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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of) Docket UT-130477
) Pages 20-71
 THE CENTURYLINK COMPANIES -)
 QWEST CORPORATION;)
 CENTURYTEL OF WASHINGTON;)
 CENTURYTEL OF INTERISLAND;)
 CENTURYTEL OF COWICHE; AND)
 UNITED TELEPHONE COMPANY OF)
 THE NORTHWEST)
)
 To be Regulated Under an Alternative)
 Form of Regulation Pursuant to RCW)
 80.36.135)

HEARING ON PENDING MOTIONS, VOLUME II

Pages 20-71

ADMINISTRATIVE LAW JUDGES GREGORY J. KOPTA and
STEPHANY A. WATSON

1:35 P.M.

AUGUST 13, 2013

Washington Utilities and Transportation Commission, Room 206
1300 South Evergreen Park Drive Southwest
Olympia, Washington 98504-7250

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OLYMPIA, WASHINGTON, AUGUST 13, 2013

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1:35 P.M.

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P R O C E E D I N G S

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JUDGE KOPTA: Then let's be on the record in Docket

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UT-130477, CenturyLink's petition for alternative form of

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regulation, and we are here today on August 13, 2013, at 1:35 in

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the afternoon to take up two motions.

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I'm Gregory J. Kopta, the administrative law judge

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presiding, and with me is Stephany Watson, who is also

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presiding. And we will take, as our first order of business,

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appearances from the parties beginning with CenturyLink.

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MS. ANDERL: Thank you, Your Honor. Lisa Anderl,

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in-house attorney, representing CenturyLink.

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MS. ENDEJAN: Judy Endejan, from Graham & Dunn,

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representing Sprint.

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MS. CAMERON-RULKOWSKI: Jennifer Cameron-Rulkowski,

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Assistant Attorney General, here on behalf of Commission Staff.

21

JUDGE KOPTA: Thank you.

22

Anyone on the bridge line wishing to make an

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appearance?

24

I'm not hearing anything. I'm assuming that all

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counsel are present in the hearing room, so we will go right to

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1 the motions.

2 When I was in private practice, I always appreciated
3 judges when they would give some preliminary indication of where
4 they were coming from. So I am doing that now I'm on the Bench,
5 and my preliminary leaning is essentially to deny both motions.
6 I think, at least based on what I've read -- and I have read all
7 of the pleadings -- that Sprint has a broader interest than
8 simply IP-to-IP interconnection, and the fact that they have
9 issued data requests on that issue is not sufficient grounds to
10 dismiss them from the proceeding.

11 With respect to the motion to compel, I find that the
12 vast majority of the requests do seek information that is beyond
13 the scope of this proceeding. We will go through each
14 individual one. There may be some exceptions, but in general, I
15 think that CenturyLink's responses are generally adequate and
16 their objection is well taken.

17 So that's where I'm coming from. Feel free to take
18 issue with what my preliminary indications are. I remain open
19 to a final decision. I do not intend to issue a written order,
20 unless one is requested. I intend to make a ruling here, as we
21 sit in the hearing room, and so keep that in mind as well.

22 And since we've discussed off the record that perhaps
23 it would be most efficient to have CenturyLink discuss their
24 motion first, we will start with that.

25 And, Ms. Anderl, if you would like to make any

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1 comments in support of your motion?

2 MS. ANDERL: Okay. Thank you, Your Honor. First, I
3 would like to move the admission into the record of the
4 supplemental information we provided informally to the Bench and
5 the parties yesterday in the form of the affidavit of
6 Mr. Easton, and we brought enough copies with us today for
7 distribution. We can do a formal cover letter and filing and
8 certificate of the service, whatever we need to do, to kind of
9 perfect the filing with the Records Center. I didn't know if
10 there was any objection to that, or if we needed to discuss
11 that.

12 JUDGE KOPTA: All right. Are there any objections to
13 us considering the declaration that was filed yesterday and was
14 provided?

15 MS. ENDEJAN: No objection from Sprint.

16 MS. CAMERON-RULKOWSKI: None from Staff.

17 JUDGE KOPTA: All right. Then we will consider that.

18 MS. ANDERL: Okay. Thank you, Your Honor.

19 I would just like to briefly review that we do
20 believe that Sprint's interest in the AFOR proceeding is both
21 narrow and overly broad. I believe it has been demonstrated by
22 their data requests, and most importantly, by their response to
23 the motion to dismiss that their interest is very narrowly
24 focused on forcing some sort of a policy statement on IP-to-IP
25 interconnection.

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1 And so while that is a very narrow and focused area
2 of concern, I think it's also -- and we believe very strongly
3 that it is far outside the scope of the AFOR docket, which is
4 very specifically tailored to unimpact -- to be unimpactful of
5 CenturyLink's wholesale obligations, and that is one of the
6 reasons why instead of filing a petition for competitive
7 classification of the Company, which potentially throws into
8 question all of the Company's retail and wholesale services,
9 we've tailored it as an AFOR instead to simply have the retail
10 side of the business considered to be competitively classified
11 and the Company to be able to operate as a competitive
12 classified company as if it were a competitively classified
13 company in the provision of those retail services.

14 However, we have stated in the petition and in the
15 plan that we intend no effect on any wholesale services and/or
16 interconnection services or 251(c) or 252 services, and so we
17 don't believe that Sprint's interest falls fairly within the
18 scope of the AFOR. Sprint has said Qwest -- or CenturyLink
19 shouldn't be able to define the scope of the AFOR or the scope
20 of the docket. We think actually within certain reasonable
21 parameters we can, and we have, in terms of what the petition
22 was asking for.

23 I think kind of interestingly and similar to the
24 situation we're facing here, although certainly not identically
25 on the point, on the day that we filed the motion to dismiss

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1 Sprint as an Intervenor, ALJ Moss entered an order in the
2 PacifiCorp case, which is here in front of me, in Docket
3 UE-130043. And in that case he discussed the intervention of
4 Columbia REA, the Rural Electric Association, and REA's
5 legitimate interest in the tariff filing made by PacifiCorp, but
6 pretty clearly stated, I think, that the mere fact of an
7 intervention does not operate to basically effect or perfect
8 counterclaims that broaden the scope of the proceeding, and so
9 Columbia's objection to PacifiCorp's withdrawal of the tariff
10 were overruled and Columbia REA was dismissed from the docket.

11 I think that is obviously not exactly what we're
12 facing here, but similarly situated enough to give me hope on my
13 motion. We do think that Sprint will and has broadened the
14 scope of the proceeding. We think that they will and have, you
15 know, consumed Commission and Company resources on issues, while
16 very important, that are not appropriately explored in this
17 docket, issues that are very much under consideration at the
18 FCC.

19 I won't repeat my pleadings here. You know what we
20 said. You know what the CAF order says. We're very much aware
21 of what the CAF -- sorry. That's all caps C-A-F -- order says
22 with regard to interconnection being technologically neutral,
23 and we think we are complying with that because we do offer a
24 technology neutral form of interconnection through Qwest
25 Communications Company, LLC, and that is an IP interconnection.

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1 And doing that through a commercial agreement, we believe, meets
2 the obligations that we have that have been established to date.

3 Interconnection can mean more than just 251(c)
4 interconnection, and the obligation to negotiate or offer that
5 type of interconnection, certainly based on what the FCC has
6 said, can be premised on or supported by or based on any number
7 of different statutory provisions, only a few of which are under
8 the Telecom Act that require interconnection agreements. Other
9 provisions, such as Section 201, are more generally applicable
10 to all carriers, and the obligations can be satisfied in ways
11 that don't necessarily involve the provision of IP-to-IP
12 interconnection either at TELRIC rates or under a 252
13 interconnection agreement.

