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1                                   BEFORE THE WASHINGTON  
2                                   UTILITIES AND TRANSPORTATION COMMISSION

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3                                   ) )  
4                                   ) Docket UT-050778  
5                                   ) Volume I  
6                                   ) Pages 1-30  
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12                                   A pre-hearing conference in the  
13 above-entitled matter was held at 1:38 p.m. on  
14 Wednesday, July 20, 2005, at 1300 South Evergreen  
15 Park Drive, S.W., Olympia, Washington, before  
16 Administrative Law Judge KAREN CAILLE.

17                                   The parties present were as follows:

18                                   VERIZON NORTHWEST, INC., by Judith A.  
19 Endejan, Attorney at Law, Graham & Dunn, P.C., Pier  
20 70, 2801 Alaskan Way, Suite 300, Seattle, Washington  
21 98121.

22                                   PETITIONERS, by Douglas Rupp,  
23 Petitioner, 54829 Garnet Way, P.O. Box 207, Index,  
24 Washington 98256.

25                                   COMMISSION STAFF, by Sally Johnston,  
Senior Assistant Attorney General, 1400 S. Evergreen  
Park Drive, S.W., P.O. Box 40128, Olympia, Washington  
98504-0128.

Barbara L. Nelson, CCR  
Court Reporter

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1           JUDGE CAILLE: Let's go on the record. We  
2 are here today for the first pre-hearing conference  
3 in the proceeding captioned In the Matter of the  
4 Petition of Douglas and Jessica Rupp, et al., versus  
5 Verizon Communications, Inc., Docket Number  
6 UT-050778, and this is a formal complaint against  
7 Verizon that petitions the Commission for an order  
8 extending Verizon's service area to include the  
9 properties owned by the Petitioners in and near an  
10 area referred to as Skyko 2.

11           My name is Karen Caille, and we are convened  
12 in a hearing room in the Commission's offices in  
13 Olympia, Washington. Today is July 20th, and I am  
14 the presiding Administrative Law Judge for this  
15 proceeding.

16           I will take appearances from all the parties  
17 today. Recognizing that there's difficulty with  
18 telephone service, you probably will not be able to  
19 give me telephone numbers, I assume.

20           MR. RUPP: That's right.

21           JUDGE CAILLE: But if there is any e-mail or  
22 any other cell phones that you could give as contact  
23 information, that will -- I'll request that you do  
24 that. And if you will state your name for the court  
25 reporter, state whom you represent, your street

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1 address, your mailing address, a cell phone number, a  
2 fax number or an e-mail address. And as I said  
3 before going on the record, I understand that Mr.  
4 Rupp is the designated representative for the  
5 Petitioners, so he will be the person who will give  
6 all of the -- any documents and disburse them to the  
7 group.

8 So let's begin with you, Mr. Rupp. If  
9 you'll state your name and spell your last name.

10 MR. RUPP: Douglas Rupp, R-u-p-p.

11 JUDGE CAILLE: And will you state whom you  
12 represent?

13 MR. RUPP: I'm the lead Petitioner for the  
14 group and spokesperson for -- in this matter.

15 JUDGE CAILLE: And you are a group of --

16 MR. RUPP: Eight families.

17 JUDGE CAILLE: Okay.

18 MR. RUPP: Twelve Petitioners.

19 JUDGE CAILLE: And where are you located?

20 MR. RUPP: The Skyko 2 area, near Index.

21 JUDGE CAILLE: Okay. And could I have your  
22 street address or mailing address?

23 MR. RUPP: Street address is 54829 Garnet  
24 Way. My mailing address is Post Office Box 207,  
25 Index, Washington, 98256.

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1 JUDGE CAILLE: And a telephone number?

2 MR. RUPP: A message number, 425-740-0185.

3 Same number for faxes.

4 JUDGE CAILLE: And an e-mail address?

5 MR. RUPP: E-mail is my last name,

6 Rupp@gnat.com.

7 JUDGE CAILLE: All right. And then the  
8 folks at the end of the table, if you will please  
9 just state your names and your address?

10 MS. BELL: My name's Kristen Bell, B-e-l-l.  
11 The physical address is 15123 Index Galina Road,  
12 mailing box of -- or mailing address of P.O. Box 181,  
13 Index, Washington, 98256.

14 MR. WILLIAMS: I'm Anthony Williams, and  
15 it's the same address.

16 JUDGE CAILLE: All right. And for the --  
17 well, let's -- let me hear from Verizon. I'll take  
18 you. I'm going to get them after I get the ones in  
19 the room.

