff?

8 MR. MELNIKOFF: Thank you, Your Honor. My
9 name is Stephen S. Melnikoff, S-t-e-p-h-e-n,
10 M-e-l-n-i-k-o-f-f. I'm senior in-house counsel at the
11 US Army Litigation Center. The address is 901 North
12 Stuart, S-t-u-a-r-t, Street, Suite 700, Arlington,
13 Virginia, 22203-1837. Office phone number is
14 (703) 696-1643. Fax is (703) 696-2960. E-mail address
15 is stephen.melnikoff@hqda.army.mil.

16 JUDGE FRIEDLANDER: Thank you. I think we've
17 gotten all of the interested persons who have filed
18 petitions to intervene. Is there anyone else who
19 wishes to put in an appearance today?

20 MR. FFITCH: Your Honor, this is Simon ffitich
21 again. I just wanted to correct a couple of details in
22 my appearance. One of those is the zip code, which is
23 98104. Actually, I think that was the only correction
24 I had. The fax number is 464-6451.

25 JUDGE FRIEDLANDER: Thank you. Is there

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1 anyone else who wishes to put in an appearance or enter
2 an appearance? Hearing nothing, let's move on to the
3 PLTI's, the petitions for leave to intervene. I
4 believe we have ten, give or take, so why don't we
5 begin with Mr. Kopta.

6 MR. KOPTA: Thank you, Your Honor. Yes, we
7 filed several petitions to intervene, all on behalf of
8 the clients that I listed before, and I won't list them
9 again. I do have one correction, and that is that
10 Comcast Phone of Washington, while we filed a written
11 petition to intervene, is withdrawing that petition to
12 intervene. It's choosing not to participate in this
13 proceeding, and Charter Fiberlink did not file a
14 written petition to intervene last Thursday but did
15 file such a petition electronically today and does wish
16 to intervene on the same basis as the other CLEC's I
17 represent.

18 JUDGE FRIEDLANDER: I did receive the
19 petition for leave to intervene filed on behalf of
20 Charter. I would just ask that when withdrawing the
21 petition on behalf of Comcast that you do so with our
22 records center.

23 MR. KOPTA: Should I just file something with
24 the records center or go down and collect everything?

25 JUDGE FRIEDLANDER: I think you should file

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1 something noting that you are withdrawing so we still
2 have it on record.

3 MR. KOPTA: Okay, I will do that.

4 JUDGE FRIEDLANDER: The other petitions for
5 leave to intervene that were received in addition to
6 the ones Mr. Kopta named were Level 3, the Department
7 of Defense and All Federal Executive Agencies,
8 360networks, and I believe that's it. Were there any
9 other interested persons who were requesting
10 intervention status?

11 Hearing nothing, let's go ahead and get into
12 the discussion of the petitions. Are there any
13 objections to any of the petitions that have been filed
14 to date?

15 MR. SIMSHAW: No objections, Your Honor.

16 MS. ANDERL: No.

17 MS. CAMERON-RULKOWSKI: Not from Staff.

18 JUDGE FRIEDLANDER: Mr. ffitch?

19 MR. FFITCH: No, Your Honor.

20 JUDGE FRIEDLANDER: Limited to the issues
21 discussed in the joint application and with the caveat
22 that they will not broaden any of the issues, I will go
23 ahead and grant those.

24 Let's go ahead and move on to discovery.

25 Have the parties initiated discovery amongst themselves

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1 at this point?

2 MS. ANDERL: Not yet, Your Honor, but we
3 would expect, and I believe the parties would agree the
4 discovery rule should be invoked.

5 JUDGE FRIEDLANDER: Does anyone disagree with
6 that?

7 MS. CAMERON-RULKOWSKI: Staff concurs.

8 JUDGE FRIEDLANDER: Mr. ffitch?

9 MR. FFITCH: Public Counsel concurs.

10 JUDGE FRIEDLANDER: So the discovery rules
11 will be invoked, and I will issue a prehearing
12 conference order to that effect.

13 Let's go ahead and talk about a protective
14 order. I would assume there is a need in this case to
15 have a standard protective order?

16 MS. ANDERL: Yes, Your Honor, and
17 anticipating some discovery questions, we would also
18 like the protective order to be issued to cover highly
19 confidential material.

20 JUDGE FRIEDLANDER: I will go ahead and make
21 sure that happens with one caveat request that all of
22 the parties limit the amount of confidential and highly
23 confidential information, because this does on occasion
24 tend to pose difficulty for especially the judge in
25 drafting the order if a lot of the information has been

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1 designated confidential.

