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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION
3 THE WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
4)
 Complainant,)
5)
 vs.) DOCKET NO. UT-033011
6)
ADVANCED TELCOM, INC., et al.,) Volume II
7)
 Respondents.)
8 -----

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10 A prehearing conference in the above matter
11 was held on March 30, 2004, at 9:32 a.m., at 1300 South
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge ANN RENDAHL.

14
15 The parties were present as follows:

16 THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by CHRISTOPHER G. SWANSON, Assistant
17 Attorney General, 1400 South Evergreen Park Drive
Southwest, Post Office Box 40128, Olympia, Washington
18 98504; telephone, (360) 664-1220.

19 QWEST CORPORATION, by LISA A. ANDERL and ADAM
SHERR, Corporate Counsel, 1600 Seventh Avenue, Room
20 3206, Seattle, Washington 98191; telephone (Ms.
Anderl) (206) 345-1574.

21 QWEST CORPORATION, by TODD LUNDY (via
22 bridge), Attorney at Law, 1801 California Street, Suite
4700, Denver, Colorado 80202; telephone, (303)
23 896-1446.

24
25 Kathryn T. Wilson, CCR
Court Reporter

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1 QWEST CORPORATION, by PETER S. SPIVACK (via
2 bridge), Attorney at Law, Hogan & Hartson, 555 13th
3 Street Northwest, Washington, DC 20004; telephone,
4 (202) 637-5600.

5 FAIRPOINT CARRIER SERVICES, INC., INTEGRA
6 TELECOM OF WASHINGTON, INC., by MARK NYHUS, Attorney at
7 Law, Law Offices of Richard A. Finnigan, 2405 Evergreen
8 Park Drive Southwest, Suite B-1, Olympia, Washington
9 98502; telephone, (360) 956-7211.

10 PUBLIC COUNSEL, by ROBERT CROMWELL, Assistant
11 Attorney General, 900 Fourth Avenue, Suite 2000,
12 Seattle, Washington 98164-1012; telephone, (206)
13 464-6595.

14 ESCHELON TELECOM OF WASHINGTON, INC., by
15 JUDITH A. ENDEJAN, Attorney at Law, Graham & Dunn,
16 Pier 70, 2801 Alaskan Way, Suite 300, Seattle,
17 Washington 98121-1128; telephone, (206) 340-9694.

18 ESCHELON TELECOM OF WASHINGTON, INC., by
19 DENNIS D. AHLERS (via bridge), Senior Attorney, 730
20 Second Avenue South, Minneapolis, Minnesota
21 55402-2456; telephone, (612) 436-6249.

22 ELECTRIC LIGHTWAVE, LLC, by CHARLES L. BEST,
23 Attorney at Law, 4400 Northeast 77th Avenue, Vancouver,
24 Washington 98662; telephone, (360) 816-3311.

25 WORLDCOM, INC., TIME WARNER TELECOM OF
WASHINGTON, LLC, by ARTHUR A. BUTLER (via bridge),
Attorney at Law, Ater Wynne, 601 Union Street, Suite
5450, Seattle, Washington 98101-2327; telephone, (206)
623-4711.

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST
AND TCG SEATTLE, GLOBAL CROSSING LOCAL SERVICES, INC.,
XO WASHINGTON, INC., by GREGORY J. KOPTA (via bridge),
Attorney at Law, Davis Wright Tremaine, 1501 Fourth
Avenue, Suite 2600, Seattle, Washington 98101;
telephone, (206) 628-7692.

COVAD COMMUNICATIONS COMPANY, by WILLIAM R.
CONNORS (via bridge), Attorney at Law, Miller Nash, 601
Union Street, Suite 4400, Seattle, Washington 98101;
telephone, (206) 777-7515.

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1 COVAD COMMUNICATIONS COMPANY, by KAREN S.
2 FRAME (via bridge), Attorney at Law, 7901 Lowry
3 Boulevard, Denver, Colorado 80230; telephone, (720)
4 208-1069.

5 MCLEOD USA TELECOMMUNICATION SERVICES, INC.,
6 by DANIEL LIPSCHULTZ (via bridge), Attorney at Law,
7 Moss Barnett, 90 South Seventh Street, Suite 4800,
8 Minneapolis, Minnesota 55402-4129; telephone, (612)
9 347-0306.