20 MS. ENDEJAN: Yes, Your Honor, Judith  
21 Endejan, appearing for the Respondent, Verizon  
22 Northwest, Inc. I'm with the firm of Graham & Dunn.  
23 My address is Pier 70, 2801 Alaskan Way, Suite 300,  
24 Seattle, Washington, 98121-1128. My telephone number  
25 is 206-340-9694; my fax is 206-340-9599; my e-mail is

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1 jendejan@grahamdunn.com.

2 JUDGE CAILLE: Thank you. And for  
3 Commission Staff?

4 MS. JOHNSTON: This is Sally Johnston,  
5 Senior Assistant Attorney General. I'm handling this  
6 pre-hearing conference for Shannon Smith, who will be  
7 the Assistant Attorney General assigned to handle the  
8 case. Her street address -- well, her P.O. --  
9 mailing address is P.O. Box 40128, Olympia,  
10 Washington, 98504. Her telephone number is  
11 360-664-1192; fax, 360-586-5522; e-mail address,  
12 ssmith@wutc.wa.gov. I believe that covers things.

13 JUDGE CAILLE: Thank you. And on the bridge  
14 line, if I could ask the folks to please state your  
15 name and your address, please.

16 MS. RUPP: This is the fire house in Index,  
17 Washington. I'm Jessica Rupp, R-u-p-p. I'm  
18 Douglas's wife. The mailing address, street address,  
19 and message and fax numbers are all the same as  
20 Douglas's.

21 JUDGE CAILLE: Thank you, Ms. Rupp.

22 MS. RUPP: My e-mail is jessica@gnat.com.

23 JUDGE CAILLE: Was that D, as in David?

24 MS. RUPP: G, as in go.

25 JUDGE CAILLE: Thank you.

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1                   MR. JACOBS: I'm Verlin Jacobs, from Index,  
2 Washington. My mailing address is Box 864, 98256. I  
3 live out of Index a little ways, and my address is  
4 1520, I believe it is, Index, Washington, or Galina  
5 Highway. What else do you need?

6                   JUDGE CAILLE: Mr. Jacobs, excuse me, Mr.  
7 Jacobs?

8                   MR. JACOBS: Yes.

9                   JUDGE CAILLE: Is the address 1520 Index  
10 Galina Road?

11                   MR. JACOBS: 15 -- 15205. They just changed  
12 the address there, so I had a little problem with  
13 that, what it used to be.

14                   JUDGE CAILLE: 15205?

15                   MR. JACOBS: Yes.

16                   JUDGE CAILLE: Thank you. Next?

17                   MS. M. INMAN: I'm Melinda Inman. I live at  
18 15305 Index Galina Road. My mailing address is P.O.  
19 Box 222, Index, Washington, 98256. I have a message  
20 phone that's 425-308-8602.

21                   JUDGE CAILLE: And I'm sorry, I didn't get  
22 your last -- could you spell your last name for me?

23                   MS. M. INMAN: I-n-m-a-n.

24                   MS. ENDEJAN: And Your Honor, what was the  
25 P.O. box that she said?

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1 JUDGE CAILLE: Ms. Inman, what was your post  
2 office box?

3 MS. M. INMAN: 222.

4 JUDGE CAILLE: Thank you. Anyone else?

5 MS. C. INMAN: Yes, my name is Christine  
6 Inman. My physical address is 15305 1/2 Index Galina  
7 Road. My P.O. Box is P.O. Box 338, Index,  
8 Washington, 98256. My phone number is 425-530-1298.  
9 And that's also a message phone. I think that's  
10 everybody here.

11 JUDGE CAILLE: All right. Thank you. Let  
12 the record reflect there are no other appearances.

13 MR. HALL: Ma'am, there are.

14 MS. DUNN: Yes, there are four of us on the  
15 phone.

16 JUDGE CAILLE: Oh, I see. I thought you  
17 were all at the fire house. Okay. Go ahead.

18 MS. DUNN: Okay. I'll go first. My name is  
19 Kathie, K-a-t-h-i-e, Dunn, D-u-n-n. My address is  
20 15127 Index Galina Road, Post Office Box 351, Index,  
21 Washington, 98256, and I have no phone.

22 JUDGE CAILLE: Next.

23 MR. HALL: My name is Mr. Hall. My address  
24 is 15127 Index Galina Road, Post Office Box 351,  
25 Index, Washington.

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1 JUDGE CAILLE: Could you please repeat your  
2 name?