2 So with that, let's go ahead and go on to the
3 procedural schedule. I received today from Qwest a
4 proposed procedural schedule that had a lot of blanks
5 in it, so maybe, Ms. Anderl, you would like to walk me
6 through it and we can discuss any updates that may have
7 occurred since its filing.

8 MS. ANDERL: Thank you, Your Honor. The
9 parties did meet and I think tried on multiple
10 occasions in good faith to reach an agreed schedule,
11 but we were simply unable to do that. When I proposed
12 our schedule here, and I want to point out that this is
13 a compromised schedule with longer intervals than that
14 originally proposed by Qwest when the parties first
15 started to talk.

16 When we first offered up a procedural
17 schedule, we had something more along the lines of the
18 dates that you see in the Century or Verizon columns
19 with Staff and other parties filing testimony in the
20 late July time frame with the hope to get a rapid
21 resolution of this.

22 After discussions with Staff and other
23 parties, we did on Friday offer this schedule as our
24 compromised proposal, and we decided in terms of going
25 forth today to not go with the more aggressive schedule

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1 that we had originally chosen but to maintain this,
2 which we believe gives the parties ample time to
3 conduct discovery and prepare their written prefiled
4 case.

5 Some of the blanks are dates for the public
6 meetings that the Commission will have to select those
7 dates. We are hopeful they will be in the July, August
8 time frame, and we would like to note that later in
9 this prehearing if there is time, we would like to talk
10 about the customer notice. As soon as those dates are
11 selected and the Commission finds venues, we can
12 populate those. We would rather those dates be sooner
13 rather than later.

14 The technical conference, of course, is going
15 to be dependant on what parties' desires and
16 availability are, so I didn't populate that either, and
17 as you are aware, there are a lot of dates that would
18 normally be in a proposed schedule, but in the interest
19 of keeping this to one page and keeping it simple, I
20 thought I would call out the dates that were the most
21 important and really tend to drive all of the other
22 dates. In other words, once you know when the hearings
23 are, you will know when we should meet and exchange
24 exhibits and so forth, and not knowing what the
25 commissioners' calendars are, we just put in basically

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1 place holders for the evidentiary hearings with our
2 desire that those be in October.

3 JUDGE FRIEDLANDER: Thank you, and
4 Mr. Simshaw, did you have anything else to add?

5 MR. SIMSHAW: No, Your Honor. This was done
6 in consultation and collaboration between the two joint
7 applicants, so this does represent our current
8 proposal.

9 JUDGE FRIEDLANDER: Thank you. Staff, would
10 you like to add any comments with regards to the
11 proposed procedural schedule?

12 MS. CAMERON-RULKOWSKI: Certainly. Staff
13 appreciates especially the Company's participation and
14 the other parties as well in several discussions that
15 we had about the procedural schedule. This is
16 certainly not a schedule that Staff is in agreement
17 with. Our major sticking point is the deadline for
18 filing responsive testimony, and Staff had circulated a
19 proposed schedule as well among the parties but did not
20 file that, and Staff is looking for a responsive
21 testimony deadline of November 17 or around then.

22 I would point out that the Verizon date for
23 responsive testimony in the Applicant's matrix did get
24 shifted forward about a month and a half as the case
25 progressed, and based on that experience and also based

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1 on the particular features of this transaction, Staff
2 anticipates needing a fair amount of time.

3 This is a big deal in Washington state. It
4 involves more access lines and is a larger transaction
5 than we've seen in recent history. It will affect a
6 large amount of people in the state. Staff foresees
7 the need for extensive discovery partly because what
8 Staff will need to do its analysis is not in the
9 testimony so far, and Staff foresees needing
10 information and time to build a proper record.

11 There are also some regulatory and other
12 complexities that are involved in this deal. For
13 example, the two companies that are merging have
14 different access rate structures. Also, they are
15 regulated differently; that is, Qwest is regulated
16 under an alternative form of regulation that is set to
17 expire in the summer of next year, and a review will be
18 called for nine months before that expiration, and this
19 is one issue where Staff foresees having to probably
20 debate with the companies and come to hopefully some
21 sort of resolution. At any rate, those are some
22 examples.

23 There are also some other complexities. We
24 have one company that operates primarily in rural
25 markets and another company that operates in urban

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1 markets. Staff will need to look at that and look at
2 the other aspects of this transaction and will need
3 time, and so that's why we are looking at realistically
4 November to be able to put together that analysis and
5 gather the information that will be required.