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

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3 JUDGE RENDAHL: Let's be on the record. Good
4 morning. My name is Ann Rendahl, the administrative
5 law judge presiding over this proceeding. We are here
6 before the Washington Utilities and Transportation
7 Commission this morning, Tuesday, March 30th, 2004, for
8 a prehearing conference in Docket No. UT-033011,
9 Washington Utilities and Transportation Commission
10 versus Advanced TeleCom, et al.

11 On February 12th, the Commission entered
12 Order No. 05 in this proceeding resolving the parties'
13 dispositive motions, so the Commission convened this
14 prehearing this morning to discuss the status of the
15 proceeding, identify and narrow the remaining issues,
16 and set a procedural schedule for evidentiary hearings
17 in the proceeding.

18 Before we go any farther, let's take
19 appearances from the parties. If you've already stated
20 an appearance in this proceeding, please state your
21 name and identify the party you represent. Otherwise,
22 if this is your first appearance in this proceeding,
23 please state your full name, the party you represent,
24 your address, telephone number, fax number, and e-mail
25 address, please.

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1 And then if you could please refer when you
2 state your appearance to the handout I've distributed
3 and circulated by e-mail just to confirm that the
4 information included on that list is still correct.
5 Let's begin with Commission staff.

6 MR. SWANSON: Chris Swanson, assistant
7 attorney general for the Commission staff. Would you
8 like me to make a full appearance since I'm a new
9 counsel?

10 JUDGE RENDAHL: Please do.

11 MR. SWANSON: My address is 1400 South
12 Evergreen Drive Southwest, PO Box 40128, Olympia,
13 Washington, 98504-0128. My phone number is (360)
14 664-1220. My fax number is (360) 586-5522, and my
15 e-mail address is cswanson@wutc@wa.gov.

16 JUDGE RENDAHL: Thank you very much. We will
17 go to Qwest next and then alphabetically through the
18 list of CLEC's, or maybe in order by Appendix A.

19 MS. ANDERL: Lisa Anderl, in-house attorney
20 representing Qwest.

21 MR. SHERR: Good morning. Adam Sherr for
22 Qwest.

23 MR. SPIVACK: Peter Spivack from Hogan and
24 Hartson for Qwest.

25 MR. LUNDY: Todd Lundy, in-house counsel for

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1 Qwest and have entered an appearance previously.

2 JUDGE RENDAHL: Just as a reminder for those
3 of you on the bridge line, it's sometimes difficult for
4 the court reporter to hear you, so if you can make sure
5 you speak up and speak directly into the hand set, that
6 would be helpful.

7 Ms. Anderl, are there any changes to the
8 Appendix A list; are you aware?

9 MS. ANDERL: It looks correct to me, Your
10 Honor.

11 JUDGE RENDAHL: Okay. Mr. Spivack, is the
12 information for Hogan and Hartson correct? It would be
13 yourself, Ms. Russo, and Ms. Mitchell.

14 MR. SPIVACK: Yes, that is correct.

15 JUDGE RENDAHL: I believe that ATG is no
16 longer a party. I'm going to take them off the service
17 list.

18 MR. CONNORS: Bill Connors with Miller Nash,
19 and we would agree with that. I formally represent ATG
20 in this matter.

21 JUDGE RENDAHL: You are here Mr. Connors.
22 I'm sorry. So we will take ATG off.

23 MR. CONNORS: But I also represent Covad, but
24 Karen Frame is on the line as well, and I will let
25 Ms. Frame handle the Covad.

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1 JUDGE RENDAHL: Let's go first to AT&T and
2 then we will go to Covad. Is there anyone here
3 representing AT&T on the line?

4 MR. KOPTA: Your Honor, this is Gregory
5 Kopta. I'm actually representing two other parties,
6 but our firm is representing AT&T, and if no one else
7 from our firm is on, then I'll take that
8 responsibility.

9 JUDGE RENDAHL: Thank you, Mr. Kopta. Could
10 you state your appearance then for all parties that you
11 represent?

12 MR. KOPTA: All parties that I represent.
13 Gregory Kopta of the law firm Davis Wright Tremaine,
14 LLP, on behalf of AT&T Communications of the Pacific
15 Northwest and TCG Seattle, Global Crossing Local
16 Services, and XO Washington. I don't know whether I've
17 given my full name and address or not, but I can do
18 that at this point if you would prefer.

19 JUDGE RENDAHL: I think you've done that
20 before. I believe you have, and we do have the
21 information on the service list, so I think that would
22 be sufficient.

