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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of the Petition)
4 of Verizon Northwest, Inc.,) DOCKET NO. UT-040520
5 for Approval of Revised) Volume I
6 Depreciation Rates.) Pages 1 - 36
7 -----

8 A prehearing conference in the above matter
9 was held on December 6, 2004, at 1:40 p.m., at 1300
10 South Evergreen Park Drive Southwest, Olympia,
11 Washington, before Administrative Law Judge
12 C. ROBERT WALLIS.

13 The parties were present as follows:

14 VERIZON NORTHWEST, INC., by JUDITH A.
15 ENDEJAN, Attorney at Law, Graham & Dunn, 2801 Alaskan
16 Way, Suite 300, Seattle, Washington 98121; telephone,
17 (206) 340-9694.

18 WASHINGTON UTILITIES AND TRANSPORTATION
19 COMMISSION, by DONALD T. TROTTER, Assistant Attorney
20 General, 1400 South Evergreen Park Drive Southwest,
21 Post Office Box 40128, Olympia, Washington 98504;
22 telephone, (360) 664-1189.

23 PUBLIC COUNSEL, by SIMON J. FFITCH, Assistant
24 Attorney General, 900 Fourth Avenue, Suite 2000,
25 Seattle, Washington 98164; telephone, (206) 389-2055.

26 Kathryn T. Wilson, CCR
27 Court Reporter

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

2 JUDGE WALLIS: The hearing will please come
3 to order. This is a prehearing conference in the
4 matter of Commission Docket No. UT-040520, and it
5 involves a petition by Verizon Northwest, Inc., seeking
6 authorization to alter its schedule for the
7 depreciation of certain plant equipment.

8 This conference is being held in Olympia,
9 Washington, on December 6th of the year 2004 before
10 Administrative Law Judge C. Robert Wallis. Let's have
11 appearances at this time. If you would please state
12 your contact information with your appearance, and
13 let's begin with our petitioner.

14 MS. ENDEJAN: Thank you, Your Honor. Judith
15 Endejan for Verizon Northwest, Inc. I'm from Graham
16 and Dunn. That's 2801 Alaskan Way, Seattle,
17 Washington, 98121. My telephone number is
18 (206) 340-9694. My fax number is (206) 340-9599. My
19 e-mail address is jendejan@grahamdunn.com.

20 JUDGE WALLIS: Will Mr. Potter be appearing
21 in this docket?

22 MS. ENDEJAN: No, Your Honor.

23 JUDGE WALLIS: He was listed on our initial
24 service list sheet. That's why I asked.

25 MR. POTTER: I will be the regulatory

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1 contact.

2 JUDGE WALLIS: He will be the regulatory
3 contact, and he is the person to whom the official
4 company copies would be sent or orders?

5 MS. ENDEJAN: Your Honor, I believe that the
6 official copies should probably go to me, but as I
7 understand it, a copy could go to Mr. Potter as well.

8 JUDGE WALLIS: In serving orders, the APA
9 requires us to provide a copy to the client as well as
10 to the attorney of record.

11 MS. ENDEJAN: So then that's covered.

12 JUDGE WALLIS: Thank you. For Commission
13 staff?

14 MR. TROTTER: For Commission staff, my name
15 is Donald T. Trotter, assistant attorney general. My
16 address is 1400 South Evergreen Park Drive Southwest,
17 Olympia, Washington, 98504-0128. My telephone number
18 is (360) 664-1189. Fax is (360) 586-5522, and e-mail
19 is dtrotter@wutc.wa.gov.

20 JUDGE WALLIS: For Public Counsel?

21 MR. FFITCH: Simon ffitich, assistant attorney
22 general, Public Counsel section of the Washington
23 attorney general's office, 900 Fourth Avenue, Suite
24 2000, Seattle, Washington, 98164, and the phone number
25 is (206) 389-2055. E-mail address is

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1 simonf@atg.wa.gov, and the fax number is
2 (206) 389-2058.

3 JUDGE WALLIS: Very well. Let me ask if
4 there is any person in the room who desires to appear
5 in this docket in a representative capacity on behalf
6 of a party to intervene. Let the record show there is
7 no response. I am not asking whether there is anyone
8 on the bridge line with desire to intervene because we
9 are having technical difficulties with the bridge line
10 at this time.