6 JUDGE FRIEDLANDER: Thank you. Just going
7 off of the proposed schedule by Qwest, you mentioned
8 that Staff envisions responsive testimony being due
9 November 17. Can you fill in the remaining three
10 blocks? When did Staff envision rebuttal, the
11 evidentiary hearing, and simultaneous post-hearing
12 briefs?

13 MS. CAMERON-RULKOWSKI: The date for rebuttal
14 testimony would be December 22. The evidentiary
15 hearing would be February 1 through 4, and there would
16 be simultaneous post-hearing briefs filed March 16,
17 2011, and then I had a couple of other dates for
18 distribution of cross-examination exhibits and a
19 prehearing conference if you wanted those.

20 JUDGE FRIEDLANDER: That would be great.

21 MS. CAMERON-RULKOWSKI: Deadline for
22 predistribution of cross-examination exhibits, January
23 26th, 2011; a prehearing conference to mark exhibits,
24 January 31, 2011, and in addition, Staff had proposed
25 having a settlement conference on October 20th.

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1 JUDGE FRIEDLANDER: Thank you. Ms. Anderl, I
2 noticed that from the proposed procedural schedule, you
3 have anticipated that this evidentiary hearing is going
4 to take approximately a day?

5 MS. ANDERL: I'm sorry. I should have said
6 week of.

7 JUDGE FRIEDLANDER: That clears it up.

8 MS. ANDERL: I think that's one thing we and
9 Staff agree on.

10 JUDGE FRIEDLANDER: Thank you. Now I would
11 like to hear from Mr. ffitch as far as the proposed
12 procedural schedule.

13 MR. FFITCH: Your Honor, we are supportive of
14 the Staff proposal for the reasons stated. We agree
15 this is a very significant merger for the state of
16 Washington, essentially signaling the end of the Bell
17 status as the largest local telephone company in the
18 state with a lot of different ramifications, so we
19 would very much like to see Staff have adequate time to
20 do its review.

21 Our resources are limited this year, and I'll
22 take this opportunity to say that we may not have a
23 witness in this case so that we would be preparing our
24 own case primarily through discovery, exhibits, and
25 briefing. We think in that respect, we also think it's

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1 extremely important for Staff to have adequate time to
2 develop its case since we will possibly not be
3 presenting additional record expert analysis for the
4 assistance of the Bench.

5 I would also like to observe that there is no
6 statutory deadline in the case, and I think that
7 Staff's proposal works within the time lines of the
8 transaction and the fact that there are multiple
9 procedures going on in other states and at the federal
10 level. I don't think there is a particular deadline or
11 time restriction that really militates in favor of the
12 Company proposal here. I think there is adequate time
13 within the overall context of the multistate and
14 federal review for Staff's proposal, so we are
15 supportive of it.

16 JUDGE FRIEDLANDER: Thank you. Let's go
17 ahead and hear from Mr. Kopta.

18 MR. KOPTA: Thank you, Your Honor. My
19 clients are also supportive of Staff's proposed
20 schedule for the reasons that have been stated both by
21 counsel for Staff and Public Counsel, and in addition,
22 I would note that the direct testimony that has been
23 filed on behalf of the applicants is very thin when it
24 comes to wholesale-type issues. They are scarcely
25 mentioned.

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1 So we would anticipate if there is not going
2 to be any supplemental direct testimony to flesh out
3 some of these issues to recognize there are issues
4 similar to those that have been raised in other
5 proceedings, most immediately the Verizon, Frontier
6 merger case, and that's not to say this is the same
7 type of proceeding, but there are more issues than a
8 simple paragraph and testimony would indicate. So
9 there will be time needed to flesh out those issues,
10 the positions of the applicants on those issues, and we
11 think that what Staff has proposed is a more realistic
12 time line for being able to accomplish all of those
13 goals.

14 JUDGE FRIEDLANDER: Thank you. Mr. Butler?

15 MR. BUTLER: Yes. Level 3 also prefers the
16 schedule proposed by Staff for the reasons stated by
17 Mr. Kopta, and we concur in those statements.

18 JUDGE FRIEDLANDER: Ms. Singer Nelson?

19 MS. SINGER NELSON: Judge, 360 has no opinion
20 on the schedule proposed.

21 JUDGE FRIEDLANDER: Mr. Melnikoff?

22 MR. MELNIKOFF: Your Honor, we would support
23 the Staff for the reasons that the Staff and the
24 wholesale Mr. Kopta mentioned as well as Public
25 Counsel.

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1 JUDGE FRIEDLANDER: Thank you. Did Qwest or
2 CenturyTel wish to add anything?