23 MR. KOPTA: Thank you.

24 JUDGE RENDAHL: For Covad, Ms. Frame?

25 MS. FRAME: Karen Frame, Your Honor, with

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1 Covad Communications. I believe you have all our
2 information on the list, but I don't believe that I
3 personally have entered an appearance officially.

4 JUDGE RENDAHL: Why don't you go ahead,
5 please.

6 MS. FRAME: So it's Karen Frame, K-a-r-e-n,
7 F-r-a-m-e, senior counsel with Covad Communications
8 Company. The address is 7901 Lowry Boulevard,
9 L-o-w-r-y, Boulevard, Denver, Colorado, 80230. My
10 telephone number is (720) 208-1069. My facsimile is
11 (720) 208-3350, and e-mail is kframe@covad.com. We do
12 need to remove Charles Watkins from the service list,
13 and we'll keep Bill Connors on.

14 JUDGE RENDAHL: How about Mr. Harlow?

15 MS. FRAME: Bill, does Brooks still want a
16 copy? I don't think Brooks really needs a copy.

17 MR. CONNORS: We can remove Mr. Harlow from
18 the list as well.

19 MS. FRAME: We really need only two attorneys
20 on this matter.

21 JUDGE RENDAHL: Would you prefer to receive
22 the paper and fax copy, Ms. Frame, or does Mr. Connors
23 need the copy?

24 MS. FRAME: I would prefer to receive both
25 the paper and e-mail copies, and Bill, do you want a

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1 paper copy as well?

2 MS. FRAME: The e-mail is fine with us.

3 JUDGE RENDAHL: Mr. Connors, why don't you
4 state your appearance now and for any other parties you
5 represent in addition to Covad.

6 MR. CONNORS: William R. Connors with Miller
7 Nash representing Covad.

8 JUDGE RENDAHL: Are there any other parties
9 now that ATG is gone?

10 MR. CONNORS: No, Your Honor.

11 JUDGE RENDAHL: So we'll include Ms. Frame
12 with paper and fax copies and e-mail service to you,
13 Mr. Connors.

14 MR. CONNORS: Thank you.

15 JUDGE RENDAHL: For Electric Lightwave?

16 MR. BEST: Your Honor, Charles Best, Electric
17 Lightwave. I have previously made an appearance. The
18 information you have should be correct. The only thing
19 I would point out is that in the e-mail address, there
20 is an underscore between "Charles" and "Best". It
21 doesn't really show up with the underlining, so for the
22 other parties, just so they know that is there. Other
23 than that, I think you have our information.

24 JUDGE RENDAHL: For Eschelon?

25 MS. ENDEJAN: Good morning, Your Honor.

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1 Judith Endejan for Eschelon Telecom of Washington,
2 Inc., and I understand that Mr. Ahlers from Eschelon is
3 also on the bridge line.

4 MR. AHLERS: Yes, Your Honor, Dennis Ahlers
5 for Eschelon, and the information on the service list
6 is correct.

7 MS. ENDEJAN: And it's correct for Graham and
8 Dunn as well.

9 JUDGE RENDAHL: Thank you. For Fairpoint
10 Carrier Services?

11 MR. NYHUS: I'm Mark Nyhus making an
12 appearance for the first time on behalf of Fairpoint
13 Carrier Services, Inc. My address is 2405 Evergreen
14 Park Drive Southwest, Suite B-1, Olympia, Washington,
15 98502.

16 JUDGE RENDAHL: Would you spell your last
17 name, please?

18 MR. NYHUS: First name is Mark, N-y-h-u-s.

19 JUDGE RENDAHL: Thank you.

20 MR. NYHUS: My telephone number is (360)
21 956-7211. Fax is (360) 753-6862. My e-mail address is
22 mnyhus@ywave.com. With regard to the service list, the
23 name of Seth Bailey should be removed, please.

24 JUDGE RENDAHL: And do you wish to receive
25 e-mail service with Mr. Finnigan receiving the paper

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1 service?

2 MR. NYHUS: Yes, please.

3 JUDGE RENDAHL: Is that the same for the
4 other parties that Mr. Finnigan represents?

5 MR. NYHUS: Yes, for Integra Telecom and SBC
6 Telecom, Inc., as well.

7 JUDGE RENDAHL: Thank you, Mr. Nyhus.
8 Mr. Kopta, for Global Crossing, I do believe right now
9 we do have Mr. Trincherro on for Global Crossing. Why
10 don't you make a formal appearance and we'll record it
11 for Global Crossing and for XO.