14 We think until the FCC more clearly establishes what
15 statutory basis it is going to rely on to require this and more
16 clearly establishes what type of enforcement mechanism there's
17 going to be, that it's premature for Sprint to try to extract a
18 policy statement or a declaration from this Commission on those
19 issues in this docket.

20 I know that Sprint has attached a couple of decisions
21 to its response to the motion to compel that it believes are
22 persuasive. We do not believe that the decisions are persuasive
23 in this case. In the case of the decision in Puerto Rico, that
24 was actually in an arbitration, so certainly not -- we are not
25 conceding that 251 and 252 would apply to this kind of a request

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1 and that we would go through an arbitration, but certainly in
2 the context of that case in Puerto Rico, that was a more
3 appropriate form for that to be raised.

4 In the case of the Ohio Commission, that was a
5 rulemaking, so all of the industry was involved, and the
6 Commission was simply adjusting some long-standing rules it had
7 on interconnection. Again, not that we agree with the outcome,
8 but certainly a more appropriate form for something as
9 admittedly important as this issue is to be decided should not
10 be decided in a single litigated case where we really don't have
11 the guidance from the controlling body and we don't have
12 participation of other affected carriers, all of whom would
13 likely have the same degree of interest in the issue.

14 The final point that I would make -- and, of course,
15 if there are any questions, I'm available -- is that even if
16 this were a 251(c) obligation, the ILEC is not obligated to
17 provide anything that it's not technically feasible to do. And
18 we have stated to Sprint on multiple occasions -- I don't think
19 Sprint has any reason to disbelieve this -- we do not have IP in
20 the local network at this point. All of our switches are TDM,
21 which is all caps, T-D-M, Time Division Multiplexing,
22 traditional telephony switches. There are ways, as I said, for
23 a carrier to deliver Internet protocol traffic to the local
24 exchange company by having it converted from IP to TDM before
25 it's delivered.

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1 But in terms of direct IP to IP, the QC and the
2 CenturyTel and Embarq ILECs simply don't have that technology in
3 their network, and so we believe that any ruling on that issue
4 would be, as we noted in our motion, an impermissible
5 declaratory ruling based on a hypothetical set of facts.

6 And with that, I will rest, Your Honor. Thank you.

7 JUDGE KOPTA: All right. And just to address -- I
8 don't know whether Ms. Endejan has read the PacifiCorp order.
9 I'm familiar with that issue, and there was a specific tariff
10 that was filed that had to do with disconnection of service and
11 the costs that might be incurred by a company to disconnect
12 service. And the Company, in this case, PacifiCorp, decided
13 that it was not quite ready for prime time and withdrew that
14 tariff, and that was the sole basis on which Columbia REA was
15 interested in the proceeding, and, therefore, because the tariff
16 went away, then so did that Company's participation.

17 So, again, it was focused pretty squarely on only the
18 things that that Intervenor was interested in. Once they were
19 removed from the docket, then the Intervenor had no further
20 interest in the case.

21 So I say that by way of explanation so that you have
22 a better idea of what that case is about, Ms. Endejan. I assume
23 you're not following all of the electric cases.

24 I am not aware that that is the case, but that would
25 be the first question I have for you: Is IP-to-IP

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1 interconnection the only issue that Sprint wants to pursue in
2 this particular docket?

3 MS. ENDEJAN: No. It actually wants to pursue sort
4 of the broader importance of taking into consideration wholesale
5 concerns because as you noted in the -- is this on?

6 JUDGE KOPTA: If the red light is on, then it's on.

7 MS. ENDEJAN: It's on. Okay. Thank you, Your Honor.

8 Basically the Commission stated probably the focus of
9 our concern in the Frontier order, which while not exactly
10 identical procedurally, it raises the same fundamental threshold
11 question which is: Should this Commission loosen regulation on
12 the two largest ILECs in the state because of today's current
13 telecommunications environment, and if the request is granted
14 for CenturyLink, for seven years ahead?

15 Now, embedded in that is a critical issue, and as
16 this Commission noted in the Frontier order, the IP transition
17 has become the underlying foundation for the availability of
18 21st Century digital service and applications for Washington
19 residents and businesses.

20 So I think that interconnection, as I'm sure you
21 know, Your Honor, is probably the single most important
22 component of effective retail competition in the end, and it has
23 to be looked at. IP interconnection is a huge issue across the
24 country. The states do have a role to play here. And it's not
25 surprising that CenturyLink, the ILEC, is, you know, trying to

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1 forestall voices that are going to present and discuss this
2 issue because it's important in the whole scheme of things here.
3 You can't just look at it as, Oh. It's just retail services
4 that are being walled off and affected by the AFOR. That's not
5 necessarily true, because if you look at the testimony of
6 CenturyLink's own witnesses, they talk about where the
7 competition is coming from, and it's coming from competitors,
8 VoIP providers, Sprint, and others.

9 So, you know, in loosening the bonds of regulation,
10 so to speak, you can't -- you have to take a holistic approach
11 and you have to ensure that there is a sufficient regulatory
12 backstop in those areas where competition is not going to -- or
13 market forces are not going to achieve the public policy
14 outcome, which, in this case, if I'm reading the Commission's
15 order right, is this Commission very much wants to promote the
16 IP transition, very much wants to promote broadband deployment,
17 very much is an extremely procompetitive Commission.

18 And given that background and given the criteria that
19 the Commission has to consider in ruling on an AFOR petition,
20 which I have cited in my brief, all of which deal with, Are you
21 going to facilitate, you know, the deployment of advanced
22 technology? What decision is going to basically advance
23 effective competition and promote against the exercise of market
24 power? Because of those considerations -- I mean, Sprint's
25 voice is highly relevant, and I think that we satisfy -- we have

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1 satisfied the criteria for intervention, which was not opposed.
2 Sprint never had and had no hidden agenda when it came into this
3 docket. It said specifically in its petition that it was
4 intervening to protect, among other things, its right to
5 interconnection, so, of course, CenturyLink wants to silence
6 Sprint on this issue because why? It buys time for them to
7 basically delay addressing this issue.

8 And what does that mean? Well, that means they get
9 to keep the revenues that they get, which are substantial, from
10 what the other carriers pay in order to interconnect.

11 Now, I think that they want -- and it's clear from
12 Mr. Easton's declaration that what they want to be able to do is
13 simply offer what they call "IP interconnection" as a commercial
14 product at market-based prices. Sprint's view is that would be
15 really harmful for competition, and it would violate the FCC's
16 CAF order.

17 Now, despite what CenturyLink and the ILECs across
18 the country claimed, the FCC in that CAF order said quite
19 specifically and clearly in Paragraph 1011 of the order, not the
20 F -- further notice of -- FN, whatever; you know, the further
21 notice of proposed rulemaking.

22 It said in particular (as read): "Even while our
23 FNPRM is pending, we expect all carriers to negotiate in good
24 faith in response to requests for IP-to-IP interconnection for
25 the exchange of voice traffic," and they repeat it repeatedly in

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1 at least seven to ten paragraphs in the notice of proposed
2 rulemaking that the carriers have a duty to negotiate in good
3 faith.

4 Where does that duty come from? The only source is
5 Section 251, so there is no way you can make sense out of the
6 CAF order unless you conclude, Okay. FCC has made a policy
7 decision that (a) interconnection must be technology neutral,
8 and (b) carriers have a good faith duty to negotiate on
9 interconnection terms and conditions.

10 So where does that leave us with this massive FN --
11 FNPRM is this. They're working out some of the details, but the
12 underlying threshold policy decision has been made repeatedly.
13 And what we're confronting here is resistance from an ILEC who's
14 basically saying, oh, two things, and I want to address both of
15 them because they go to the relevancy of our data requests.

