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

2 JUDGE CLARK: Good afternoon. It's
3 approximately 1:35 p.m., April 17th, 2008, in the
4 Commission's hearing room in Olympia, Washington. This
5 is the time and the place set for a prehearing
6 conference in the matter of the petition of Qwest
7 Corporation for Commission approval of 2007 additions
8 to non-impaired wire center list, given Docket No.
9 UT-073033, Patricia Clark, administrative law judge for
10 the Commission presiding. Notice of this prehearing
11 conference was issued on March 21st, 2008, by Order
12 No. 6 entered in this proceeding.

13 At this juncture, I will take appearances on
14 behalf of the parties. Appearing on behalf of Qwest?

15 MS. ANDERL: Thank you, Your Honor. This is
16 Lisa Anderl, in-house attorney for Qwest, and I've
17 previously given you all of my address information,
18 none of which has changed.

19 JUDGE CLARK: Thank you. Appearing on behalf
20 of the joint CLEC's?

21 MR. KOPTA: Gregory J. Kopta of the law firm
22 Davis, Wright, Tremaine, LLP, on behalf of Covad,
23 McLeod, Integra, and XO, and my information is on file.

24 JUDGE CLARK: Is anyone entering an
25 appearance on behalf of Eschelon? The record should

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1 reflect that no one is appearing on the bridge line on
2 behalf of Eschelon.

3 MR. DENNY: Eschelon is now owned by Integra
4 Telecom, so Eschelon is a party via Integra.

5 JUDGE CLARK: So Mr. Kopta, you are now
6 representing them as well?

7 MR. KOPTA: I should clarify that because
8 Eschelon is part of Integra, then yes, that is included
9 in the representation. My apologies for not making
10 that clear, and I guess the other thing, given that the
11 docket began last year before I moved my offices -- I
12 know the Commission has my new office address from last
13 year, but the service list on the prehearing conference
14 has my old address.

15 JUDGE CLARK: So if you would be so kind as
16 to give us your new address on the record this
17 afternoon, Mr. Kopta.

18 MR. KOPTA: I will be glad to do that.
19 Davis, Wright, Tremaine, LLP, 1201 Third Avenue, Suite
20 2200, Seattle, Washington, 98101-3045. My telephone
21 number is (206) 757-8079. My fax is (206) 757-7079,
22 and my e-mail address remains the same.

23 JUDGE CLARK: Thank you for that update. I'm
24 updating the Commission's list associated with this
25 docket as we speak, so thank you very much.

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1 The purpose of this afternoon's prehearing
2 conference is to determine the process for addressing
3 the outstanding petition of Qwest, which was filed some
4 time ago and was held in abeyance pending the issuance
5 of a final order in UT-073035. Do the parties have a
6 proposal regarding resolution of the issues?

7 MS. ANDERL: Your Honor, we've not been able
8 to speak to the parties to discuss a schedule. We had
9 had some correspondence with Eschelon, but we would
10 propose that the settlement agreement guide how the
11 docket unfolds from here on out since the only parties
12 present today are settling parties, and we think that
13 an appropriate deadline should be established for
14 filing objections to the wire center designations. The
15 settlement agreement says within 30 days of filing, and
16 I think there is possibly an issue in terms of what
17 constitutes the filing of the wire center designations
18 and the backup information.

19 But kind of a long story short, Eschelon
20 filed objections to the wire center designations as a
21 placeholder back in September or October, I think, and
22 I think that Eschelon and the other parties to this
23 docket have had or have been able to have the
24 information that they would need necessary to form a
25 conclusion about whether they were going to object to

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1 any of the three wire centers, so because that's the
2 first thing that's going to happen, and if there are
3 objections, that's one process, and if there is no
4 objections, there is another process.

5 So I would recommend that we might want to
6 ask the other parties what they would suggest as a
7 deadline for parties to make a decision about whether
8 they object to any of the wire center designations, but
9 we would put preemptively on the record that we don't
10 think it should be a long time since people have had a
11 number of months to consider this.

12 JUDGE CLARK: Mr. Kopta?

13 MR. KOPTA: Yes. This is obviously part of a
14 multistate process, and there have been other state
15 proceedings in which we've had this sort of joint issue
16 of a settlement agreement and additional designations
17 by Qwest of non-impaired wire centers, and what has
18 happened in the two states that I'm aware of, Utah and
19 Minnesota, essentially that the schedule waited until
20 the Commissions had ruled on a settlement agreement,
21 approved the settlement agreement, and at that point,
22 then there was a prehearing conference and parties were
23 given the 30 days under the settlement agreement to
24 evaluate the data and determine whether or not they had
25 an objection to what the settlement agreement

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1 contemplates.