11 In preconference discussions, it was verified
12 by a telephone call by Mr. Ffitch to Mr. Butler that
13 there may be a petition to intervene at a later time;
14 is that correct, Mr. Ffitch?

15 MR. FFITCH: That's correct, Your Honor.

16 JUDGE WALLIS: We take it from that that the
17 attorney is intending to petition for intervention, and
18 I take it the parties have no objection to an
19 intervention filed in that matter; is that correct?

20 MR. TROTTER: That's correct for Commission
21 staff, Your Honor.

22 MR. FFITCH: Correct for Public Counsel, Your
23 Honor.

24 MS. ENDEJAN: That's correct.

25 JUDGE WALLIS: So we will expect a petition.

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1 Parties will be able to respond to it, and then the
2 Commission will make a ruling. A protective order has
3 been entered in this docket. I merely note that for
4 the record. Is there any other procedural matter
5 before we proceed to scheduling?

6 MS. ENDEJAN: Technically, does the discovery
7 rule have to be invoked if a protective order has been
8 entered?

9 JUDGE WALLIS: I haven't read the discovery
10 order recently to determine whether that order did
11 provide for invoking the discovery rule. Are parties
12 desirous that the discovery rule be invoked?

13 MR. FFITCH: Yes, Your Honor. In fact, we
14 have already issued data requests in the case. It was
15 our interpretation of the prior order that the
16 discovery rule had been invoked.

17 JUDGE WALLIS: Very well. We will verify
18 whether that was included. If not, we will certainly
19 in this order invoke the discovery rule.

20 MR. FFITCH: On that point, there is a
21 question of the response time for data requests and
22 whether or not we should consider shortening it. I'm
23 just suggesting maybe as we talk about the schedule we
24 should take a look at that question. I don't know that
25 I have a firm opinion myself, but maybe keep it in

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1 mind. That way, we could go, for example, to a seven
2 day instead of the standard ten business day.

3 JUDGE WALLIS: I take it you are not making a
4 specific suggestion at this time, and we will defer any
5 discussion until the matter is explicitly raised.

6 Commission staff has proposed an approach to
7 the docket. Let me ask, Mr. Trotter, if you would
8 describe that approach reflected in the document
9 "proposed schedule of Commission staff" that you've
10 distributed this afternoon.

11 MR. TROTTER: Thank you, Your Honor. We did
12 circulate a two-page document. The first page provides
13 a background, and the second page basically contains a
14 proposed approach to scheduling this case. This was
15 discussed with the parties in detail last week, and we
16 do not have agreement on the approach. However, I
17 believe on the second page, the dates in the lower half
18 of the page are agreed to if our approach is not deemed
19 meritorious by the Commission.

20 The issue in this case in terms of
21 determining the appropriate depreciation lives and so
22 on for Verizon Northwest, that is going to be the
23 central issue in the case, and precisely the same
24 issues are before the Commission in the generic cost
25 docket, which is Docket UT-023003.

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1 We took a look at the Company's exhibit in
2 that case and their proposal in this case with respect
3 to asset lives and theory, and they are identical.
4 That generic cost docket is before the Commission for
5 decision. The briefing was complete on August 13th,
6 2004, so the next step is for the Commission to issue
7 its order, and it will resolve the issues that are
8 present in this case as to the use of GAAP lives versus
9 economic lives that the Commission has historically
10 used, and if it goes with GAAP lives, it may very well
11 determine the asset lives that are appropriate, and
12 those are the two primary issues in the current docket,
13 040520.

14 From an efficiency standpoint, from a policy
15 standpoint, from a common sense standpoint, there is no
16 reason to require the parties to litigate the identical
17 issues once again when a decision on those issues is
18 pending. So therefore, Staff came up with a schedule
19 that would basically trigger off of when the Commission
20 issues its order in the generic cost docket.

21 We called for the Company to file its case
22 today, which it is, but then required them to file a
23 supplemental case to respond to that generic cost
24 docket order, and then the Staff and Public Counsel
25 cases and rebuttal and so on would flow from there.