16 First, they say we don't have a Section 251
17 obligation. Our pleadings -- and what I have just said, I
18 think, pretty affirmatively says you can't read the CAF order in
19 any sensical way without concluding that that is what the FCC
20 said.

21 And No. 2, they say, Well, our ILECs don't have the
22 equipment to have -- to allow for IP interconnection. Well,
23 that, then, goes into what we call "the shell game" of they have
24 the assets. They offer VoIP products. They have an IP network.
25 It's allegedly not, quote, within the ILEC.

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1 And if you look at CenturyLink's website -- and we
2 looked at it after Mr. Easton's declaration came in -- all of
3 the VoIP offerings clearly say (as read): "CenturyLink.
4 CenturyLink's Small-Medium Business. Business Phone VoIP. Our
5 phone system holding you back? Your competition is counting on
6 it. The Benefits of the CenturyLink SIP VoIP services."

7 All of their contracts are in the name of
8 CenturyLink. Even the contracts that were provided to us as,
9 quote, the contracts that apply to wholesale IP offerings, are
10 in the name of CenturyLink. There's nothing that says QCC is
11 the separate entity that is offering or providing these
12 services. That's really a clever way to kind of wall off the
13 obligation to interconnect by saying, Oh. This is a
14 nonregulated entity.

15 And both the FCC and the DC Circuit -- well, the DC
16 Circuit in the ASCENT case cited in our materials, followed by
17 the FCC said, No, no, no, no. You cannot, you know, preclude
18 Section 251 obligations, ILEC, by moving equipment, services, et
19 cetera, into your nonregulated affiliate.

20 So most of the DRs that are at issue here go to the
21 question of finding out, well, how is CenturyLink really
22 providing VoIP services? I mean, I'd be willing to bet you a
23 dime to a doughnut that the CenturyLink ILEC people are taking
24 the service orders, and that other assets associated with the
25 CenturyLink ILEC are used in the provision of the VoIP services

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1 that Mr. Easton talked about.

2 And then if you look all over their website, clearly
3 say it's CenturyLink. We're one big entity, and we offer all
4 these VoIP products.

5 And the CenturyLink witness, in and of itself,
6 Mr. Felz, talked extensively about the nature of VoIP
7 competition and its importance. So I think it would be, you
8 know, ignoring the 1,000-pound canary in the middle of the
9 room -- or is that in a cold cage? I'm mixing analogies here --
10 but the 1,000-pound elephant in the middle of the room to ignore
11 the fact that we have a critical issue that is essential to
12 effective competition and we can't get at all.

13 If you accept the CenturyLink approach that it's
14 commercial agreements, the FCC recognized the danger of that in
15 the CAF order in Paragraph -- hang on here. I've got it.

16 JUDGE KOPTA: Well, I'm going to interrupt here; just
17 a moment here.

18 MS. ENDEJAN: Okay.

19 JUDGE KOPTA: We're seeming to trend into --

20 MS. ENDEJAN: The merits.

21 JUDGE KOPTA: -- the next motion.

22 MS. ENDEJAN: Okay.

23 JUDGE KOPTA: At this point I want to focus on what
24 is Sprint's interest in this particular proceeding, and so I
25 will ask the question: If IP-to-IP interconnection were an

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1 issue the Commission were to decide was not going to be taken up
2 in this particular docket, would Sprint continue to have an
3 interest in the outcome of this proceeding?

4 MS. ENDEJAN: It would still continue to have an
5 interest in advancing the fact that the impact on wholesale
6 competition is a legitimate concern of the Commission to
7 undertake in ruling on the AFOR petition.

8 JUDGE KOPTA: And Sprint provides retail services in
9 competition with the retail services that CenturyLink is
10 requesting to have reduced regulation through the AFOR?

11 MS. ENDEJAN: Well, yes, technically. I mean,
12 voice-voice.

13 JUDGE KOPTA: Okay.

14 MS. ENDEJAN: Data-data, you know?

15 JUDGE KOPTA: That's...

16 MS. ENDEJAN: I mean, that's sort of -- yeah. They
17 may provide it a different way, but they do provide it, so...

18 And if, in fact, the Commission were to find that IP
19 interconnection shouldn't be considered in this docket, Sprint
20 would ask the Commission then to start a docket. Get it going.
21 The states have a role here to play in advancing that interest
22 as has been demonstrated by Puerto Rico and Ohio.

23 And if this Commission is serious about, you know,
24 focusing on encouraging the IP transition and encouraging
25 broadband deployment, which depends on IP technology, et cetera,

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1 then as an aside, I would plead with you, Judge Kopta, to do it
2 quickly and not wait for three years to let this commercial
3 wholesale environment, in a sense, poison the competitive
4 landscape of interconnection.

5 JUDGE KOPTA: Well, fortunately or unfortunately, it
6 won't be my decision to make.

7 MS. ENDEJAN: I understand, but you're the conduit to
8 the Commission.

9 JUDGE KOPTA: All right.

10 MS. ENDEJAN: And I can only advocate before you two,
11 so I think that we have an interest in this case, and that we
12 satisfy the criteria. We did when we first intervened. We
13 still have it. There's no basis to dismiss us.

14 I think that Sprint will present some interesting
15 testimony that will inform the Commission of competitive
16 concerns that are relevant to the AFOR decision, and with that,
17 I'll conclude. And then -- I don't know -- I'll address the
18 specific data requests, if you would like.

19 JUDGE KOPTA: We will do that separately.

20 MS. ENDEJAN: Okay.

21 JUDGE KOPTA: I just want to get everything done with
22 this first motion.

23 MS. ENDEJAN: Right.

24 JUDGE KOPTA: Ms. Cameron-Rulkowski, do you have
25 anything to add on this motion?

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1 MS. CAMERON-RULKOWSKI: No, Your Honor. Staff is not
2 taking a position, which you probably concluded, as we did not
3 file anything.

4 JUDGE KOPTA: That was my assumption, but I did not
5 want to rest on that. I wanted to give you the opportunity to
6 confirm.

7 MS. CAMERON-RULKOWSKI: I appreciate that, Your
8 Honor.

9 JUDGE KOPTA: All right. Ms. Anderl, anything that
10 you want to say in response that's directed just to the motion,
11 not to the sort of additional material that's going to go to the
12 next motion that we're going to consider?

13 MS. ANDERL: Your Honor, just a couple of things.
14 And sometimes I think they go without saying, because they're
15 already in my pleading, but I think maybe they bear a little
16 reenforcement.

17 I think Sprint is overreading the ASCENT case. We
18 cited the FCC's discussion in the CAF order and the NPRM --
19 further notice of further proposed rulemaking -- wherein the FCC
20 specifically discussed the ASCENT case and did not broaden it
21 beyond the facts that were present when that decision was made
22 and, in fact, being very well aware of that holding still did
23 not determine that IP-to-IP interconnection is a 251(c) service.

24 So we believe that that -- Sprint is reading that
25 case more broadly than it should be read, and then more broadly

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1 than the FCC has read it.

2 Sprint, I think, also misstates that interconnection
3 can only be a 251 service. I think the FCC was very clear in
4 the paragraphs in its further notice of proposed rulemaking that
5 there were many statutory provisions upon which it could base an
6 obligation to negotiate and to require IP-to-IP interconnection,
7 Section 251 being one of those, but also as I mentioned, Section
8 201. The FCC asked whether Section 706 could form a basis,
9 whether there were other -- whether Section 256 formed a basis,
10 whether there was some ancillary authority that they could rely
11 on to require IP-to-IP interconnection and other statutory
12 provisions that they should consider. And they also said, you
13 know, maybe we should just leave this to commercial agreements,
14 and -- and they know that. They know that CenturyLink and other
15 ILECs are offering the IP interconnection service through their
16 long distance or their CLEC affiliates. The FCC has not taken
17 action to prevent that. This is still an open issue.