12 MR. KOPTA: Yes. Mark Trincherro should be
13 removed from the service list for Global Crossing Local
14 Services, Inc., and I should be substituted, Gregory
15 Kopta of the law firm Davis Wright Tremaine.

16 The client representative, I'm not sure that
17 is correct. I will send a follow-up letter once I
18 confirm who the client representative should be for
19 Global Crossing. For XO Washington, the client
20 information there is incorrect. It should be Rex
21 Knowles, but I will provide again the proper contact
22 information for Mr. Knowles.

23 JUDGE RENDAHL: Thank you. Mr. Nyhus, for
24 Integra, are you aware of whether Karen Johnson should
25 remain on the service list?

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1 MR. NYHUS: Her name should remain, Your
2 Honor.

3 JUDGE RENDAHL: Thank you. For McLeod USA?

4 MR. LIPSCHULTZ: I'm Dan Lipschultz, and this
5 is my first appearance. Last name is
6 L-i-p-s-c-h-u-l-t-z. My address is 4800 Wells Fargo
7 Center, 90 South Seventh Street, Minneapolis,
8 Minnesota, 55402-4129. My phone number is (612)
9 347-0306. Fax is (612) 339-6686, and my e-mail is
10 lipschultzd@moss-barnett.com.

11 JUDGE RENDAHL: Thank you. For Time Warner
12 Telecom, Mr. Butler?

13 MS. ANDERL: Before we go on, are we to
14 remove anyone for McLeod?

15 JUDGE RENDAHL: Mr. Lipschultz, is the
16 information that you received by e-mail correct?

17 MR. LIPSCHULTZ: Thank you for reminding me.
18 David Conn should be removed.

19 JUDGE RENDAHL: Should Ms. Harding remain?

20 MR. LIPSCHULTZ: I think for now, replace
21 Lauraine Harding with William Courter, C-o-u-r-t-e-r,
22 and the address is the same.

23 JUDGE RENDAHL: Do you know if he's a senior
24 manager.

25 MR. LIPSCHULTZ: He's actually senior

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1 counsel, and I'll give you his phone number. It's
2 (319) 790-6242.

3 JUDGE RENDAHL: And I'm assuming the fax
4 number would remain the same.

5 MR. LIPSCHULTZ: Yes.

6 JUDGE RENDAHL: Do you know his e-mail
7 address?

8 MR. LIPSCHULTZ: I do. It's with
9 wcourter@mcleodusa.com.

10 JUDGE RENDAHL: Thank you. For Time Warner,
11 Mr. Butler?

12 MR. BUTLER: I'm Art Butler, and the contact
13 information remains the same.

14 JUDGE RENDAHL: So you are representing Time
15 Warner Telecom.

16 MR. BUTLER: Yes, and WorldCom.

17 JUDGE RENDAHL: Is the contact information
18 correct for WorldCom?

19 MR. BUTLER: Yes.

20 MR. CROMWELL: Your Honor just for the
21 record, I know from personal experience that their
22 domain has changed to mci.com, so I assume the entry
23 for Ms. Davary has changed on her e-mail address. Is
24 that correct, Art?

25 MR. BUTLER: I had better confirm that. I

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1 think it still works, but I'll double-check that.

2 JUDGE RENDAHL: I'm pretty sure in past cases
3 it's now WorldCom Inc., and its subsidiaries in
4 Washington, n/k/a MCI, Inc.

5 MR. BUTLER: Yes.

6 JUDGE RENDAHL: I'll clarify that. For
7 public counsel, Mr. Cromwell?

8 MR. CROMWELL: Robert Cromwell, assistant
9 attorney general on behalf of public counsel. My
10 contact information remains the same.

11 JUDGE RENDAHL: Thank you very much, and
12 thanks for bearing with me as we go through those
13 details.

14 Mr. Swanson, could you please briefly
15 summarize where we are in this proceeding, and if you
16 are at liberty, if the parties are engaged in any
17 settlement negotiations?

18 MR. SWANSON: Certainly, Your Honor. Chris
19 Swanson for Commission staff. On the first issue of
20 where we are in this proceeding, I believe that Order
21 No. 5 was issued in that related to the multiple
22 motions for summary disposition in this matter and
23 resolved those motions, and at this point, Staff
24 believes that the proper thing to do at this point is
25 set a procedural schedule, and I also wanted to mention

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1 that although the discovery rule was previously invoked
2 in this matter, we did want to let folks know that
3 perhaps Staff would be providing notice of depositions
4 in this matter and haven't gotten in the details of
5 that yet but would comply with all the proper
6 procedures to do that.

