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1                                   BEFORE THE WASHINGTON STATE  
2                                   UTILITIES AND TRANSPORTATION COMMISSION  
3 In the Matter of the Petition )  
4 for Arbitration of an            ) DOCKET UT-083041  
5 Interconnection Agreement       ) Volume I  
6 Between                           ) Pages 1 to 12  
7 CHARTER FIBERLINK WA-CCVII,    )  
8 LLC,                               )  
9 with                               )  
10 QWEST CORPORATION,             )  
11 Pursuant to 47 U.S.C. Section )  
12 252(b).                           )  
13 \_\_\_\_\_)

10                                   A prehearing conference in the above matter  
11 was held on September 10, 2008, from 1:30 p.m to 2:10  
12 p.m., at 1300 South Evergreen Park Drive Southwest, Room  
13 108, Olympia, Washington, before Administrative Law  
14 Judge MARGUERITE RUSSELL.

15                                   The parties were present as follows:  
16                                   QWEST CORPORATION, by LISA ANDERL, Attorney  
17 at Law, 1600 Seventh Avenue, Suite 3206, Seattle,  
18 Washington 98191, Telephone (206) 345-1574, Fax (206)  
19 343-4040, E-Mail lisa.anderl@qwest.com; and by TOM  
20 DETHLEFS, Attorney at Law, 1801 California, 10th Floor,  
21 Denver, Colorado 80202, Telephone (303) 383-6646, E-mail  
22 tom.dethlefs@qwest.com.

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24 Joan E. Kinn, CCR, RPR  
25 Court Reporter

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1                   CHARTER FIBERLINK WA-CCVII, LLC, by GREGORY  
2                   J. KOPTA, Attorney at Law, Davis, Wright, Tremaine, LLP,  
3                   1201 Third Avenue, Suite 2200, Seattle, Washington  
4                   98101, Telephone (206) 757-8079, Fax (206) 757-7079,  
5                   E-Mail gregkopta@dwt.com; and by K.C. HALM, Attorney at  
6                   Law, Davis Wright Tremaine, LLP, 1919 Pennsylvania  
7                   Avenue Northwest, Suite Number 200, Washington D.C.  
8                   20006, Telephone (202) 973-4287, Fax (202) 973-4499,  
9                   E-mail kchalm@dwt.com; and by BRIAN NIXON, Attorney at  
10                   Law, Davis Wright Tremaine, LLP, 1919 Pennsylvania  
11                   Avenue Northwest, Suite Number 200, Washington D.C.  
12                   20006, Telephone (202) 973-4247, Fax (202) 973-4499,  
13                   E-mail briannixon@dwt.com; and by CLIFFORD WILLIAMS,  
14                   Attorney at Law, Charter Fiberlink, LLC, 12405  
15                   Powerscourt Drive, St. Louis, Missouri 63131, Telephone  
16                   (917) 488-9236, Fax (314) 965-6640, E-mail  
17                   cliff.williams@chartercom.com

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

2                               JUDGE RUSSELL: Good afternoon, my name is  
3 Marguerite Russell, I am the Administrative Law Judge  
4 presiding over this matter. Let's be on the record in  
5 Docket UT-083041. We are here today before the  
6 Washington Utilities and Transportation Commission on  
7 Wednesday, September 10th, 2008, for a prehearing  
8 conference regarding a petition for arbitration filed by  
9 Charter Fiberlink WA-CCVII, LLC with Qwest Corporation.  
10 The purpose of the prehearing conference today is to  
11 take appearances of the parties, discuss the schedule  
12 for the Commission's consideration of the petition, and  
13 any other procedural matters.

14                              So let's go ahead and begin with appearances.  
15 Since this is the first opportunity we've had to get  
16 together, let's go ahead and do full appearances for the  
17 record. We'll start with Charter.

18                              MR. KOPTA: Thank you, Your Honor, Gregory J.  
19 Kopta of the law firm Davis Wright Tremaine LLP on  
20 behalf of Charter. My address is 1201 Third Avenue,  
21 Suite 2200, Seattle, Washington 98101-3045, telephone  
22 (206) 757-8079, fax (206) 757-7079, E-mail  
23 gregkopta@dwt.com.

24                              Also appearing with me is K.C. Halm and Brian  
25 Nixon in our Washington D.C. office, would you like for

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1 them to also give full information?

2 JUDGE RUSSELL: Yeah, why don't we have that  
3 just so that we can make sure that the service list is  
4 still accurate and provide it for the record as well.

5 MR. KOPTA: All right, I will let them,  
6 either Mr. Halm or Mr. Nixon, give their appearance  
7 then.

8 MR. HALM: Thank you, K.C. Halm, and that's  
9 just the initials K, period, C, period, last name Halm,  
10 H-A-L-M as in Mary, Davis Wright Tremaine, LLP, 1919  
11 Pennsylvania Avenue Northwest, Suite Number 200,  
12 Washington D.C. 20006, telephone (202) 973-4287, fax  
13 (202) 973-4499, and E-mail address kchalm@dwt.com.