18 I listened to Ms. Endejan's arguments about what
19 Sprint's interests in this case would be if IP-to-IP
20 interconnection were not at issue, and I don't really think
21 Sprint has any. Everything she said in response to your
22 question of, Well, is IP-to-IP interconnection your only issue,
23 even though she said no, all the issues she discussed were yes.
24 They kind of broadly at the end say, Well, there are wholesale
25 considerations that the Commission has to look at in the AFOR

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1 statute, but the simple fact of the matter is, is we are not
2 changing any of our wholesale obligations, and so I don't -- I
3 don't see how Sprint could have an interest in interconnection
4 obligations or of our legal obligations that are unaffected by
5 the AFOR.

6 Their interconnection agreement that was negotiated
7 and arbitrated under the Act will remain unchanged. The
8 amendments that they have entered into, including one for the
9 exchange of VoIP traffic, will remain unchanged. The QPAP and
10 the PIDs will remain unchanged, and so I don't think that Sprint
11 has any issues that it can ask the Commission legitimately
12 within the scope of the docket to rule on that they care about
13 other than IP-to-IP interconnection.

14 And they are very, very broadly across the country,
15 you know, advocating this position of trying to force state
16 commissions into deciding these issues. We just think it's both
17 dramatically premature and, again, certainly not appropriate in
18 this docket.

19 JUDGE KOPTA: Okay. I am not convinced to change my
20 initial determination especially at this stage. We're still in
21 discovery, and we still have not had any testimony filed by
22 Sprint or any of the other parties. All we have is the direct
23 case that CenturyLink has filed.

24 I think it's premature at this point to automatically
25 assume that Sprint is only interested in IP-to-IP

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1 interconnection. As a competitor of CenturyLink, I think they
2 do have an interest in the regulation to which CenturyLink is
3 subject to in its retail services. I think also they certainly
4 should have the opportunity to demonstrate or at least explore
5 the extent to which CenturyLink is or could make competitors'
6 ability to provide competing services more difficult or to
7 discriminate among carriers, including CenturyLink's CLEC or
8 VoIP affiliate, and I'm not at this point prepared to remove
9 that ability that Sprint has to explore those types of issues
10 and to bring them before the Commission.

11 At the same time, I am believing that it is unlikely
12 that the Commission will go down the path of exploring IP-to-IP
13 interconnection, per se, unless there is some demonstration that
14 CenturyLink is providing some IP-to-IP interconnection to its
15 affiliate and not to anyone else, or in some other way
16 discriminating in its activities so that it is exercising market
17 power that the AFOR would give them even greater ability to
18 exercise.

19 I don't know whether that's the case. At this point,
20 I'm not willing to assume that it is. But if CenturyLink is, as
21 you represent, not providing IP-to-IP interconnection to any
22 entity, including its own, instead it's just TDM to TDM, and
23 that's the responsibility of the other parties to make that
24 conversion, then I seriously doubt that IP-to-IP interconnection
25 will be something that will be an issue in this docket.

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1 So I will, with that caveat, deny the motion, but I
2 will keep in mind CenturyLink's concerns as we go into the next
3 motion, which is your motion to compel, Sprint.

4 MS. ENDEJAN: Thank you, Your Honor.

5 JUDGE KOPTA: And I think I have heard your general
6 arguments as to the topics, and so I think most efficient would
7 be at this point to go through each of the individual data
8 requests so that we can discuss the extent to which, if any --

9 MS. ENDEJAN: Great.

10 JUDGE KOPTA: -- Sprint is entitled to have
11 additional information in response to those requests.

12 MS. ENDEJAN: Agreed. I think there's probably no
13 doubt from the polished position where Sprint is coming from.

14 JUDGE KOPTA: I'm not in any doubt.

15 MS. ENDEJAN: Thank you. Okay. The first request is
16 Data Request No. 1, and I frankly am kind of puzzled by
17 CenturyLink's response, because what I was merely asking for in
18 the motion is they state in their answer generically, See its
19 comments filed in two FCC dockets, and I had a typo in one
20 of them, my letter to you, and I apologize.

21 And we were just asking tell us which ones, because
22 if you go to the FCC website in those dockets, there are a lot
23 of comments. And one of them was marked confidential, that I
24 couldn't get into the entire document, so I was just asking for
25 assistance. I'm not asking them to do my own homework. I just

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1 can't figure out what comments are specifically tied to that
2 sentence, so I don't understand why they're refusing to provide
3 that to us.

4 JUDGE KOPTA: Well, I have had a significant amount
5 of experience on these kinds of requests, both in propounding
6 them and in responding, and based on my experience and then
7 Commission past practice, the Commission expects the parties to
8 do their own research and not to require the other party to do
9 research on comments that the FCC has filed.

10 Now, if there are confidential comments that you
11 cannot access because Sprint has not signed a confidentiality
12 agreement at the FCC level and you cannot get them, then that's
13 another matter. But if it's comments that are just on the FCC
14 website, granted, it is rather cumbersome, but I don't know that
15 Ms. Anderl has any greater ability than you to mine that
16 particular source.

17 So I'm not inclined to require that they provide any
18 additional response, except to the extent that they have filed
19 confidential comments that you otherwise cannot get ahold of.

20 MS. ENDEJAN: That is the case. And I forget which
21 docket it's in, but there are some confidential documents that I
22 could not access.

23 And I'm not asking to -- basically, I'm asking them
24 to identify which comments are the ones that are responsive. I
25 mean, I'll pull them. I'll go to the website. But there are a

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1 lot of comments, and so I just can't tell which ones are
2 intended to be incorporated in their response, and that's why I
3 asked them to do this. I believe, if I'm not mistaken, that
4 they have the responsive comments, and it wouldn't be a big deal
5 for them to send me the identity and/or send me the confidential
6 document with the confidential information stricken. I don't
7 think it's particularly burdensome on Ms. Anderl, and that's all
8 I'm asking for.

9 I agree with you. I try to do my own research. And
10 I have scoured the FCC website far too many nights, and I just
11 couldn't tell which ones tie to this particular sentence.
12 That's why I brought the motion on this.

13 JUDGE KOPTA: Ms. Anderl?

14 MS. ANDERL: Well, Your Honor, admittedly, there are
15 a lot of comments in both of those dockets, but I believe, at
16 least, that Sprint is a party to both of these dockets.

17 I don't know. Maybe Ms. Endejan can't get the
18 comments, but I think Sprint has them. You know, I think the
19 thing we're struggling with is that it was such a general
20 question. It was, you know, Do you agree that special access in
21 Ethernet markets are effectively competitive?

22 Well, yes, we do, and then we gave a brief
23 explanation.

24 We could probably file thousands of pages on why we
25 think they're effectively competitive. We just thought that it

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1 might be further illuminating to say, Look. You know, look at
2 our comments in these dockets. They have been open for ten
3 years. Anybody who's participating at the FCC knows what our
4 position is on these. And these are the comments that we filed,
5 and these dockets addressing these topics are illustrative of
6 our position.

7 JUDGE KOPTA: Well, the other concern that I have is
8 I'm assuming, although I don't know, that these comments are not
9 going to be specific to the state of Washington, and that's what
10 this Commission is concerned with.

11 So to the extent that these are just general comments
12 about the market throughout the United States, or the market as
13 it exists nationwide, then I don't see that that has any
14 relationship to this particular docket.

15 So if you are aware of any comments or any other
16 basis for your position that has to do with the state of
17 Washington, then that might be something that you may want to
18 pass along.