3 MR. HALL: James Hall.

4 JUDGE CAILLE: Thank you.

5 MR. PORTREY: This is Chris Portrey.

6 Mailing address --

7 JUDGE CAILLE: Excuse me, Mr. Portrey.

8 Please spell your last name.

9 MR. PORTREY: P-o-r-t-r-e-y.

10 JUDGE CAILLE: Thank you.

11 MR. PORTREY: The physical address on Index

12 Galina Road is 15203, Index, Washington, 98256. My

13 mailing address is 14150 N.E. 20th Street, PMB 226,

14 Bellevue, Washington, 98007. My cell phone is

15 425-766-2864. Message phone is 425-869-5300,

16 Extension 603. E-mail is

17 cy.bvuth.engineering@marriott.com.

18 JUDGE CAILLE: All right. Anyone else?

19 MR. HAVERKAMP: Yeah, this is Sam Haverkamp,

20 H-a-v-e-r-k-a-m-p, Physical address 15203 Index

21 Galina Road, zip, 98256. I can be reached at the

22 same address as Chris, 14150 N.E. 20th Street,

23 Mailbox 226, Bellevue, Washington, 98007. My cell

24 phone in town is 425-864-0587, and my e-mail is

25 samuelhaverkamp0@hotmail.com.



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1           JUDGE CAILLE: Thank you. Anyone else? All  
2 right. Let the record reflect there are no other  
3 appearances. Looks to me like I have not received  
4 any other -- any petitions to intervene. Is there  
5 anyone in the hearing room that intends to intervene?  
6 All right. Hearing none, we will move on to the  
7 motions that have been raised.

8           Before I go any further, though, I want to  
9 explain that this particular pre-hearing conference  
10 is largely a scheduling conference and to get the  
11 appearances from the parties and to kick off the  
12 case, so to speak.

13           So what we'll be doing is what we normally  
14 do at every first pre-hearing conference, and after  
15 we take appearances and interventions, then we  
16 usually look at if there are any dispositive motions.

17           Now, I am aware that there is some  
18 discrepancy in the Respondent's name, and I believe  
19 that -- is there an outstanding motion to amend the  
20 petition?

21           MR. RUPP: Yes.

22           JUDGE CAILLE: Is that correct?

23           MR. RUPP: Michelle Lechuga was not the  
24 property owner, as originally thought. Her mother,  
25 Melinda Inman, wants to take her place.

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1           JUDGE CAILLE:  Ah, that's a different  
2 matter.  Let's take that matter up first.  Is there  
3 any objection to replacing Michelle Lechuga with  
4 Melinda Inman?  And my understanding, Mr. Rupp, is  
5 that the person, Michelle Lechuga, was the previous  
6 property owner?

7           MR. RUPP:  She was a resident.

8           JUDGE CAILLE:  Oh, all right.  Maybe you can  
9 explain the basis for the amendment.

10          MR. RUPP:  Well, there was a petition put up  
11 at the Index General Store and there was a sign-up  
12 sheet and various parties signed up, and I thought it  
13 was clear that it was only property owners were  
14 supposed to sign for the -- on the petition.  They're  
15 the only ones that have standing.

16          JUDGE CAILLE:  Right.

17          MR. RUPP:  Michelle Lechuga signed and I put  
18 her name on the original petition.  I found out  
19 later, when I went around to visit the various  
20 locations, that Michelle was not the property owner  
21 at that residence, that her mother was the property  
22 owner.

23          JUDGE CAILLE:  And her mother's Melinda?

24          MR. RUPP:  Melinda Inman.

25          JUDGE CAILLE:  All right.  Is there any

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1 objection to amending the petition to replace  
2 Michelle Lechuga with Melinda Inman?

3 MS. ENDEJAN: No objection.

4 JUDGE CAILLE: All right. Then it is done.  
5 The next matter I was referring to earlier was the  
6 motion to -- or, yeah, the motion to amend the name  
7 of the Respondent on the petition.

8 MR. RUPP: I'm sorry.

9 JUDGE CAILLE: Right now it reads -- well,  
10 it's interesting, because my notice of pre-hearing  
11 conference says Verizon Northwest, but the petition,  
12 as originally filed, named Verizon Communications as  
13 the Respondent.