2 Again, it's a little bit different simply
3 because the settlement agreement does discuss a filing,
4 but because the filing of the settlement agreement and
5 the filing of the wire center information that Qwest
6 has sort of came around in July of last year, then it's
7 thrown everyone into a bit of a puzzlement, and that's
8 how others address the issues. Now that we have a
9 prehearing conference and we understand that what the
10 procedure will be, then at least for this proceeding,
11 we will give the parties 30 days to evaluate the data
12 and then proceed from there, and that's what we would
13 propose in this case.

14 I realize that it has been some time since
15 Qwest filed its original filing in this docket, but the
16 parties, as they have done in other states, have
17 essentially held off and not done anything pending
18 Commission consideration of the settlement agreement.
19 Now that that settlement agreement has been approved at
20 least in part by the Commission, then we would propose
21 that we have 30 days to evaluate Qwest's information,
22 and as I recall in the Commission decision on the
23 settlement agreement, there is an additional filing
24 that Qwest needs to make in addition to the filing that
25 it did actually make.

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1 So I'm not sure when Qwest is anticipating
2 that they would be able to file that information, but
3 certainly we would want to be able to review both that
4 information as well as the other information that Qwest
5 has provided more as a cross-check. As a settling
6 party, we're not claiming anything other than the
7 information that is provided as prescribed in the
8 settlement agreement of the information that we should
9 be reviewing, but there had been processes in the other
10 states where parties have reviewed information.

11 In some cases, CLEC's information has been
12 forsaken, and we can rectify that, and sometimes it's
13 Qwest information that has been forsaken, and we've
14 corrected that, and so once all of the information is
15 available to all of the parties, then providing 30 days
16 to allow the parties to review that information and
17 hopefully work cooperatively as has been the case in
18 other states to make sure that everybody has the same
19 data and agrees on that data and how that impacts
20 Qwest's petition, and I think that would be the
21 appropriate procedure at this point.

22 JUDGE CLARK: Have you concluded your
23 remarks?

24 MR. KOPTA: Yes. At this point, I think it
25 makes sense to wait to see if there are any objections

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1 within 30 days from the date that Qwest makes whatever
2 additional filing it needs to make before we establish
3 any other schedule, because it may be that there won't
4 be any objections, and therefore, the Commission can
5 proceed to its determination.

6 JUDGE CLARK: What I'm going to address first
7 is the process that was established by Order No. 4
8 entered in this proceeding on August 2nd, 2007, and in
9 that order, the parties concurred at the last
10 prehearing conference held in this matter, that this
11 docket and Docket UT-073035 should be considered
12 sequentially, and in Paragraph 8, the parties concurred
13 that 30 days after the Commission enters an order
14 accepting the settlement, the parties may file
15 objection to Qwest's petition for additions, and as you
16 noted, Mr. Kopta, there is one additional filing
17 requirement that was imposed on Qwest as a result of
18 the orders issued in that proceeding, and that is
19 simply that Qwest is required to file the wire center
20 data in accordance with the methodology established in
21 UT-053025, and so it seems to me that that would be an
22 appropriate starting point for completion of the data
23 necessary for the parties to address any objections
24 they may wish to file. Ms. Anderl?

25 MS. ANDERL: Yes, Your Honor, thank you, and

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1 I was going to ask for clarification if that's what
2 everybody was talking about when they said "other
3 filing."

4 It's Qwest's position that we did provide
5 that information in response to Bench Request No. 3.
6 We did provide that in response to Bench Request No. 8
7 in the other docket, and at that point in time, those
8 dockets were already bifurcated but the parties were
9 the same. We can as a technical matter refile under
10 this docket number if the parties assert and Your Honor
11 agrees that that's necessary just so that the
12 administrative paperwork is complete, but we don't
13 think anyone is lacking any information that will be
14 new information based on a filing.

15 JUDGE CLARK: It will be necessary for you to
16 file in this proceeding, but since you have apparently
17 already accumulated that data, I assume that will be a
18 relatively simple exercise for you to perform and that
19 there will be a rather short deadline for doing that.
20 So when would you propose to do that, Ms. Anderl?

21 MS. ANDERL: We can file Monday.

22 JUDGE CLARK: Monday is the 21st. Excellent.
23 So then we will calculate 30 days from that date for
24 the parties to file objections. Is my understanding
25 now that there are no other intervenors in this

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1 proceeding other than entities who are signatories to
2 the settlement agreement that generally speaking, we
3 would be following the process established in that
4 proceeding for resolution in the issues of that docket,
5 so absent knowing whether there will be an objection,
6 and I'm assuming, Mr. Kopta, that Eschelon is not
7 wishing to continue its placeholder with the objection
8 that was filed in 073033 some time ago?