19 I know that your direct testimony deals with this
20 issue, and that might be the extent to which Washington
21 CenturyLink has examined this issue on a Washington-specific
22 basis.

23 But you're right. The request is very broad, and so
24 I'm narrowing it to the state of Washington. So if you have any
25 comments, either in these FCC dockets or any other dockets that

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1 deal specifically with the state of Washington or some other
2 basis for your opinion other than your direct testimony, then I
3 think that's a legitimate issue for inquiry.

4 MS. ANDERL: And it's been a long time since I looked
5 at this question. In particular, I believe that we had reviewed
6 the confidential comments and found that there was nothing in
7 those. I'll double-check that.

8 JUDGE KOPTA: All right. Are we clear on, then, on
9 what I'm...

10 MS. ENDEJAN: Yes, Your Honor. I understand. And I
11 believe that Ms. Anderl and I can in an offline conversation
12 resolve that one, so thank you.

13 JUDGE KOPTA: Okay.

14 MS. ENDEJAN: The next numbers are from -- let's
15 see. -- No. 9. That's pretty much covered by what we just
16 talked about because, again, they reference their comments.

17 But the ones that follow it, Nos. 10 through 15,
18 inquire into the VoIP services and inquire into -- you know,
19 basically, we don't know if CenturyLink is providing IP
20 interconnection to CenturyLink services that it's not providing
21 to others.

22 And we don't know to what extent CenturyLink is, for
23 instance, performs the functions of selling to the customer,
24 billing to the customer, installation, maintenance, et cetera.
25 This ties directly into the ASCENT case, and the key factors in

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1 the ASCENT case was that the Court said, Look. If there's
2 equipment that formerly belonged to the ILEC that's been moved
3 to the CLEC and --

4 JUDGE KOPTA: Well, I'm going to interrupt you here
5 because I'm looking at Request No. 10.

6 Is that the one that you're looking at?

7 MS. ENDEJAN: I'm basically talking about all, 10
8 through 15.

9 JUDGE KOPTA: Well, I want to go through them
10 individually.

11 MS. ENDEJAN: Okay. Okay.

12 JUDGE KOPTA: And No. 10 seems to be specific to
13 retail services. I don't see any wholesale, unless you read it
14 much more broadly than I'm reading it. And I have a hard time
15 seeing how they or their affiliate's provision of VoIP as a
16 retail service has anything to do with whether they're fully
17 regulated local exchange services that they have requested more
18 flexibility under the AFOR how that -- how those are related.

19 MS. ANDERL: Well, and, Your Honor, if I might just
20 interject, we did supplement Data Request No. 10 as we set forth
21 in our response, which says only Qwest Communications Company,
22 LLC, which is the legal entity, you know, separate entity
23 registered with the Secretary of State. They can go figure out
24 what that is. Only that company offers a VoIP product in
25 Washington.

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1 I don't know if the motion to -- if there's a motion
2 to compel further information beyond that supplement. I think
3 that fairly answers the question.

4 MS. ENDEJAN: Well, Your Honor -- and Mr. Easton's
5 declaration actually supplements that, or provides additional
6 information for No. 10, so --

7 JUDGE KOPTA: So are you okay --

8 MS. ENDEJAN: -- I'm done with No. 10.

9 JUDGE KOPTA: -- with No. 10?

10 MS. ENDEJAN: I believe we can move to...

11 JUDGE KOPTA: All right. Then I don't need to make
12 any ruling on that one.

13 MS. ENDEJAN: No.

14 JUDGE KOPTA: All right. Number 11, then.

15 MS. ENDEJAN: Number 11, returning to my argument on
16 the ASCENT case is the purpose of this is to find out if, you
17 know, as in ASCENT, does the ILEC perform functions for the CLEC
18 with respect to the provision of VoIP and Internet protocol
19 services.

20 JUDGE KOPTA: And how is that related to whether or
21 not the Commission should grant them additional regulatory
22 flexibility for their retail fully regulated services?

23 MS. ENDEJAN: Well, to return to a comment you made,
24 Your Honor, I think that to the extent that -- and we don't know
25 this, that CenturyLink is providing IP interconnection to

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1 facilitate the provision of those VoIP services that it is not
2 offering to competitors such as Sprint. I think that it's
3 relevant because we're exploring to see if there is, in fact,
4 any discrimination between the entities.

5 JUDGE KOPTA: Well, I don't see interconnection in
6 this data request. I see selling and billing, installation and
7 maintenance, customer service. All of these are retail
8 functions.

9 MS. ENDEJAN: Right. But in order to perform the
10 retail functions, there has to be an IP soft switch in the
11 background there doing it, you see? So in other words, what is
12 the extent of CenturyLink's IP capabilities, and they need some
13 to provide the retail services, number one, and number two, we
14 are trying to find out, again, if there is some sort of, you
15 know, mushing of the entity between CenturyLink and QCC
16 regarding this.

17 Now, they have brought up the issue of VoIP
18 competition in Mr. Felz's testimony. They have talked
19 extensively about it and how it's serving as a substitute for
20 their service, which is why they're losing access lines.

21 So it seems to me they have raised the issue of VoIP
22 retail competition, and we're entitled to find out if they're
23 doing it, how are they doing it, and is it impacting, you
24 know -- how is it impacting the telecommunication -- the global
25 telecommunication's environment that this request for reduced

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1 regulation has to be resolved in.

2 JUDGE KOPTA: Well, I'm not seeing the connection.

3 This is all retail functionality for their VoIP affiliate, and I
4 don't -- I don't see that as something as an issue --

5 MS. ANDERL: Well, and Your --

6 JUDGE KOPTA: -- in this proceeding, unless --

7 MS. ANDERL: Go ahead. I'm sorry.

8 JUDGE KOPTA: -- you would like to snatch victory
9 from them.

10 MS. ANDERL: Snatch defeat --

11 JUDGE KOPTA: Snatch defeat from the jaws of victory.

12 MS. ANDERL: -- from the jaws of victory?

13 JUDGE KOPTA: Yeah.

14 MS. ANDERL: No. I was just going to affirm that
15 you've got it exactly right.

16 JUDGE KOPTA: All right. Thank you. I appreciate
17 that, so I'm going to deny No. 11.

18 So No. 12?

19 MS. ENDEJAN: Well, No. 12 and No. 13 and No. 14 and
20 15 deal with -- well, no. Number 15, I believe, is different,
21 but 12, 13, and 14 go to the VoIP product that CenturyLink is
22 offering.

23 JUDGE KOPTA: And that's the same ruling on those. I
24 don't see that as something that is germane.

25 MS. ENDEJAN: Okay. Number 15. This is asking them

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1 to -- I guess we're trying to find out if there is a -- and we
2 define CenturyLink to include affiliates.

3 Is there a -- CenturyLink defining -- including its
4 affiliate -- a soft switch in Washington, and, you know, we
5 don't know. The purpose of this is to find out to what extent
6 is there within the larger CenturyLink body, which we have
7 defined in the definition sections to include its affiliates,
8 and I think this would be relevant to the question of whether
9 they're providing IP interconnection within the CenturyLink
10 entities and not to others.

11 JUDGE KOPTA: Ms. Anderl?

12 MS. ANDERL: Thank you, Your Honor. In the original
13 response to Data Request No. 15, we did state that none of the
14 operating companies in this docket -- in other words, none of
15 the five CenturyLink ILECs -- use anything other than circuit
16 switch equipment to provide business and residential voice
17 service.