14 MR. RUPP: Yes. Petitioners regret that  
15 error.

16 JUDGE CAILLE: Well, so is there a motion to  
17 amend the petition to replace --

18 MR. RUPP: I make a motion to amend the  
19 petition to make Verizon Northwest the Respondent.

20 JUDGE CAILLE: All right. And is there any  
21 objection to that amendment?

22 MS. ENDEJAN: No, Your Honor.

23 JUDGE CAILLE: Then it is done. The next  
24 motion is a dispositive motion, and that is a motion  
25 to dismiss the petition. And I'm aware that

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1 Petitioners have responded to that. Is there  
2 anything further that either side would like to argue  
3 at this point, because what I'm going -- intend to do  
4 is to take it under advisement, and we will set a  
5 schedule contingent on the Commission denying the  
6 motion to dismiss, so --

7 MS. ENDEJAN: Your Honor, a couple of  
8 questions or concerns. First of all, and I'm sure  
9 we'll get to this, but we have not received anything  
10 from Mr. Rupp or the Petitioners in terms of the  
11 response or the mailing address addendum or whatever.  
12 It was me looking at the Commission's Web site that  
13 found that there had, in fact, been a responsive  
14 pleading.

15 So perhaps when we get to the issue of how  
16 we serve each other, we could remind the Petitioners  
17 that they have an obligation to serve the Respondents  
18 with anything they file with the Commission. That  
19 was my first concern.

20 My second question is I don't know if the  
21 Commission intends to call for any further briefing  
22 due to Staff's involvement or not, or if, in fact,  
23 the Commission might find it useful to have further  
24 briefing or oral argument on the matter.

25 JUDGE CAILLE: Okay. Is Staff going -- do

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1 you know if Staff is going to participate, take an  
2 active role in this, Ms. Johnston?

3 MS. JOHNSTON: Staff intends to participate  
4 on policy issues only. Staff is not prepared to  
5 serve as private attorney general and prosecute the  
6 case.

7 In terms of replying in briefing form to  
8 Verizon's motion to dismiss, Your Honor having said  
9 that it's your intention to carry the matter with the  
10 case or take it under advisement, I'm not eager to  
11 advise Shannon Smith that she needs to file a brief.

12 JUDGE CAILLE: Okay. I just want to make  
13 sure, Ms. Endejan, do you have -- are you saying you  
14 do not have all the information from the Petitioners?

15 MS. ENDEJAN: Your Honor, I went to the  
16 Commission's Web site late yesterday afternoon and  
17 found that other things had been filed that we never  
18 received in the mail or were served in any way,  
19 including the mailing address addendum, the motion to  
20 replace Petitioner, and the response to our motion to  
21 dismiss.

22 So I guess, Your Honor, we'd like to have  
23 established some sort of method for procedurally  
24 resolving the motion, and if it would assist the  
25 Commission to have additional briefing, I've not had

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1 an opportunity to respond to Mr. Rupp and I don't  
2 even know, frankly, if the Commission would entertain  
3 it, because responses are permissive, as I  
4 understand.

5 JUDGE CAILLE: That's correct.

6 MS. ENDEJAN: So I guess we need to resolve  
7 here today whether a response would be allowed, A,  
8 and B, if you would resolve the motion under  
9 advisement or call for additional argument. I've  
10 been in proceedings where it's handled both ways.

11 JUDGE CAILLE: Okay.

12 MR. RUPP: if I may, Your Honor?

13 JUDGE CAILLE: Yes, Mr. Rupp.

14 MR. RUPP: When I filed the petition, I  
15 inquired about whether I needed to serve the original  
16 petition on Verizon, and frankly, I didn't know who  
17 to send it to at the time. Staff told me to send it  
18 to WUTC, and they would serve Verizon on my behalf.  
19 I assumed that the other filings would also be  
20 handled similarly, that they would be sent on to  
21 Verizon. If I was in error, I'm sorry. I will send  
22 future filings to Respondent's attorney.

23 JUDGE CAILLE: And one of the things that  
24 will come out of today's pre-hearing conference  
25 order, which explains filing requirements, and one of

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1 the basic filing requirements is to file or to serve  
2 your opponent, so -- and I'm not sure if that's  
3 normal procedure for us, for the Commission to send  
4 out the first --

5 MS. JOHNSTON: The first.

6 JUDGE CAILLE: -- the first one, the  
7 complaint.

8 MR. RUPP: Just the first one.

9 JUDGE CAILLE: Okay. As I said, one of the  
10 things that we're going to do today is establish a  
11 schedule in the event that the Commission denies the  
12 motion to dismiss, and that way we will remain on  
13 track for this proceeding.

14 So why don't we go off the record now to  
15 discuss the schedule, and that will include -- well,  
16 you know what, let's stay on the record for this.