3 MS. ANDERL: Your Honor, brief response, and
4 then Mr. Simshaw would like to talk about why this
5 transaction is more like the Century, Embarq and less
6 like the Frontier, Verizon transaction. Just a couple
7 of things. Ms. Cameron-Rulkowski pointed out correctly
8 that the schedule in the Verizon case did slip, but I
9 think that was a unique situation to the parties in
10 that case, Verizon and Frontier, and neither of those
11 applicants or parties in this case.

12 It was known when that schedule was
13 established that it was a much more complex transaction
14 than this is, and yet the parties were still able to
15 establish a schedule with what appeared to be realistic
16 deadlines. We recognize that things may slip. We
17 certainly don't intend to cause them to slip by any
18 action of our own, but the reality is that once
19 schedules are established on an extended basis, they
20 never get contracted, but if they are established on a
21 little bit more of an aggressive basis, if there is a
22 need for an extension, those types of extensions and
23 reestablishing of dates are routinely granted. I think
24 we should not go into this assuming the worst.

25 With regards to Qwest AFOR, the AFOR actually

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1 expires on November 30th, 2011, with a reviewable start
2 in early 2011, February sort of time frame. I think
3 that Staff's schedule actually potentially hampers that
4 review where as the Applicants' proposed schedule puts
5 the review more in line with something that can be
6 picked up after this important docket is completed.

7 As I believe Public Counsel noted, there are
8 other state and federal proceedings. Just for Your
9 Honor's information, on Friday the FCC did issue a
10 public notice that established a 180-day time clock for
11 this docket, which does put completion of the FCC
12 review at a November time frame. I'm not going to
13 represent those dates don't also sometimes slip, but
14 that is the FCC's current view of the appropriate
15 regulatory time line that this docket should be given.

16 I think those were the only points that were
17 raised that I wanted to respond to. I know that some
18 of the other parties said something about the amount of
19 time that Staff needs to have to evaluate the
20 difference in access rates and rural versus urban, and
21 Mr. Simshaw wants to address those.

22 MR. SIMSHAW: Your Honor, first of all, and
23 there has been some comparison drawn both with the
24 CenturyTel, Embarq docket and the Verizon, Frontier
25 docket. First, it's illustrated in the filing that we

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1 made this morning that Staff's proposed schedule is
2 completely out of line with either of those, but let me
3 focus for a second on the Frontier, Verizon and as a
4 couple of points as to why this transaction proceeding
5 should not be viewed in the same light.

6 In this case, there are no unfamiliar parties
7 to the Commission. Both of these applicants have been
8 operating in the state of Washington for a very long
9 time and fully regulated by the Washington Commission
10 for a very long time. That's different. In this
11 particular transaction, there is no party attempting to
12 exit the state. That again is different.

13 In this transaction, all of the current
14 investors are going to stay fully committed to
15 providing operations in the state of Washington, so
16 that's different. In this proceeding, there is no debt
17 burden or no new debt being injected into the equation.
18 That again is different. So overall, if there is a
19 comparison to be made to the Frontier, Verizon
20 situation, this transaction is quite a bit less
21 complicated.

22 With respect to the regulatory issues that
23 were raised by Staff, yes, there are multiple ILEC's
24 involved in the transaction just as there was in Embarq
25 and CenturyTel, and there are different access charges.

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1 That has been the case for these ILEC's and will
2 continue to be the case for these ILEC's whether there
3 is or isn't a merger, and yes, Qwest's AFOR is due to
4 expire and will have to be addressed by the Commission,
5 and that's the case whether there is or isn't a merger
6 proceeding. In other words, the merger does not affect
7 either of those factors.

8 So overall, we would submit that the prior
9 telecommunications merger dockets provide a good
10 guideline and would urge that Your Honor and the
11 Commission begin with that same procedural intervals,
12 and as Ms. Anderl points out, if complications arise,
13 then they can be addressed and dealt with at that time.

14 JUDGE FRIEDLANDER: Thank you. Do either
15 Ms. Anderl or Mr. Simshaw anticipate filing
16 supplemental testimony as Mr. Kopta indicated?

17 MS. ANDERL: Your Honor, we do not.

18 MR. SIMSHAW: Your Honor, I would point out
19 that there are multiple pieces to the regulatory
20 approval process, including at the federal level. Up
21 to this point, there have been certain constraints due
22 to FCC regulations as to the information that the
23 applicants can divulge. Much of that is going to be
24 rectified here very shortly with the filing of what's
25 known as the S-4 filing at the FCC, particularly with

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1 regard to proforma financial information. That will be
2 submitted within the next few days, so that information
3 will become available, and once it's publically
4 available to all the investors, then that will also be
5 available, of course, to the parties in this
6 proceeding.