14 JUDGE RUSSELL: And this is Judge Russell, I  
15 actually have your E-mail address with a dot between C  
16 and Halm, is that not correct?

17 MR. HALM: That is not correct.

18 JUDGE RUSSELL: Okay, great, thanks for  
19 clarifying that.

20 MR. HALM: Thank you.

21 JUDGE RUSSELL: Mr. Nixon.

22 MR. NIXON: Brian Nixon, first name Brian,  
23 B-R-I-A-N, last name Nixon, N-I-X-O-N, with Davis Wright  
24 Tremaine, LLP, I'm also at the Washington D.C. address,  
25 would you like me to read that off as well?

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1 JUDGE RUSSELL: Why don't you go ahead and  
2 give us your individual phone, and if the fax number is  
3 different give us that, as well as the E-mail address.

4 MR. NIXON: Will do. My individual phone  
5 (202) 973-4247, and my E-mail address is  
6 briannixon@dwt.com, and the fax number is the same.

7 JUDGE RUSSELL: Great, thank you.

8 And is there anybody else appearing on behalf  
9 of Charter?

10 MR. WILLIAMS: Yes, Clifford Williams with  
11 Charter Fiberlink, LLC, 12405 Powerscourt Drive, that's  
12 P as in Paul, O-W-E-R-S-C-O-U-R-T, Drive, St. Louis,  
13 Missouri 63131, telephone is (917) 488-9236, fax is  
14 (314) 965-6640, E-mail is cliff.williams@chartercom.com.

15 JUDGE RUSSELL: Great, thank you.

16 Let's go ahead and have Qwest's appearance  
17 now.

18 MS. ANDERL: Thank you, Your Honor, I will be  
19 entering two appearances, one for myself and then for  
20 co-counsel who's not on the phone today.

21 JUDGE RUSSELL: Okay.

22 MS. ANDERL: My name is Lisa Anderl, I'm at  
23 1600 Seventh Avenue, Suite 3206, Seattle, Washington  
24 98191, my phone is (206) 345-1574, my fax is (206)  
25 343-4040, and my E-mail is lisa.anderl@qwest.com,

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1 appearing on behalf of Qwest Corporation.

2 In addition, we will have another in-house  
3 attorney from our Denver office, his name is Tom  
4 Dethlefs, D-E-T-H-L-E-F-S, his address is 1801  
5 California, 10th Floor, Denver, Colorado 80202, his  
6 phone is (303) 383-6646. I do not know his fax number,  
7 I'll get that for you.

8 JUDGE RUSSELL: That's fine.

9 MS. ANDERL: And his E-mail is  
10 tom.dethlefs@qwest.com.

11 JUDGE RUSSELL: Okay, so it's Tom, not  
12 Thomas?

13 MS. ANDERL: That's right.

14 JUDGE RUSSELL: Okay, great, thanks for the  
15 clarification.

16 And that's it for Qwest today?

17 MS. ANDERL: Yeah, that is, Your Honor.

18 JUDGE RUSSELL: Okay.

19 MS. ANDERL: Thank you. Unless do you have  
20 Thomas?

21 JUDGE RUSSELL: I do, I have Thomas.

22 MS. ANDERL: Then let me doublecheck.

23 JUDGE RUSSELL: Sure, just get back with me  
24 and the parties on the exact E-mail.

25 MS. ANDERL: Thank you.

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1 JUDGE RUSSELL: Sure.

2 In addition to taking appearances, we're also  
3 here to talk about a schedule for this case, so we need  
4 to sort out whether the parties wish to do this in a  
5 briefing schedule or whether you want to file testimony.  
6 I know that Qwest had indicated that you have several  
7 witnesses to present, so I'm assuming then that hearing  
8 is the preferred method of going forward instead of a  
9 briefing only of the legal issues.

10 MR. KOPTA: That is correct.

11 MS. ANDERL: That's correct.

12 JUDGE RUSSELL: Okay, great. So since we're  
13 going to be talking about deadlines, I don't know, have  
14 you guys had a chance to talk amongst yourselves and  
15 kind of formulate a schedule, or do we need to go off  
16 the record?

17 MR. KOPTA: Well, we have had discussions in  
18 an attempt to try and come up with a schedule, and we  
19 kind of narrowed our differences but have not completely  
20 agreed on a schedule, so we will need to present our  
21 respective proposals to you for your consideration and  
22 determination.

23 JUDGE RUSSELL: Okay, and then you both are  
24 aware obviously that this is under a nine month time  
25 frame according to the federal statutes. Now that does

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1 give us a very limited window in which to operate here,  
2 do either of you wish to broach the subject of waiving  
3 that time frame?

4 MR. KOPTA: We are willing to waive it for as  
5 long as necessary to accommodate a reasonable schedule.

6 JUDGE RUSSELL: Okay, sure.

7 MR. KOPTA: Since obviously December 1st is  
8 not terribly feasible given the issues and everything  
9 else that needs to be determined.