17 I think I would like to get a response from  
18 Verizon to Mr. Rupp's answer, and particularly I'm  
19 interested in the Commission's jurisdiction, and I  
20 think that's what the Commission would also be  
21 interested in.

22 MS. JOHNSTON: Your Honor, would it be --  
23 excuse me for interrupting. Would it be your  
24 preference to have Commission Staff weigh in on the  
25 jurisdictional question?

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1           JUDGE CAILLE: I would like -- yeah, that  
2 would be helpful. And just that question. And then,  
3 Ms. Endejan, anything else that you want to respond  
4 to.

5           MS. ENDEJAN: And when would you like to  
6 receive that by, Your Honor?

7           JUDGE CAILLE: Okay. Let's see. Today is  
8 the 20th. Can we say the 29th, or would you like  
9 more like two weeks?

10          MS. JOHNSTON: I would prefer more time.

11          MS. ENDEJAN: Okay.

12          JUDGE CAILLE: Okay. How about August the  
13 3rd?

14          MS. ENDEJAN: That's fine.

15          MR. RUPP: Your Honor?

16          JUDGE CAILLE: Yes.

17          MR. RUPP: Will the Petitioners then have an  
18 opportunity to rebut?

19          JUDGE CAILLE: Well, no. They have filed  
20 the motion to dismiss, you respond, and they get an  
21 opportunity to reply. Since they are the proponent  
22 of the motion, they will be the last person to have a  
23 say in it.

24          MR. RUPP: Okay.

25          JUDGE CAILLE: So you can file a motion to



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1 supplement your answer, your response, but I'm  
2 assuming that what you've replied --

3 MR. RUPP: I actually -- I'm sorry, I  
4 actually would like to supplement my original  
5 response, based on the fact that I only recently  
6 received copies of the cases cited by Verizon, and I  
7 find some of them arguable.

8 JUDGE CAILLE: Okay. Then let's back up.  
9 Can you have your response supplemented by August the  
10 3rd?

11 MR. RUPP: Yes.

12 JUDGE CAILLE: Okay. Okay. And then, could  
13 we move two weeks out from that for Verizon and  
14 Staff's? So say the 17th of August. So that would  
15 be for Staff on jurisdiction and for Verizon on  
16 jurisdiction and any other matters. Okay.

17 I'm probably not going to be able to take  
18 this matter up until mid-September because of other  
19 obligations here at the Commission, so I would think  
20 we should look at the possibility of a hearing in  
21 early October, but I think I need to -- let me get  
22 the Commission's calendar. I know there are several  
23 large things, a couple of them I'm involved in. So  
24 let's go off the record for just a minute.

25 (Recess taken.)

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1 (Discussion off the record.)

2 JUDGE CAILLE: Let's go back on the record.  
3 We've had some extensive off-record discussion about  
4 a schedule in this proceeding and whether we will  
5 need discovery and whether there should be pre-filed  
6 testimony.

7 And before we go any further, I'd just like  
8 to get this on the record. The parties have decided  
9 that they would like to invoke the discovery rule,  
10 and we will reserve the possibility of a protective  
11 order if there's a request for confidential  
12 information, and that would be the standard  
13 protective order, if it is needed, and I am not going  
14 to automatically have Commissioners issue a  
15 protective order until we need one, so I'm hoping  
16 that the exchange of discovery will not result, you  
17 won't need that. And I will, again, as I said off  
18 the record, reference the discovery rules so the  
19 Petitioners are able to follow those discovery rules.  
20 Do we need a discovery schedule?

21 MS. ENDEJAN: Well, Your Honor, I think we  
22 need to maybe step back just for a moment to sort of  
23 plot out how this case is to proceed, because -- and  
24 if I may take the opportunity to explain to Mr. Rupp,  
25 typically, in an administrative proceeding before the

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1 Commission, what happens is, if you're the  
2 Complainant, it's your job to prove everything you  
3 say in your complaint. That's your job, okay.

4 And the Commission normally requires the  
5 party, you, the Complainant, to file in writing  
6 what's known as your testimony, or the questions and  
7 answers that would prove your case, okay.

8 MR. RUPP: Mm-hmm.

9 MS. ENDEJAN: So then the Respondent, which  
10 is Verizon, we get an opportunity to ask you  
11 questions, called data requests, to understand the  
12 basis for what you're saying in your testimony, okay.