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1 So it just makes sense to us to tie these
2 cases together and put together a rational schedule
3 based on that, so that is the basis for the proposal,
4 and we encourage the Commission to accept it after
5 giving due consideration.

6 JUDGE WALLIS: Ms. Endejan?

7 MS. ENDEJAN: Yes, Your Honor. This case
8 should not be tied to the generic cost docket for a
9 number of reasons, and let me explain in detail those
10 reasons. First and foremost, the issue of depreciation
11 is intricately tied with resolution of Verizon's rate
12 case. It is in Verizon's testimony filed in support of
13 its direct case in Ms. Heuring's testimony. It's a
14 huge pro forma adjustment. That adjustment is
15 discussed at Page 24 of Ms. Heuring's testimony and in
16 her work papers, and it's clear that the Company's
17 entitled to have all issues associated with determining
18 appropriate rates and its revenue requirement resolved
19 in the rate case.

20 That seems to be the approach that the
21 Commission recognized as endorsed by the Washington
22 Supreme Court in the last US West rate case. There, it
23 was kind of a converse situation. US West had filed a
24 depreciation case in the fall of '94, and it got a
25 decision in May of '95. Contemporaneously, the Company

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1 filed a separate rate case, and the Staff moved to
2 dismiss the new depreciation evidence in the rate case,
3 and that was granted.

4 The Commission in April of '96 granted a rate
5 case and depreciation order, and it said the order in
6 the rate case provided that the decisions in the
7 depreciation case be applied to the final rate
8 determination. In that case, the Commission recognized
9 that though they were proceeding in separate dockets,
10 they were interconnected for purposes of the final rate
11 determination, and that's what we would like to seek
12 here.

13 The Company does not have a position on
14 whether this case should be consolidated into the rate
15 case. If the Commission feels that's more efficient,
16 that's fine. The Company's interest is only in seeing
17 that a decision be made contemporaneous with the rate
18 case so that it can be implemented in the case rate
19 case order.

20 Now, the problem with tying this to the
21 generic docket is -- there are several problems. First
22 and foremost, and I feel like I'm at somewhat of a
23 strategic disadvantage because I'm not counsel for
24 Verizon in the UNE docket, and I don't think
25 Mr. Trotter is counsel for Staff in that case, but on

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1 Friday -- bottom line is we don't foresee any decision
2 coming out anytime soon in the generic cost docket.

3 Last Friday, the Commission issued a new
4 notice of status conference, and the parties are going
5 to be here on Wednesday to discuss how to proceed to
6 deal with a very comprehensive and lengthy Bench
7 request that was issued by the Commission to Verizon.
8 The notice that was served on Friday states that as
9 part of its deliberations on the issues in this case,
10 the Commission intends to conduct its own runs of the
11 party's cost models.

12 All of this tells me, Your Honor, that it is
13 overly optimistic the way things work to expect a final
14 decision from the Commission by the middle of January,
15 given the holidays and given this latest sort of
16 wrinkle or iteration in the UNE docket.

17 I would also point out that it's my
18 understanding that in the UNE docket, another
19 unresolved issue is the FCC issued interim UNE rules
20 last summer, and then the Commission sent a notice
21 asking for comments on how the Commission should
22 implement the interim UNE rules. Comments were filed.
23 Some parties took the position that in light of the
24 FCC's decision, there is no need for this commission to
25 even issue a decision in this case. The Commission has

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1 not made a final determination on that outstanding
2 issue either.

3 So what we are seeing is the generic cost
4 docket is a complicated docket that just from looking
5 at the procedural step where we are at now tells us
6 that it is going to be awhile before any final order is
7 issued, and that is going to have a serious impact on
8 resolving what happens with respect to the depreciation
9 expense in the rate case.

10 More importantly, I would like to point out
11 that we are kind of putting the cart before the horse
12 here. In the UNE docket, Mr. Spinks testified in his
13 April 20th testimony at Pages 9 and 10 in Docket No.
14 UT-23003, quote, "Staff also notes that on March 29th,
15 2004, Verizon filed a depreciation study with the
16 Commission in Docket No. UT-040520. The Commission
17 should await the outcome of that docket before
18 considering any revision to depreciation rates in this
19 proceeding."