7 JUDGE FRIEDLANDER: I did have another
8 question. Ms. Anderl indicated that Staff's proposed
9 procedural schedule would be, if I can paraphrase, it
10 would come into conflict with Qwest's AFOR potentially,
11 and yet Mr. Simshaw indicated that there really isn't
12 much interaction between the two, and I hope I'm
13 paraphrasing accurately enough.

14 My question is whether or not Qwest foresees
15 the AFOR proceeding not being litigated for any
16 specific reason during the same time as the merger. Is
17 there a reason why the Commission would not want to
18 litigate both?

19 MS. ANDERL: Let me see if I understand the
20 question, Your Honor. All I meant to say with regard
21 to the conflict in Staff's schedule was that Staff's
22 schedule would have the parties preparing for hearing,
23 which is a fairly intense exercise, right at about the
24 same time that the parties should really be meeting to
25 lay out the parameters of what the pre-AFOR expiration

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1 review is going to look like.

2 JUDGE FRIEDLANDER: That's what I wanted to
3 know, weather there was some kind of legal or
4 procedural requirement that we would be coming into
5 conflict with or whether it was a question of manpower.

6 MS. ANDERL: Just resource constraints, Your
7 Honor, and what Mr. Simshaw said is exactly correct.
8 Because the Qwest Corporation operating entity is not
9 affected by the merger, the AFOR will continue whether
10 there is a merger or not, and the AFOR will come up for
11 renegotiation or review whether there is a merger or
12 not. So all we were trying to point out is a schedule
13 that takes us into 2011 creates a bit of an overlap in
14 terms of what people should be working on.

15 JUDGE FRIEDLANDER: Did any of the other
16 parties wish to comment on the scheduling issues raised
17 by both Staff and Qwest? Okay; you guys have given me
18 a lot to think about. I will say this though: While I
19 understand the desire on behalf of Qwest to complete
20 this transaction as quickly as possible, it's not an
21 understatement to say that this is going to be a very
22 big deal for the state of Washington. As has been
23 indicated by the parties, we have had two previous
24 mergers. In my opinion, those were different cases.

25 That being said, with all of the potential

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1 dates here, I need to check with the commissioners'
2 schedules, and I will be taking the suggestions under
3 advisement at this point. I will let you know at this
4 juncture though that the commissioners' schedules for
5 the summer are very full, and the fall is getting
6 filled as we speak, so I know they are going to be
7 sitting in on this when we go to hearing. At this
8 point, I'm going to be taking these suggestions for
9 procedural schedule under advisement, and I will be
10 getting back to you on those.

11 That being said, I do want to discuss the
12 public comment hearings. I know that two have been
13 proposed, one in Spokane and one in Olympia, with dates
14 to be announced. Obviously, those are going to be
15 contingent on whatever gets decided as far as the
16 procedural schedule goes. I would like to ask how the
17 two, how this number was arrived at and the location,
18 so if somebody could please go ahead and fill me in,
19 that would be great. Ms. Cameron-Rulkowski?

20 MS. CAMERON-RULKOWSKI: I'm happy to do that.
21 Staff consulted with Public Counsel, with Mr. ffitich,
22 and we looked at where Qwest customers are and
23 CenturyTel customers, and they are all over the state,
24 and to try to reach customers on both sides of the
25 state, we thought one hearing on one side of the state

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1 and another on the other side of the state would cover
2 both sides to some extent and conserve resources. We
3 thought we would schedule one in Olympia with the
4 bridge line open.

5 JUDGE FRIEDLANDER: Thank you.

6 MR. FFITCH: Can I just add a bit to that?

7 JUDGE FRIEDLANDER: Sure.

8 MR. FFITCH: It's correct that we did confer
9 with Staff, and I appreciate their activity on this.
10 We agree with these two. Just a couple of additional
11 thoughts. One is that our recommendation would be that
12 they not be scheduled in August because so many people
13 have other activities scheduled, and in terms of the
14 public, it's a very difficult time to get people to pay
15 attention to public hearings. So after Labor Day would
16 be better in our view for attendance.

17 The second thought I had is if the Commission
18 felt that additional hearings were necessary, this was
19 a conservative proposal, I think, anticipating concerns
20 about resources and time availability of the
21 commissioners and its staff. There is certainly an
22 argument for holding more hearings to perhaps try to
23 reach into some more CenturyTel areas as well, and one
24 way to do that would be to have the Olympia hearing
25 coincide with the evidentiary hearings, whenever those

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1 are set, which has been done in a number of cases, with
2 the public comment hearing being in the evening after a
3 day of evidentiary hearings, so that would be an option
4 that would allow the addition of another hearing date
5 without creating another availability date for the
6 commissioners. You sort of get three for the price of
7 two in that regard.