13 MR. RUPP: Mm-hmm.

14 MS. ENDEJAN: And then we file our  
15 testimony, which is our side of the story, in  
16 question and answer form. In other words, it would  
17 sort of go like this, you know. State your name.  
18 I'm, you know, Mr. Rupp, and where you live, and what  
19 are you asking, why are you asking it. You know, Q,  
20 A, Q, A.

21 And then, for instance, Verizon would say  
22 something like, We're Verizon, and the reason we  
23 can't do what you ask us to do is da-da-da-da-da, and  
24 it would cost da-da-da-da-da, you see? So the object  
25 here is to provide the Commission with a record of

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1 facts upon which they can then make a decision  
2 applying, you know, the law and regulatory policy to  
3 the facts in this case that are presented to it. Did  
4 I explain that accurately?

5 JUDGE CAILLE: It sounds accurate.

6 MR. RUPP: Yes, and I understand that, and  
7 that's all somewhat obvious to me. My question is  
8 more what is the standard of proof you're going to  
9 accept for the facts that I have stated in my  
10 petition. For instance -- may I give a for instance?  
11 I said in my petition there was no line of sight for  
12 a feasible radio telephone system. What do I have to  
13 give you to prove that there's no feasible line of  
14 sight for a radio telephone system? Is a map good  
15 enough, a topographical map? That sort of thing.  
16 That's what I was asking. Am I going to have to hire  
17 experts to come in to testify to this?

18 JUDGE CAILLE: And Mr. Rupp, I now feel like  
19 you're asking advice, and none of us here can do  
20 that.

21 MR. RUPP: Okay.

22 JUDGE CAILLE: So perhaps the best thing to  
23 do is for you to file your testimony and Verizon will  
24 -- I assume -- are you going to want -- are you going  
25 to start discovery right away, both of you, and then

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1 there will be additional discovery on the pre-filed  
2 testimony? Is that the way you're looking at it?

3 MS. ENDEJAN: Well --

4 JUDGE CAILLE: It's hard to know, I know.

5 MS. ENDEJAN: Again, this is, you know, a  
6 unique case, and typically, the party asking data  
7 requests sends data requests in response to  
8 testimony. However, this is not the typical case,  
9 and it might be beneficial for both parties, if they  
10 have questions of each other about the facts of a  
11 situation, to get those in writing and send them to  
12 each other so that we can at least have some  
13 threshold set of facts from which the parties can  
14 then write their testimony.

15 MS. JOHNSTON: Is Verizon willing to spend  
16 the time necessary to arrive at a set of stipulated  
17 facts?

18 MS. ENDEJAN: Sally, we would do everything  
19 we can to stipulate to things that are not in  
20 controversy. I mean, we want to act reasonably here.  
21 And to the extent we can do it, of course we will.

22 MS. JOHNSTON: Thank you.

23 JUDGE CAILLE: I just want to remind you  
24 that we are on the record.

25 MS. ENDEJAN: Okay.

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1           JUDGE CAILLE: Okay. Then let's consider  
2 that you will start discovery now or you will meet  
3 together and try to work out some kind of stipulated  
4 facts. I'm going to leave that to the parties. I'm  
5 not going to try to organize that for you. And I  
6 think you can do some informal exchange of discovery,  
7 according to the Commission's rules, and there can be  
8 some testimony filed. And I guess that's where we  
9 are right now, is what would be the date, Mr. Rupp,  
10 that you would want to file that pre-filed testimony?

11           MR. RUPP: Well, what's reasonable?  
12 Sometime in October or earlier?

13           JUDGE CAILLE: Again, it's really pretty  
14 much what's -- given the fact that I've told you that  
15 the Commission's calendar is really busy for October  
16 and we can't really hold a hearing, I think, until  
17 November --

18           MR. RUPP: Oh, this requires a hearing,  
19 then, okay. Right.

20           JUDGE CAILLE: Well, what will happen is --  
21 yes, what will happen is there's pre-filed testimony  
22 first on your part, then I assume Verizon will ask  
23 some discovery questions on that pre-filed testimony.  
24 You will need to respond the discovery questions.  
25 Then Verizon will file their testimony. You will

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1 then get an opportunity to ask if there need be  
2 further discovery questions on what they file.

3 After the testimony is filed, we schedule a  
4 hearing, evidentiary hearing, and at that evidentiary  
5 hearing you have witnesses, typically it's the  
6 witness who has -- well, it is the witness who has  
7 written the testimony, they will take the stand, and  
8 they will stand cross-examination on that testimony.  
9 So you will be able to cross-examine Verizon's  
10 witnesses, Verizon will be able to cross-examine your  
11 witnesses. And that way we test the veracity of the  
12 evidence. So it's up to you.