18 We then supplemented that data request response to
19 state that QCC -- again, the CLEC IXC entity, which is a
20 separate affiliate and not a party to this docket -- does
21 utilize packet routers to provide voice over IP in Washington,
22 and we continue to object on the basis that the location of the
23 equipment is irrelevant. You don't have to have equipment in a
24 state to -- IP equipment in a state to provide IP services. I
25 think that that's one of the benefits of an IP network and why

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1 there is a transition toward it, you know, industry wide. It
2 doesn't have the same network architecture as the traditional
3 voice-based services, but we think that between the two answers,
4 we have kind of fairly covered the waterfront on this and should
5 not be required to provide anything else.

6 MS. ENDEJAN: Well, Your Honor, it says that they
7 utilize packet routers to provide VoIP in Washington. That's
8 not the same thing as a switch, and that doesn't tell me if they
9 have any equipment in Washington State for purposes of the
10 question. It still doesn't answer the question.

11 JUDGE KOPTA: Well, again, this is marginally
12 relevant at best, certainly not the manufacturer and model
13 number of the switch. That is completely irrelevant.

14 I think they obviously have answered sufficient to
15 demonstrate that they do have VoIP-type services, and therefore,
16 they have the equipment to provide that. And I don't see that
17 they need to provide anything further, so I'm going to deny that
18 one as well.

19 So No. 18?

20 MS. ENDEJAN: Number 18, and I believe that they did
21 supplement it. And we basically were seeking clarity of the
22 previous response, and they said no, so you don't need to
23 consider that.

24 JUDGE KOPTA: Okay.

25 MS. ENDEJAN: 20 -- No. 19. Let's see. Ah, yes.

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1 I guess to the extent that Sprint views IP
2 interconnection as an important issue and in the competitive
3 landscape and wholesale world, Sprint is seeking information
4 from CenturyLink as to how many -- you know, who has been
5 requesting it. We're not the only lone wolves in the wilderness
6 here.

7 And 20 and -- I'm sorry -- yeah, No. 20 basically
8 asks for documents that would, you know, provide us information
9 as to what kind of IP interconnection are they offering to other
10 people. Are they discriminating against us? We would be happy
11 to have that information with the names of the requesting
12 carriers deleted, but we want to know if somebody's getting a
13 deal better than we are.

14 JUDGE KOPTA: But you're asking for each request, as
15 well as each response, and I don't know that what other parties
16 have requested is terribly relevant.

17 And each response, it seems to me -- and correct me
18 if I'm wrong, Ms. Anderl, but as I review the information you're
19 providing, including Mr. Easton's declaration, your response has
20 been we don't do this because we can't.

21 Am I misconstruing your response?

22 MS. ANDERL: No, but I would just add to that. We
23 don't do this -- we, the ILECs, don't do this because we can't.

24 If you want to send us IP-based traffic, you can do
25 that by entering into a commercial agreement with QCC, who will

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1 accept your IP-based traffic and convert it into TDM.

2 And we provided them a copy of the QCC commercial
3 agreement that is available to perform that service, which is
4 the same response that we have provided to every requesting
5 carrier. This is the product that we offer to let you give us
6 IP traffic.

7 JUDGE KOPTA: Mm-hm.

8 MS. ANDERL: And, of course, you know, we have to
9 have something like that because if a Vonage customer or a
10 Google customer calls over a -- or a Skype customer -- I think
11 Ms. Cameron-Rulkowski has a VoIP phone at her house, and we talk
12 on the phone from time to time -- that they need to be able to
13 -- those customers need to be able to initiate a call in IP
14 protocol, transmit it through their company, but then somehow
15 get it to a circuit switched Qwest customer, ILEC customer, and
16 so there does need to be a way for that traffic to get to us,
17 but it is not through direct IP interconnection with the ILECs.

18 MS. ENDEJAN: What is unclear -- and, frankly,
19 there's been some confusion through all of this because in
20 response to the data request, they say, See DR No. 22, and they
21 have attached these three agreements that are in the name of
22 CenturyLink. And it's not clear that those are the only
23 agreements, because as Ms. Borgman's stated in her declaration,
24 Sprint's been trying to work with CenturyLink for a long time.
25 And the holdup, according to what Ms. Borgman was told by

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1 CenturyLink was, Well, we don't want to use your agreement. We
2 want to use our agreement, and then they have never provided an
3 agreement, and they didn't provide one of the agreements that
4 are Exhibit No. 22.

5 And then Mr. Easton comes with his declaration, and
6 he says, Well, we don't have this. We haven't really formalized
7 this contract yet.

8 So we're confused. Are these agreements that are in
9 response to No. 22 the only wholesale agreements that QCC uses
10 to sell VoIP products? That is just not clear. We want to know
11 are there other agreements for other types of customers, you
12 know, or we want to know if there are agreements for other
13 carriers like us that we haven't seen that they have given to
14 others, because, you know, there's several categories of
15 customers for an Internet VoIP service. You can have business
16 customers. You could have the over-the-top VoIP providers, and
17 then you can have other carriers.

18 And, frankly, if you read the agreements that are
19 No. 22, they don't seem to apply to any kind of interconnection
20 services. So the status of their whole -- whatever they're
21 doing for contracts is not clear from what they have said in
22 discovery and now what Mr. Easton is saying, if they could
23 clarify it.

24 JUDGE KOPTA: Does Sprint have an IP interconnection
25 agreement with any of them?

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1 MS. ENDEJAN: They have an interconnection agreement.
2 There is also a wholesale services agreement. They're two
3 different beasts.

4 JUDGE KOPTA: But right now if a VoIP customer of
5 Sprint's calls a TDM customer of CenturyLink, the call goes
6 through?

7 MS. ENDEJAN: Correct.

8 JUDGE KOPTA: And vice versa?

9 MS. ENDEJAN: It has to be reconverted, yes. It has
10 to go through that duplicative process.

11 JUDGE KOPTA: So you have some agreement in place
12 between the companies that allows for the exchange of traffic?

13 MS. ENDEJAN: But that's sort of one of Sprint's
14 points, which is it shouldn't be TDM, and that should be an
15 amendment to an ICA, and it has not occurred yet. It goes back
16 to the fundamental underlying policy position, and CenturyLink
17 takes the position that VoIP interconnection can only be
18 provided by market-based rates and a commercial agreement. And
19 the FCC's recognized and we all recognize that if you still have
20 market power and you're holding, you know, the key to the
21 castle, you can extract a lot more than if they're confined by
22 some, you know, fair regulatory restraints.

23 And so I guess that's where Sprint is coming from, is
24 it's saying it shouldn't be sold by a wholesale services
25 agreement, but for purposes of this data request, we just would

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1 like to know if there are whole -- are there other agreements?
2 Are these the only agreements that you use to provide VoIP or IP
3 Internet connection, and it's not clear now from what Mr. Easton
4 said, so if you could clarify that.

5 JUDGE KOPTA: Well, this is a discussion that you all
6 should have had in terms of narrowing the scope of this request
7 because this talks about requests and responses, and that could
8 be anything from, Gee, we were interested in this, to, How about
9 if you do that, and -- I mean, all of that is neither here nor
10 there.

11 Now, if there are particular agreements that the
12 Company has for the exchange of VoIP traffic, then I think that
13 might be something that is -- would be within the realm of this
14 case in terms of ensuring that competitors have the same access
15 that are providing VoIP services as any other types of services.

16 So, Ms. Anderl, would you have an objection to
17 providing any actual agreements that are between QCC and any
18 other company for the exchange of IP-to-IP VoIP traffic?

19 MS. ANDERL: Well, I think we have, Your Honor. I
20 think we provided this exhibit, T SIP -- S-I-P, Session
21 Initiated Protocol, T -- which is the agreement that QCC enters
22 into with carriers who want to give them IP traffic and have it
23 converted to TDM for termination to a circuit switch network.