10 JUDGE RUSSELL: Sure.

11 MS. ANDERL: And we are in accord with that,  
12 we'll waive the statutory deadline to accommodate the  
13 schedule.

14 JUDGE RUSSELL: Okay, now the waiver is that  
15 I assume then that what we're going to do is we're going  
16 to have a waiver of it's not to a certain point as far  
17 as a fixed given point in time, it's however long it's  
18 going to take with the idea that we're trying to get  
19 this done as quickly and efficiently as possible; is  
20 that correct?

21 MR. KOPTA: Well, certainly if that's your  
22 preference, or we can try and set at least a target date  
23 for an initial arbitrator's report following the other  
24 procedural deadlines that we have in place. I don't  
25 know what your preference is in terms of having a hard



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1 date or a just as soon as possible kind of date.

2 JUDGE RUSSELL: Right, and for Qwest?

3 MS. ANDERL: I think in the past what has  
4 worked is we set a schedule with the judge establishing  
5 a projected arbitrator's decision date, and we waive the  
6 statutory deadline until then. And then if the judge  
7 needs additional time, we would further waive the  
8 deadline. But it just kind of keeps everybody --

9 JUDGE RUSSELL: On focus.

10 MS. ANDERL: -- particularly on the client  
11 side of it, apprised for when they might be looking for  
12 an order.

13 JUDGE RUSSELL: Okay.

14 MS. ANDERL: But either way.

15 JUDGE RUSSELL: Okay, that sounds fine to me,  
16 I'm amenable to that.

17 At this point then, why don't we go ahead and  
18 go off the record, and we can discuss the procedural  
19 schedules that both of you have come up with, so we'll  
20 be off the record.

21 (Discussion off the record.)

22 JUDGE RUSSELL: While we were off the record,  
23 parties negotiated and came up with a procedural  
24 schedule of direct testimony being filed simultaneously  
25 from both parties October 8th, response testimony being

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1 filed simultaneously from both parties November 13th.  
2 Hearing dates tentatively, well, they're scheduled for  
3 December 16th and 17th and 18th. If we don't need that  
4 day, then of course that's fine. Briefing with opening  
5 briefs to be filed by both parties January 22nd and  
6 reply briefs to be filed simultaneously February 9th,  
7 and a prospective decision date of March 30th for the  
8 arbitrator's report and decision.

9           Also while we were off the record I indicated  
10 that the parties would, since they are waiving the nine  
11 month time frame, would need to file a letter indicating  
12 that for the record.

13           So now that we have the scheduling done,  
14 let's go ahead and get to the discovery rules pursuant  
15 to WAC 480-07-400(2)(b), do the parties wish to invoke  
16 the discovery rules?

17           MR. KOPTA: Yes, Your Honor.

18           MS. ANDERL: Yes, Your Honor.

19           JUDGE RUSSELL: Okay. And obviously because  
20 of the abbreviated schedule, you guys have waived the  
21 time frame, so we don't need to worry about shortening  
22 discovery at all.

23           Protective order, are we going to need a  
24 confidential or highly confidential protective order in  
25 this matter?

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1                   MR. KOPTA:  Probably would make sense to go  
2 ahead and issue one.

3                   JUDGE RUSSELL:  Okay.

4                   MR. KOPTA:  I'm not sure at this point  
5 whether we'll need it, but --

6                   JUDGE RUSSELL:  Okay.

7                   MS. ANDERL:  I agree.  I don't anticipate  
8 needing a highly confidential at all, but you never know  
9 what we might ask of Charter and how closely they want  
10 their information protected, so.

11                   JUDGE WILLIAMS:  Sure, so err on the side of  
12 caution we'll do both, okay.

13                   And of course electronic submission, we did  
14 discuss that off the record as well, however I wanted to  
15 indicate that when filing with the Commission for this  
16 matter, go ahead and file an original and three paper  
17 copies, and then do the courtesy E-mail copy if you  
18 would as well.

19                   So I guess also I should ask do any of the  
20 parties wish to order a transcript so that we know for  
21 the court reporter?

22                   MS. ANDERL:  I don't believe -- I think I  
23 signed the form --

24                   JUDGE RUSSELL:  Okay.

25                   MS. ANDERL:  -- but I don't think I need a

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1 copy of this one.

2 MR. KOPTA: I don't think so.

3 K.C., unless you think we need one.

4 MR. HALM: For this hearing?

5 MR. KOPTA: Yes.

6 MR. HALM: No, I don't think so.

7 JUDGE RUSSELL: Okay, sounds good.

8 Is there anything else that we need to cover  
9 before we adjourn for today?

10 MR. KOPTA: I don't think so.

11 JUDGE RUSSELL: Okay.

12 MS. ANDERL: I don't think so.

13 JUDGE RUSSELL: Okay, then we'll go ahead and  
14 adjourn, we're off the record.

15 (Prehearing conference adjourned at 2:10

16 p.m.)

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