13 How much time do you think you need to  
14 prepare this testimony? And as I said, it's in  
15 question and answer form, and each person who will be  
16 testifying will need to have testimony.

17 MR. RUPP: I don't know. Pick a day for me.

18 JUDGE CAILLE: Well, why don't you look at  
19 this calendar and -- well, I'll pick a day for you.  
20 Let's see. Today is -- let's say October the 12th.

21 MS. ENDEJAN: Your Honor, that might be  
22 cutting it a little short if we're going to have  
23 November hearings, because you have to build in time  
24 for us to respond and then them to reply.

25 JUDGE CAILLE: You're right. I was actually

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1 thinking of pushing it out --

2 MS. JOHNSTON: Moving the hearings out?

3 JUDGE CAILLE: Yeah, moving the hearing out.

4 MS. ENDEJAN: That would be fine.

5 JUDGE CAILLE: Okay. I just think that  
6 perhaps Mr. Rupp might need that amount of time.

7 MR. RUPP: I appreciate it, Your Honor.

8 JUDGE CAILLE: Okay. So then, Ms. Endejan,  
9 what do you think would be reasonable for you to file  
10 your -- is a month later --

11 MS. ENDEJAN: So you said October 12th for  
12 --

13 JUDGE CAILLE: Uh-huh.

14 MS. ENDEJAN: Yeah, we could -- yes, we  
15 could probably have November 12th.

16 JUDGE CAILLE: That's a Saturday, I believe.

17 MS. ENDEJAN: Oh.

18 JUDGE CAILLE: So --

19 MS. ENDEJAN: How about the 14th?

20 JUDGE CAILLE: Okay. November 14th. Okay.

21 Then we can look at a hearing in December, and let's  
22 see. It looks to me like there's the week -- the  
23 first full week of December is available, and mid --  
24 well, actually, that would probably be the best. The  
25 6th, 7th and 8th of December. I don't think we're



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1 going to need three days, but, I mean, are those days  
2 that people here are available?

3 MR. RUPP: Fine with me.

4 MS. ENDEJAN: That's acceptable.

5 MS. JOHNSTON: Fine with me. I won't be  
6 handling the case.

7 JUDGE CAILLE: Is Shannon involved in EPRI  
8 meetings in Palo Alto at all?

9 MS. JOHNSTON: No, thank you.

10 JUDGE CAILLE: Okay. Why don't we schedule  
11 -- I'd like to think we could get this done in one  
12 day, so would you prefer a Tuesday or a Wednesday?

13 MS. ENDEJAN: There's no open meeting, I  
14 take it? Or is this something the Commissioners are  
15 going to preside over?

16 JUDGE CAILLE: No, this is just an ALJ-only  
17 case. I'll be gathering the evidence for them and  
18 they will ultimately make the decision. So December  
19 6th or December 7th? I'll pick one. How about  
20 December 6th?

21 MS. JOHNSTON: Does Your Honor think we  
22 could complete it in a day? How many witnesses?

23 MS. ENDEJAN: You might want to build in two  
24 days.

25 JUDGE CAILLE: Yeah, let's build in two

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1 days. We'll do it December 6th and 7th, in case we  
2 have many witnesses.

3 MR. RUPP: What is the starting time usually  
4 for this?

5 JUDGE CAILLE: It's usually at 9:30.

6 MS. ENDEJAN: And Your Honor, do you intend  
7 to establish a deadline for reply testimony from Mr.  
8 Rupp?

9 JUDGE CAILLE: Ah, yes. So November 14th.  
10 Mr. Rupp, can you reply to Verizon's testimony by --  
11 let's see, November 23rd? That would be the day  
12 before Thanksgiving.

13 MR. RUPP: Nine days.

14 JUDGE CAILLE: So that would be pre-filed  
15 testimony, again, by witnesses in a question and  
16 answer form. And it's just responsive to Verizon's  
17 testimony, so it wouldn't be new stuff.

18 MR. RUPP: Right. People tend to go on  
19 vacation the week of Thanksgiving, so basically it  
20 would give me one week to do that. I'd like two, if  
21 possible.

22 JUDGE CAILLE: Do you want to file after  
23 Thanksgiving or -- well, let's -- okay. So if we  
24 extended it to November the 30th?

25 MR. RUPP: That would be all right.

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1 JUDGE CAILLE: We can still do the 6th and  
2 7th for hearings. Okay.