24 JUDGE KOPTA: So, essentially --

25 MS. ANDERL: I think we've answered it.

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1 JUDGE KOPTA: -- people just sign on the dotted line
2 without really making any substantive changes to that template
3 agreement?

4 MS. ANDERL: I am not aware that that has -- that the
5 template has been amended in any way. I mean, we have --
6 Sprint's right. They have two basic overarching agreements with
7 us. They have a 251 ICA, and then they have a wholesale
8 services agreement, or WSA. And the wholesale services
9 agreement is very short. It's only about eight pages. I think
10 I brought a copy with me, but we also -- and all of the exhibits
11 and amendments that are available to that, I think, are
12 available through login on our wholesale website if you're a
13 customer of ours.

14 I have in front of me right now the exhibit list that
15 are all of the exhibits for various services in the wholesale
16 services agreement. I would be happy to give Ms. Endejan a
17 copy. Like I said, it's not a secret, but I -- when we talked
18 to the people to get the information on this, we were not
19 advised that the exhibit, SIP T, had been -- that there were any
20 other versions of it.

21 JUDGE KOPTA: So that's a sort of a take or leave it
22 kind of thing? You sign on the dotted line, and that's it?

23 MS. ANDERL: That's the offering. If you would want
24 it, you can have it.

25 If Your Honor wants me to check and see if we have,

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1 you know, negotiated other terms and conditions, well...

2 JUDGE KOPTA: I think they are entitled to see what
3 the arrangements are, if they differ from the template. If the
4 template is not just a template, but, in fact, that's the offer
5 like a tariff and say, You can sign it, and here you go. But if
6 you want make changes, then I'm sorry, we can't do business,
7 then that's the answer.

8 But if it's like your ICA, all caps, to use as a
9 starting point for negotiation and end up with a different kind
10 of agreement that can have different terms and conditions, then
11 I think they're entitled to see whether terms and conditions are
12 different, particularly between QCC and the ILEC CenturyLink
13 entities and others just to ensure. As I said, I think that
14 that's a legitimate area of inquiry just to make sure that you
15 are treating all VoIP providers the same when it comes to
16 exchanging traffic.

17 MS. ANDERL: Sure. And can I just have a minute?

18 JUDGE KOPTA: Certainly.

19 MS. ANDERL: So that I can see if this is
20 something...

21 JUDGE KOPTA: Okay.

22 (Pause in the proceedings.)

23 MS. ANDERL: We'll find out, Your Honor.

24 JUDGE KOPTA: Okay.

25 MS. ANDERL: Do we need to supplement to you, or just

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1 to Sprint?

2 JUDGE KOPTA: Just to Sprint.

3 MS. ANDERL: Okay. We'll do.

4 JUDGE KOPTA: It's just discovery at that point.

5 MS. ANDERL: All right.

6 MS. ENDEJAN: Okay. Well, that ruling, Your Honor,
7 takes care of DR No. 21, because, basically, it deals with the
8 terms and conditions, which would be a contract.

9 JUDGE KOPTA: Okay.

10 MS. ANDERL: Your Honor, if it turns out there are
11 any changes, we would -- and then we provide the, say, you know,
12 Version 1, A, B, and C to Sprint, we request permission to do so
13 with redacting the carrier names.

14 JUDGE KOPTA: And that certainly seems reasonable to
15 me. I don't know that Sprint would have an objection to that,
16 but if it comes up, then I will rule on it. But I, at this
17 point, see no reason not to do it that way.

18 MS. ANDERL: Okay. Thank you.

19 JUDGE KOPTA: I think it would be best to do it that
20 way since we don't want to drag in other people.

21 MS. ANDERL: Right. Those carriers are not parties
22 to this docket and can't protect their own interests on that.

23 JUDGE KOPTA: Right.

24 MS. ENDEJAN: I don't think you will hear a problem
25 from Sprint with that approach.

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1 JUDGE KOPTA: Okay. No. 22? I'm not going outside
2 of the state of Washington, so I think this is the same issue.

3 MS. ENDEJAN: So, in other words, the agreements that
4 Ms. Anderl will provide regarding the offerings of IP or VoIP
5 interconnection, she'll provide those that deal with any carrier
6 operating in the state of Washington because I'm presuming that
7 if there are such agreements, they are entered into, perhaps,
8 nationwide. So, in other words, if they have, you know, a
9 contract that's -- whatever you call it, a SIP contract, it will
10 cover Washington, so we want to make sure that your ruling
11 doesn't exclude those.

12 JUDGE KOPTA: It covers any entity that is operating
13 in the state of Washington.

14 MS. ENDEJAN: Okay. All right. Then moving right
15 along here. The next one would be No. 24, and this is relevant
16 for purposes of cross-examining the basis for CenturyLink's
17 claim for regulatory relief. They claim basically a significant
18 decline in access line volumes. It is Sprint's belief, but they
19 have to, you know, want to establish facts, that while access
20 line volumes may be declining, special access revenues are
21 increasing based upon the last publicly available data that was
22 filed, the ARMIS data. I believe CenturyLink -- the filing
23 requirement ended in 2007, but if you looked at the five years
24 prior to 2007, there was an increasing trend in special access
25 revenues, and I think that's relevant for purposes of the

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1 Commission understanding, okay. You may be having declining
2 access line volumes, but you're making it up on the backs of
3 carriers or other folks who are paying special access, so I
4 think it is relevant to this proceeding.

5 JUDGE KOPTA: Well, I think the number of lines, you
6 certainly can -- I mean, because this request, as I view it,
7 asks for two things: specifically the number of lines for this
8 type of service, whether they have declined, and also the
9 revenue figures for the past five years for that same service.

10 MS. ENDEJAN: That's correct.

11 JUDGE KOPTA: And I think the response, at least as I
12 read it -- correct me if I'm wrong, Ms. Anderl -- tends to focus
13 on the revenues.

14 I do think that the number of lines, since, you know,
15 you raise it in the testimony, I think it's a legitimate inquiry
16 to ask for specific data behind the number of lines and how
17 those numbers have declined for that particular service.

18 I am not convinced that revenues, however, are things
19 that -- as really germane either to the testimony or to what the
20 Commission is looking into.

21 Did you want to say something, Ms. Anderl?

22 MS. ANDERL: Well, yes, Your Honor. I mean, we said
23 very generally we've experienced a significant decline in access
24 line volumes. Sprint has taken a very small segment of the
25 market, which is not even the residential or business lines, but

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1 is asking specifically for this segment of the market special
2 access lines, and we believe that that is something that, you
3 know, is not -- it's not related to what Mr. Felz was saying in
4 his testimony. He said access lines generally are declining.
5 That's irrefutable. We have gone from like a million-eight down
6 to about a million-one or less in terms of 1FR and 1FB, the
7 basic residential and business lines.

8 Special access is something different. Those are,
9 you know, the T1 and the DS1s or the high-capacity services
10 where we would have to break it down by, you know, voice
11 channels. So for each DS1 there would be, you know, 24
12 equivalent lines. Those don't really relate to the kind of
13 competition that we're facing for voice services, and so I don't
14 think that it really ties to what Sprint is saying, whether it
15 proves or disproves our claim. It may prove or disprove they're
16 interested in, which doesn't really have anything to do with
17 what our contention is.

18 JUDGE KOPTA: So are you asking for additional
19 regulatory flexibility with respect to special access services
20 as part of this filing?

21 MS. ANDERL: We are for the CenturyLink and Embarq
22 companies. The Qwest company had already received that as --
23 outside of an AFOR more than ten years ago, received a
24 competitive classification, a standalone competitive
25 classification for special access, and, you know, there have

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1 been no problems with that.