8 I hadn't really discussed this with
9 Ms. Cameron-Rulkowski. I'm just thinking on my feet
10 here, but if the Commission was thinking it wanted to
11 hold additional hearings, that would be a way to do that.

12 JUDGE FRIEDLANDER: Thank you. I know this
13 question may be a bit preliminary given that the merger
14 prospects were only announced a little while ago, but
15 has Staff or Public Counsel received any kind of
16 comments from the general public on this?

17 MR. FFITCH: Your Honor, Public Counsel, to
18 my knowledge, has not at this point.

19 MS. CAMERON-RULKOWSKI: Staff is not aware
20 that any have been received. Would you like an update?

21 JUDGE FRIEDLANDER: At this time, no. I just
22 wanted to know for my own edification and also to alert
23 the commissioners, and I'm sure they are going to want
24 to know in deciding the number and location of
25 potential public comment hearings. Ms. Anderl?

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1 MS. ANDERL: Thank you, Your Honor. Just for
2 context, we would want you to know that we don't object
3 to the two, but again, that in the Verizon, Frontier
4 merger, there was only one hearing held, and that was
5 in Everett. In the Century, Embarq, the public was
6 noticed about the transaction, but there were no public
7 comment hearings held. The public comment was limited
8 to written submissions.

9 That said, we are happy to participate in
10 these hearings. We would rather see them scheduled
11 sooner than later, even in the July time frame. We are
12 certainly happy with August as well. I think that with
13 work and school schedules in any given week, people are
14 going to have other commitments, and I don't think we
15 should just put a big "X" through the month of August,
16 so we would like to see them scheduled. It also does
17 certainly facilitate public access to do those hearings
18 in good weather as opposed to February where sometimes
19 there are access issues.

20 And then in a few minutes maybe talk about
21 the public notice that would be provided about those
22 hearings, but we think two is sufficient and would like
23 to see them scheduled during the third quarter of this
24 year, July, August, September time frame with emphasis
25 on July or August.

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1 JUDGE FRIEDLANDER: Thank you. Mr. Butler?

2 MR. BUTLER: Excuse me, Your Honor. One
3 request, if possible; that nothing be scheduled between
4 the first through the 19th of October because I have
5 conflicts during that period of time. I looked at the
6 proposed schedules here, and I don't think either party
7 specifically proposed anything in that time frame, but
8 just to add that to the mix.

9 JUDGE FRIEDLANDER: Thank you. As I did with
10 the procedural schedule, I'm going to go ahead and take
11 this under advisement, the issue of public comment
12 hearings, because they do have so much to do with the
13 procedural schedule itself, and I would like to discuss
14 this matter fully with the commissioners, but I will
15 let you know as soon as possible about the decision
16 that gets made in that.

17 Let's go ahead and talk now about the public
18 notice, and Ms. Anderl, did you want to begin?

19 MS. ANDERL: Your Honor, just again with the
20 hopes of streamlining the public notice, we would note,
21 and I may defer to Mr. Simshaw on this in just a minute
22 if I get out in front of my headlights, but the parties
23 worked very, very hard to craft a public notice in the
24 Century, Embarq merger, and we would rather not try to
25 reinvent the wheel, and it was our hope that we could

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1 simply change the relevant information in that notice
2 and have it approved as the CenturyLink, Qwest public
3 notice.

4 I know that the Commission rule requires that
5 we submit it to the Commission a week before we send it
6 out and doesn't specifically require Public Counsel
7 acknowledgment or approval, but that said, I know how
8 things work in real life sometimes differently from
9 what the rule actually says, so I was seeking your
10 guidance in terms of whether we should just file that
11 as our proposal, and we could establish some sort of a
12 comment period, or if the parties compared to the
13 extent they were involved in the prior merger to agree
14 today that that merger notice form would be acceptable
15 for use in this docket.

16 JUDGE FRIEDLANDER: You said the Embarq,
17 CenturyTel notice?

18 MS. ANDERL: If I didn't, that's what I meant
19 to say.

20 JUDGE FRIEDLANDER: Mr. Simshaw, do you
21 concur with Ms. Anderl's statement?

22 MR. SIMSHAW: Yes, Your Honor. The
23 CenturyTel, Embarq notice was fully vetted with Staff
24 and Public Counsel, and we committed to work with them
25 in establishing that and we carried through on that,

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1 and the transactions are very, very similar other than,
2 of course, the parties, so we do believe that that is
3 probably a viable approach to simply take that notice
4 and change the pertinent information.