3 MS. ENDEJAN: That's not a problem, Your  
4 Honor, unless there's something raised in the  
5 responsive testimony that we're going to have to ask  
6 them questions about, you know, data requests.  
7 That's my only concern about that.

8 JUDGE CAILLE: Okay.

9 MS. ENDEJAN: Perhaps, you know, we'd be  
10 willing to file ours on the 11th if he could get it  
11 in by the 23rd.

12 JUDGE CAILLE: That doesn't address his  
13 issue about the people taking that week off for --

14 MR. RUPP: The 23rd is a Wednesday.

15 JUDGE CAILLE: That's the Wednesday before  
16 Thanksgiving.

17 MR. RUPP: People would leave, say, the  
18 20th, 19th.

19 JUDGE CAILLE: Why don't we go off the  
20 record just a moment.

21 (Discussion off the record.)

22 JUDGE CAILLE: All right. Mr. Rupp will  
23 file his reply testimony by November 30th, and we  
24 have now scheduled the evidentiary hearings for  
25 December 12th and 13th. And is 9:30 -- can you make

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1 it here by 9:30, Mr. Rupp, with your witnesses, or is  
2 10:00 a better --

3 MR. RUPP: It's a two and a half-hour drive  
4 from Index.

5 JUDGE CAILLE: So either way.

6 MR. RUPP: So the later the better.

7 JUDGE CAILLE: Okay. Let's make it 10:00,  
8 then, beginning at 10:00. Okay. I think everything  
9 -- the schedule -- we're on the record for the entire  
10 schedule, so that will be clear from the pre-hearing  
11 -- from the transcript, as well as the pre-hearing  
12 conference order that I will issue.

13 Just as a heads up, not that you would be  
14 filing anything before I get my pre-hearing  
15 conference order out, though, but we will be needing  
16 six copies of everything, an original, plus six  
17 copies for our internal distribution here at the  
18 Commission.

19 And I'm reminding the parties again about  
20 stipulations to facts and to any issues that can be  
21 resolved during the settlement -- some sort of  
22 settlement process, and I'll reference those WACs in  
23 my pre-hearing conference order, as well.

24 Is there anything else that we need to  
25 discuss today?

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1 MS. ENDEJAN: Your Honor, with respect to  
2 the Company accomplishing service on Petitioners, is  
3 it -- I guess Mr. Rupp is the lead Petitioner?

4 JUDGE CAILLE: Yes.

5 MS. ENDEJAN: And we would obviously serve  
6 Mr. Rupp with everything. But my question for you is  
7 should we serve individually everything we serve on  
8 Mr. Rupp on each and every Petitioner via mailing it  
9 to their post office box? I want to make sure that I  
10 provide proper service on everyone, and so I guess  
11 my question is will Mr. Rupp accept service on behalf  
12 of all Petitioners, or should I just simply serve  
13 every Petitioner once we have the formal mailing list  
14 and service list.

15 JUDGE CAILLE: Normally, when we have these  
16 many Petitioners, there is a point person that is  
17 selected, and that person is the person that gets  
18 served, and then, Mr. Rupp, you would share that  
19 information with the other Petitioners.

20 Now, we could ask you to make several -- you  
21 know, serve all the copies, several copies on Mr.  
22 Rupp, so that he could distribute them.

23 MR. RUPP: That would be fine.

24 JUDGE CAILLE: How would that work?

25 MS. ENDEJAN: That would be great, because

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1 then what we would do is we will serve Mr. Rupp with  
2 a copy for him and for all the Petitioners, and then  
3 he would be responsible for giving the copies to the  
4 individual Petitioners.

5 JUDGE CAILLE: Right.

6 MS. ENDEJAN: That would be great.

7 JUDGE CAILLE: Is that acceptable, Mr. Rupp?

8 MR. RUPP: That's fine.

9 JUDGE CAILLE: Okay. All right. Anything  
10 else from anyone? Okay. Thank you very much for  
11 coming. I will -- I may have to wait for this  
12 transcript, because I didn't get everything --  
13 everyone's addresses down, but that's probably not  
14 necessary for this portion of it. So you can expect  
15 that a pre-hearing conference order will come out  
16 within a week.

17 MS. ENDEJAN: Thank you, Your Honor.

18 JUDGE CAILLE: You're welcome.

19 MS. JOHNSTON: Thank you.

20 MR. RUPP: Thank you.

21 (Proceedings adjourned at 2:40 p.m.)

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