2 But, you know, we also had noted, I think, in our
3 discussions -- and I'm not sure I have it right here now, but,
4 you know, Sprint's interest in this is, as I said, not with
5 regard to anything they purchased. They purchased, you know,
6 zero to de minimis intrastate special access from us outside of
7 the Qwest company where they are already competitively
8 classified. We just think that this gets them information
9 that's potentially competitively valuable, very segmented market
10 share or market information, that we just don't think ties to
11 what they say it proves or disproves, and that was why we
12 objected.

13 JUDGE KOPTA: And your burden, obviously, is to
14 demonstrate that for each of the services that you're asking for
15 regulatory reduction in that you are, in fact, facing some
16 competitive pressures that would take the place of regulation,
17 and special access, if that's one of the services that you're
18 asking for outside of the Legacy Qwest areas, is subject to that
19 kind of discussion.

20 I mean, are you saying that the testimony about the
21 reduction of access line does not include special access?

22 MS. ANDERL: No, but this is different because this
23 is not really -- this isn't a docket where we're asking for
24 competitive classification of service on a service-by-service
25 basis. We're asking, you know, that our services be treated as

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1 if they were competitively classified because of the, you know,
2 robust and really undisputed competitive pressures we face as a
3 company, not on a service-by-service basis.

4 We have in the past, you know, proved up services on
5 a service-by-service basis -- you know, directory assistance,
6 long distance, special access -- but those were all in the
7 context of, you know, competitive classifications or services
8 dockets. I'm not saying that it's unreasonable to inquire into
9 whether we have competition for special access or not. I just
10 don't think that this question goes to that.

11 JUDGE KOPTA: Well, I do think that if you are -- if
12 you are intending to include in your testimony the decline in
13 access lines, that it includes special access services, then I
14 think that they're entitled to see the basis of that. If you
15 are telling me right now today that that only includes 1FR and
16 1FB lines, then perhaps not.

17 MS. ANDERL: No, your Honor. Our request for the
18 AFOR is that the Company be treated in all services except for
19 the ones explicitly carved out as a competitively classified
20 company.

21 JUDGE KOPTA: Then I think that Sprint is entitled to
22 some demonstration of how the access line volumes have declined
23 for special access services outside of the Qwest -- Legacy Qwest
24 service territories that are already competitively classified
25 because I don't think you're asking for that, no reason for you

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1 to because they're already competitively classified.

2 So outside of the Legacy Qwest area, I think that
3 they're entitled to get the reduction in the number of access
4 lines for special access intrastate special access services. I
5 do not think that revenues are associated with that, so that
6 much I will require you to provide.

7 MS. ANDERL: All right. Your Honor.

8 MS. ENDEJAN: Okay. Thank you, Your Honor.

9 Then No. 26, I don't know if they supplemented that
10 or not.

11 MS. ANDERL: We did.

12 MS. ENDEJAN: You did, huh?

13 MS. ANDERL: We said that CenturyLink does not
14 provide Prism in Washington through any entity. I don't think
15 there's anything more that we could possibly say.

16 MS. ENDEJAN: Okay.

17 JUDGE KOPTA: That seems to answer the question.

18 MS. ENDEJAN: That seems to answer the question.

19 All right. Now, we go to Data Requests 27 through
20 31, and No. 27 goes to the issue that we have discussed
21 previously with respect to is any property that was formerly,
22 you know, I guess, in the ILEC's bailiwick, is it now in another
23 affiliate's bailiwick. And that's why we asked for kind of the
24 legal owner of the property and the ownership of the facilities
25 and equipment used to provide services, because it's our

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1 contention that there may be -- and we don't know, which is why
2 we're trying to explore -- a transfer of assets from an ILEC to
3 a CLEC for purposes of avoiding 251 obligations. And we don't
4 know that, and that's why we've asked for you tell us who owns
5 all these facilities, et cetera.

6 JUDGE KOPTA: This all goes to their retail VoIP
7 services, and that's the same ruling that I made above, so I'm
8 going to deny 27 through 30.

9 MS. ENDEJAN: Okay. And 31 they have supplemented,
10 but it's -- we asked for, you know, which legal entity that
11 acquires telephone numbers assigned to CenturyLink VoIP or
12 IP-enabled voice service customers. They have answered it with
13 respect to the Legacy Qwest area, but we don't know who is
14 providing the phone numbers in the other ILEC Legacy area, so
15 the answer is -- it's only partially responsive.

16 JUDGE KOPTA: And why do you need to know where they
17 get their numbers from? Are you having trouble getting numbers
18 from the number administrator, Nustar?

19 MS. ENDEJAN: I have no idea. That's not anything
20 that I'm aware of.

21 JUDGE KOPTA: And as far as I know, Qwest -- or
22 CenturyLink has no special relationship with Nustar that they
23 could restrict how you get telephone numbers.

24 MS. ENDEJAN: It's the question of which entity is
25 seeking them from Nustar and providing them to QCC.

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1 JUDGE KOPTA: I don't see how that has anything to do
2 with what we're dealing with here, so, again, I'm going to deny
3 that one. I think they have provided more than enough
4 information.

5 MS. ENDEJAN: Okay. Well...

6 JUDGE KOPTA: And I believe that takes us to the end.

7 MS. ENDEJAN: That is correct.

8 So, Your Honor, if I could just sort of recap and
9 make sure that I've got your rulings correctly? I don't mean to
10 take up your time, but...

11 JUDGE KOPTA: No, that's all right. I don't want to
12 have you have to come back because there's any disagreement,
13 although we will get a transcript, so that's probably the best
14 clarification you can make.

15 MS. ENDEJAN: That's true, and we do want to order
16 the transcript.

17 For No. 1, Ms. Anderl and I are going to talk to
18 determine if there is something with respect to, you know, some
19 comments that we really can't get. I'll also inquire within
20 Sprint to see if they have access to those comments.

21 JUDGE KOPTA: Again, we're looking specifically for
22 the state of Washington.

23 MS. ENDEJAN: Right.

24 JUDGE KOPTA: All right.

25 MS. ENDEJAN: Okay. Then, let's see. Then we go

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1 to -- I believe it's No. 21. CenturyLink is to provide copies
2 of all agreements that they used to provide -- and I believe the
3 only service is the SIP service, or whatever service is used to
4 offer IP interconnection and...

5 JUDGE KOPTA: In Washington, yes.

6 MS. ENDEJAN: In Washington, and the carriers' names
7 can be blacked out.

8 JUDGE KOPTA: Correct.

9 MS. ENDEJAN: Okay. And then we are to --
10 CenturyLink is to provide us with the special access lines for
11 the companies other than CenturyLink and Embarq.

12 MS. ANDERL: The other way.

13 JUDGE KOPTA: Other way around, yeah. Other than the
14 Legacy Qwest area.

15 MS. ENDEJAN: Right. Other than the Legacy Qwest
16 areas.

17 All right. And I --

18 MS. ANDERL: And, Your Honor, I have to double-check.
19 I can't recall as we sit here today when we looked into this we
20 thought we would have a problem getting five years' worth of
21 data on that question, No. 24, but we will get for the companies
22 the intrastate line counts to the extent we have five years'
23 worth of data.

24 JUDGE KOPTA: And, again, this is, yeah, requiring
25 only a reasonable effort to do that. I'm not going to, you

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1 know, make extraordinary efforts required. But at this point, a
2 reasonable effort to get that information.

3 MS. ANDERL: Thank you.

4 JUDGE KOPTA: And I think that's it.

5 MS. ENDEJAN: Thank you, Your Honor.

6 JUDGE KOPTA: All right. Is there anything else that
7 we need to discuss while we're here?

8 Hearing nothing, we are adjourned.

9 (Proceeding concluded at 2:52 p.m.)

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