9 MR. KOPTA: That's correct, Your Honor. At
10 this point, the reason Eschelon filed that objection
11 was because, as I had explained, there was this sort of
12 lack of knowledge in terms of how the settlement
13 agreement would operate if it had not yet been
14 approved, so it was in compliance with the settlement
15 agreement that Eschelon filed its objection, and now
16 that we have a decision from the Commission on the
17 settlement and we have a procedure for evaluating the
18 data that Eschelon would not maintain its prior
19 objection but would instead look to review the
20 information that is provided and determine whether or
21 not to make an objection within the 30 days that will
22 be provided under the schedule.

23 JUDGE CLARK: It seems to me that that would
24 be the appropriate way to proceed and wait and see if
25 there are any objections rather than establishing

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1 additional deadlines at this juncture, unless the
2 parties have some objection to that process.

3 Ms. Anderl?

4 MS. ANDERL: We do not think that 30 days
5 should be necessary. We would like that to be a
6 shorter time, but whatever deadline Your Honor decides
7 will be the due date for objections, it seems as
8 correct. Ultimately, we shouldn't decide what to do
9 next since we don't know what's going to happen.

10 JUDGE CLARK: Mr. Kopta?

11 MR. KOPTA: I believe that just establishing
12 that one deadline should be sufficient at this point,
13 but we do believe that 30 days would be appropriate not
14 only because we have not yet undertaken review of the
15 data, but past experience in other states has been that
16 it takes awhile sometimes to review the data, provide
17 some information back and forth with requests to try to
18 verify data. We obviously have no intention of filing
19 objections if we have no basis for an objection, but
20 want to make sure we understand the data and can
21 cooperate with Qwest, and that simply takes some time.

22 JUDGE CLARK: Then I am going to require
23 Qwest to file the additional data on April 21st, and
24 I'm going to establish a deadline of 30 days thereafter
25 for any party to file objections to the wire center

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1 designations, and if it is necessary at the conclusion
2 of that time period to establish a procedural schedule
3 for the proceedings in this case, I will schedule a
4 third prehearing conference to do that, but if there
5 are no objections, the Commission will address the
6 petition according to the procedures established in the
7 settlement filed in 073035. Are there any further
8 matters that should be considered on this afternoon's
9 record?

10 MR. KOPTA: One additional matter, and this
11 is really a procedural question. In the notice of
12 prehearing conference, there was a matter addressed in
13 terms of the protective order.

14 JUDGE CLARK: Yes.

15 MR. KOPTA: And the order here essentially
16 vacates the prior protective order and states that the
17 stipulated form of protective order would be adopted.
18 So obviously, we want to comply with executing the
19 appropriate protective order so we can get access to
20 the confidential data.

21 So you would need to, I'm assuming, execute
22 that protective order to be able to access the data,
23 and I do not recall or do not remember seeing that the
24 Commission has yet issued that protective order.

25 JUDGE CLARK: That protective order was

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1 entered on, I believe, March 21st, if you will give me
2 just a moment to verify.

3 MR. KOPTA: I think you are right. I guess
4 my question is I'm assuming that we would need to
5 execute that protective order and cannot rely on the
6 fact that we executed a prior protective order to be
7 able to comply with the restrictions on the
8 confidential information. Would that be correct?

9 JUDGE CLARK: My understanding is that would
10 be correct. The third protective order was entered in
11 this proceeding at the request of Eschelon. That is
12 the standard protective order that is attached to the
13 settlement agreement that was approved by the
14 Commission subject to conditions, so I assume that yes,
15 you will need that.

16 Having reviewed the other exhibits attached
17 to the previous protective orders, I don't see a
18 significant difference between the protective orders
19 entered in these dockets. There are some differences,
20 but not some that I would characterize as significant.
21 Nonetheless, I think it would be appropriate for you to
22 sign the exhibits that are attached, Order No. 7,
23 rather than the previous protective orders entered in
24 this proceeding.

25 MR. KOPTA: We will certainly do that. I

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1 guess I want to make sure that things keep moving. I
2 didn't want to delay things simply because we had
3 mistakenly relied on executing the earlier protective
4 order instead of this one and therefore would not be
5 entitled to get the confidential information.

6 JUDGE CLARK: Right. Ms. Anderl?

7 MS. ANDERL: I was going just to ask
8 Mr. Kopta to make sure that he faxed or e-mailed or
9 PDF'd the signature pages to me by noon on Monday. Of
10 course, we will copy on the confidential filing.

11 MR. KOPTA: I certainly will do that.

12 JUDGE CLARK: Anything further to be
13 considered on this afternoon's record? Ms. Anderl?

14 MS. ANDERL: No, Your Honor.

15 JUDGE CLARK: Mr. Kopta?

16 MR. KOPTA: No, Your Honor.

17 JUDGE CLARK: We are adjourned.

18 (Prehearing adjourned at 1:57 p.m.)

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