20 On May 12th, Mr. Spinks also submitted
21 rebuttal testimony in that docket where he said at
22 Page 2, quote, "Staff agrees with Verizon insofar as
23 proper depreciation practices include restudying and
24 represcription of depreciation rates every three to
25 five years and that currently prescribed rates are now

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1 about four years old. Indeed, as discussed in my
2 response testimony in March 2004, Verizon filed with
3 the Commission a petition to represcribe depreciation
4 rates, including a depreciation study. The Commission
5 should use the economic depreciation rates currently
6 prescribed for Verizon until such time as Verizon's
7 represcription has been completed. If there are
8 substantive changes in depreciation rates as a result
9 of the represcription, the Commission should permit
10 Verizon to update its UNE rates accordingly."

11 There is a clear distinction between the
12 rates that are going to be set in the rate case, which
13 are retail, and the rates that are going to be set in
14 the UNE case, which are wholesale, and it appears that
15 Staff took the position on record in the UNE docket
16 that really, what should be resolved first in the
17 represcription docket is the lives, and the policy
18 issue is just as capable of being resolved in this
19 depreciation docket and contemporaneous with the rate
20 case as it is in the UNE docket, and as Mr. Spinks
21 noted, the UNE rates could be updated accordingly.

22 So in our view, we really feel that it's
23 incumbent upon the Commission to set a schedule that is
24 in some sense contemporaneous with the rate case to the
25 best extent possible. We filed this petition last

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1 April. It's been pending for a very long time, and it
2 needs to be addressed.

3 So we talked to Public Counsel and Staff, and
4 we agreed to the schedule that appears on Page 2, and
5 we would submit that given the uncertain status of the
6 likelihood of a generic cost docket order that deals
7 with depreciation coming out anytime soon, we would
8 propose that this schedule, the one on Page 2 in the
9 second paragraph, be adopted for now with full
10 recognition that the parties have the right, as they
11 always do, to ask the Commission to set another
12 prehearing conference or to find some mechanism to deal
13 with whatever impact occurs in the generic cost docket.

14 Frankly, it's entirely possible that this
15 Commission could resolve the policy issue of GAAP
16 versus economic lives in this docket before it gets
17 resolved in the UNE docket given the pace of that
18 docket, in which case they will get adjusted
19 accordingly.

20 We are trying to be cooperative with Staff,
21 but it's really important that we get the presubscribed
22 lives determined now. Even Mr. Spinks agrees with it.
23 These are old lives. We are going to have to have
24 hearing on this issue no matter what and have testimony
25 on this no matter what, so accordingly, we would

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1 recommend that you adopt the agreed-upon schedule
2 that's on Page 2 with the caveat that the parties are
3 free to come back to the Commission in the likely event
4 that the UNE docket order is issued sometime in the
5 next four months. So on that note, Your Honor, I would
6 conclude my remarks.

7 JUDGE WALLIS: Mr. ffitch, do you have
8 anything to offer at this time?

9 MR. FFITCH: Your Honor, it is correct that
10 Public Counsel is also in agreement with the schedule
11 in the lower part of Page 2 of Staff's written handout
12 today. We support Staff's attempt here to build an
13 alternative or contingency for the fact that an order
14 may be issued in the generic case, and I guess I have a
15 question for counsel for GTE, which is assuming she's
16 correct and we proceed all the way through this
17 schedule at the bottom of the page here and we get a
18 decision and we are looking at a final decision
19 sometime in April, perhaps, from the Commission or
20 early May, and at the same time we get a decision in
21 the generic case, how does the Commission, how do the
22 parties then address that procedurally? Do we then
23 initiate a further round of testimony and hearings at
24 that time?

25 I guess what Staff has presented here is an

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1 approach for dealing with that problem to some extent,
2 and I really haven't heard from the Company how we
3 would deal with that under their approach. Eventually
4 there is going to be an order in the generic case, and
5 my question for Verizon is assuming it's a little bit
6 later and it's in March or April sometime, what happens
7 then?