7 In terms of settlement discussions, there
8 have been a few settlement discussions -- nothing
9 formal at this point -- with a few of the parties, but
10 Staff is hopeful and anticipates that one or more of
11 the parties may settle.

12 JUDGE RENDAHL: Okay. As the parties may
13 know, the Commission stands available to assist in any
14 settlement discussions or mediation. If the parties
15 believe that's appropriate, please notify me and we can
16 make an administrative law judge available for
17 mediation purposes.

18 At this point, it sounds like we need to go
19 forward and set a procedural schedule for hearings and
20 discovery. Because there is no time clock in this
21 proceeding, unlike a rate case, we don't have an end
22 point to work backwards from. When that's the case, I
23 usually come in with some sort of a proposed schedule,
24 but I have none, and I'm wondering if the parties have
25 given this any thought.

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1 MR. SWANSON: Chris Swanson for Commission
2 staff. I haven't had a chance to speak to all the
3 parties. I have spoken to Ms. Anderl a little bit
4 about a possible schedule, and I think what we talked
5 about was looking at when the Commission was available
6 and perhaps working back from that time to provide
7 opportunities for all the filings, and I think that
8 what we were thinking about, at least in terms of
9 Commission staff, was probably a one-week hearing in
10 this matter, so that probably would be helpful in
11 looking when the Commission might be available.

12 JUDGE RENDAHL: I do know the commissioners
13 intend to preside in this hearing, so I do have their
14 calendar with me. Was there any particular time frame
15 you were looking at for a hearing?

16 MR. SWANSON: Preliminarily, we were looking
17 at early October, perhaps, for a hearing, but I
18 understood that perhaps the Commissioners wasn't
19 available then but might be available sometime not too
20 far off from that date.

21 JUDGE RENDAHL: The Commission is available
22 the first two weeks of October. The last two weeks,
23 they are involved in the Verizon model interconnection
24 agreement SGAT hearings from the 18th through the 27th,
25 and then in November, the first week of November is

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1 available. Actually, the entire month, there are no
2 hearings scheduled before the Commission currently in
3 November, so I would say the first two weeks of October
4 and the entire month of November are available, which
5 is pretty amazing at this point. Let's be off the
6 record while we have these discussions, and then we can
7 go back on the record once we've completed.

8 (Discussion off the record.)

9 JUDGE RENDAHL: While we were off the record,
10 the parties discussed scheduling and came up with a
11 schedule. The parties will file a stipulation of fact
12 and law, if possible, on May 3rd, 2004. It's a Monday.
13 Direct testimony in this case is due on June 1st, which
14 is a Tuesday. Responses are due on August 2nd, which
15 is a Monday, and reply testimony is due on September
16 27th, which is also a Monday.

17 The prehearing conference for marking
18 exhibits and finalizing the schedule for the hearing
19 will be Tuesday, October the 26th, and in my prehearing
20 conference order, I will include a notice that witness
21 lists, exhibit lists, and cross-examination exhibit
22 lists would need to be filed with the Commission
23 electronically by noon on October 25th, which is a
24 Monday, so that I can put together a list and include
25 some numbers.

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1 Then the parties agreed that the week of
2 November 1st through 5th will work for hearing and
3 identified an initial brief filing date of December 3rd
4 and a responsive brief filing date of December the
5 17th. The parties discussed discovery, identified that
6 Staff may wish to depose certain Qwest witnesses or
7 personnel who may not have been identified yet as
8 witnesses, and I understand that those parties will
9 work with each other, and at this point, there is no
10 need for a discovery schedule, but if the parties have
11 disputes and need those resolved or need to have some
12 schedule for discovery, please contact me and we will
13 work through that.

14 Is there anything else we need to address on
15 the record? I think the only other thing we talked
16 about off the record was scoping of the issues, which
17 led to our discussion of the stipulation of fact, and
18 that is that the Order No. 5 dismissed the first cause
19 of action and the fourth cause of action, and that the
20 second, third, fifth through seventh causes of action,
21 including the element of time limits of filing in this
22 issue, remain in this proceeding. Is there anything
23 else we need to address on the record? Hearing
24 nothing, we will be adjourned. Thank you very much for
25 your calling in and being here this morning. We are

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1 off the record.

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3 (Prehearing concluded at 10:20 a.m.)

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