5 JUDGE FRIEDLANDER: Thank you. What's
6 Staff's position on this?

7 MS. CAMERON-RULKOWSKI: Commission staff
8 would welcome not having to reinvent the wheel, but
9 Staff would like to review that notice.

10 JUDGE FRIEDLANDER: So you are anticipating a
11 comment period after Qwest, CenturyTel have provided
12 the proposed notice?

13 MS. CAMERON-RULKOWSKI: Yes, Your Honor.

14 JUDGE FRIEDLANDER: Mr. ffitch?

15 MR. FFITCH: Thank you, Your Honor. There is
16 two questions here. One is the substance of the
17 notice, and the second is the process. I will start
18 with the process. There actually is a very
19 well-established process for reviewing public notices
20 in major adjudications before the Commission.

21 I know that Staff is aware of this,
22 particularly the consumer protection unit is very well
23 aware of this because they are involved, and the
24 process goes as follows: The companies prepare a draft
25 notice and provide it to both the Commission, consumer

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1 affairs staff, and a copy to Public Counsel, and then
2 the parties confer and generally in most cases reach
3 consensus on the form of the notice. In rare cases,
4 sometimes there is a conference with the ALJ to get
5 guidance on a dispute, but as a general matter, the
6 contents of the notice are agreed to by discussion and
7 consensus amongst those three parties.

8 The case schedules have typically set up a
9 report-back date, typically 30 days after the
10 prehearing conference for the parties to report back to
11 keep everybody's feet to the fire to get the notice
12 finalized, and during that process, there is discussion
13 of when the notice goes out and things of that nature.
14 Typically, it's the notice itself may be issued some
15 period of time after this initial discussion occurs.

16 Ms. Anderl is correct that this is not in the
17 Commission rules, but it certainly is in Commission
18 practice, very well established almost routine approach
19 that's been adopted in the Commission adjudications for
20 quite a few years now, so we would hate to see that,
21 and we strongly object to departure from that.

22 I heard a proposal from Qwest, I think, that
23 they simply file a week before the notice is issued and
24 that that would be adequate review time for any party,
25 including Commission staff. We don't think that's

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1 true, and we think that impairs the very collegial and
2 effective process that's been developed over the years
3 for reviewing public notice.

4 One of the things we need to do in that
5 process, for example, is try to get the hearing dates
6 settled or await the establishment of the hearing dates
7 by the Commission so that the notice that goes out to
8 customers can tell them when the public hearings are
9 going to happen, so that's the process. I would hate
10 to see that be disturbed here. So what we would
11 recommend, Your Honor, is that you establish a
12 report-back date 30 days out. Qwest sends a copy of
13 the notice it's proposing to all parties, but certainly
14 to Staff and Public Counsel, and we can then seek to
15 reach a consensus on it.

16 As far as the merits or the substance of the
17 notice goes, I agree there has been a track record here
18 on establishment of merger notices over the last couple
19 of cases, and I would hope that that would provide us
20 some guidance so we don't have major disputes here.
21 One of the big issues for us would be to try to get
22 notice of the public hearings into the notice.

23 JUDGE FRIEDLANDER: I guess, Mr. ffitch, my
24 question to you then becomes do you have any problems
25 with Qwest's suggestion that we not reinvent the wheel

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1 as far as the general format goes, and your issue is
2 more with the substance of what's going to be contained
3 in the notice.

4 MR. FFITCH: Correct. I think, like Staff
5 said, we need to see a copy of the notice. This is not
6 a cookie-cutter transaction with the others, so there
7 may be some changes in it, and we would like to see
8 notice of the hearings in it, but all of that can be
9 accomplished if we simply work within this existing
10 framework.

11 JUDGE FRIEDLANDER: Ms. Anderl, did you have
12 any response to either Staff or Public Counsel's
13 suggestions?

14 MS. ANDERL: No, Your Honor, other than to
15 ask that if you do set a report-back date it maybe be a
16 little less than 30 days. If we could agree on a
17 notice sooner and we did have public hearing dates in
18 the July, August time frame, we would like to be able
19 to notice the customers meaningful time in advance of
20 those.

21 JUDGE FRIEDLANDER: Any other parties like to
22 comment on the public notice issue? Hearing nothing,
23 what I'm inclined to do is have the parties get
24 together and see if they can come up with some language
25 and report back to the Commission in three weeks. This

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1 will be something that you all will be filing with the
2 Commission, so does anybody have any problem with the
3 three-week turnaround time frame?

4 MR. FFITCH: No, Your Honor. That sounds
5 great.

6 JUDGE FRIEDLANDER: I would encourage
7 everyone to get together to come up with consensus
8 language because that helps everyone involved when we
9 have language that we all can agree with, and we
10 shorten this time frame if at all possible.

11 Was there anything else that we needed to
12 discuss with regards to the public notice? What I
13 would like to do at this point is to let everyone know
14 that with regard to electronic submissions, I'm sure
15 you've all become familiar with our rules and statutes
16 so you know that you can submit documents to the
17 Commission electronically through our Web portal on the
18 day established for the paper filing.

19 So what I would like to ask is that to avoid
20 excessive paper, when you are filing hard copy, please
21 file an original and 12 of the unredacted because most
22 of our people that these documents are going to at the
23 Commission already have the ability to see the
24 confidential information. The redacted, please only
25 file an original and three, and that's going to save

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1 quite a bit of paper, if I'm reading the size of these
2 documents are going to be.

3 That being said, I would also like to ask a
4 Bench request of Qwest and CenturyTel, and that would
5 be Bench Request No. 1. I would like to have the
6 companies inform the Commission of the other states and
7 jurisdictions under which you've sought approval, and I
8 would like to know what the status of those
9 applications are. I'm looking at a routine update on
10 those, say, 90 days, if that's acceptable, because I
11 don't anticipate those cases going -- that much
12 happening in them all at once, so if you could provide
13 a Bench request response with the jurisdictions that
14 you sought approval and would request that you provide
15 subsequent updates on a regular basis every 90 days.

16 MS. ANDERL: So the response to the first
17 request would be --

18 JUDGE FRIEDLANDER: Immediately.

19 MS. ANDERL: As soon as we could put it
20 together.

21 JUDGE FRIEDLANDER: Exactly. I would say
22 within a week, and I will issue a written Bench request
23 with those details as well.

24 MS. ANDERL: Thank you.

25 JUDGE FRIEDLANDER: Is there anything else

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1 before we adjourn for the day?

2 MR. MELNIKOFF: This is Steve Melnikoff.

3 Mr. Kopta's comment about conflict in schedules jarred
4 my memory, and I just checked something. We have a
5 conflict with our consultant for the two middle weeks
6 of October, so if there is going to be a hearing in the
7 middle two weeks, we may have a serious problem.

8 JUDGE FRIEDLANDER: So your conflict would be
9 with the week of the 11th and the week of the 18th?

10 MR. MELNIKOFF: I believe that's the case,
11 but I can get the exact dates and supply them to all
12 parties and you by e-mail.

13 JUDGE FRIEDLANDER: Thank you, Mr. Melnikoff.
14 That would be very helpful. Mr. Kopta, did you have
15 something to add?

16 MR. KOPTA: Yes, just an administerial note
17 that for Covad, Kathryn Mudge should be listed as
18 primary counsel. I'm just local counsel for Covad on
19 this, so to the extent that service needs to be made
20 officially, she should be the one to receive it.

21 JUDGE FRIEDLANDER: Let me make sure I have
22 her contact information.

23 MR. KOPTA: It should be in the written
24 petition we filed.

25 JUDGE FRIEDLANDER: Yes, I do have that.

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1 With that, is there anything else that we need to
2 address before we adjourn? Okay. I will be issuing a
3 Bench request, and Mr. ffitch, I'm guessing that
4 Ms. Shifley has now entered the conference bridge.

5 MR. FFITCH: Yes, Your Honor. It appears we
6 may be on the verge of adjourning. I had one other
7 administerial matter, which is to ask if we might
8 provide additional names for the electronic service
9 list in this case of our own staff people that we would
10 like to receive electronic service from the Bench and
11 from other parties, if we would be permitted to provide
12 you that information by close of business tomorrow.

13 JUDGE FRIEDLANDER: I don't see a problem
14 with that unless the parties have some objection. I
15 think that's perfectly fine.

16 MR. FFITCH: Thank you, Your Honor.

17 MR. MELNIKOFF: We would like to avail
18 ourselves of that as well.

19 JUDGE FRIEDLANDER: We will open it up to any
20 of the parties, and maybe we can save some paper that
21 way too. With that, I will be issuing a Bench Request
22 No. 1 as well as the prehearing conference order and
23 hopefully be getting out the dates as soon as possible,
24 so with that, we are adjourned.

25 (Prehearing conference adjourned at 2:30 p.m.)