8 MS. ENDEJAN: Would you like me to respond,
9 Your Honor?

10 JUDGE WALLIS: Go ahead.

11 MS. ENDEJAN: This to us appears to be the
12 matter that could be resolved through further briefing,
13 if necessary, and I'm presuming that if the issue of
14 depreciation lives is present in two pending and active
15 dockets that the commissioners will be apprised of
16 what's happening in both of these dockets and will
17 probably not be making inconsistent decisions, I would
18 suspect.

19 So I think just from the discussion here,
20 what you are hearing is there is so many possible
21 variables here that could happen in the next couple of
22 months that we really are requesting that we get on
23 with the depreciation case recognizing that as in all
24 cases before the Commission, things come up. The FCC
25 issues rulings that require you to go right when you

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1 thought you would have to go left.

2 We don't see this case as being anything
3 particularly different in that if something else comes
4 up, the parties can address it in subsequent briefing,
5 if necessary.

6 JUDGE WALLIS: Mr. Trotter?

7 MR. TROTTER: Well, a lot has been said here,
8 including the notion that the issue of whether GAAP
9 lives ought to be used or economic lives ought to be
10 used is an issue that's going to be resolved in this
11 docket, not the generic docket. If that's true, which
12 I don't believe it should be true or the Commission
13 should approach it that way -- it's inefficient -- but
14 also, it would need to give notice to the parties in
15 the generic cost docket and have them intervene here
16 because that is where that issue will be resolved.

17 The common sense approach here is to
18 understand that the issue of GAAP lives versus economic
19 lives has been teed up in that docket. It's been
20 presented to the Commission. The issue is pending for
21 resolution. We do not believe the notice of the status
22 conference is a matter of great moment.

23 But ultimately, the Commission should
24 understand where it sits with that docket and to make
25 that analysis itself, and I don't pretend to tell the

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1 Commission what it thinks is complicated or not
2 complicated, but from Staff's perspective, it does not
3 appear that that is a major bump in the road at all.

4 The real underlying problem here is that
5 there is a difference of theory on how to approach
6 depreciation. That issue is presented in another
7 docket, and we believe that that should be the lead
8 docket for determining that issue and that the parties
9 should not be required to relitigate it again and again
10 and again.

11 Ms. Endejan did mention the testimony of
12 Ms. Heuring in the rate case. She does propose a pro
13 forma adjustment. She's not a depreciation expert.
14 It's the parties' understanding that the depreciation
15 issue would be resolved here and incorporated into
16 rates when the time comes. We are committed to that,
17 and whether the Company is entitled to have
18 depreciation rates represeted and incorporated into a
19 rate case, I don't know.

20 This US West rate case is under different
21 circumstances. The Company could have filed testimony
22 and exhibits of Mr. Danner and Mr. Flesch months
23 earlier if they wished and so on and so forth. Those
24 issues aren't what we should be talking about today
25 because we are committed to giving the Company rate

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1 relief as a result of depreciation represcription, and
2 that's not the normal treatment. Often, that's done
3 separately and then the company files a rate case.
4 Given that the Company has a contemporaneous rate case,
5 we have agreed that the Commission should incorporate
6 the results into rates when the time comes.

7 So it really boils down to a couple of
8 things. One is recognition, which I think we all
9 recognize, recognition that the issue of GAAP versus
10 economic lives is before the Commission in another
11 docket. Where we disagree is where that issue should
12 be resolved, and we still firmly believe it should be
13 resolved there and the impact of that decision imported
14 here.

15 Beyond that, we have some speculation, I
16 think, on both sides here. We think the order will be
17 issued on a more efficient basis than the Company, but
18 ultimately, they are speculating too. So we think the
19 Commission can take a hard look at this and make a
20 decision on what it thinks about that docket.

21 If it does not intend to issue an order until
22 a year from now, or objectively speaking, it really
23 can't do that for many, many months from now, well,
24 that may dictate a different course of action, but we
25 believe the way that case is postured, it ought to

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1 coincide with the schedule in this case so the parties
2 don't have to litigate yet again the identical issue,
3 and that is why we've made the proposal.

4 Finally, I believe that Counsel referred to
5 the schedule on Page 2, and there is two schedules on
6 Page 2. I believe they were referring to the one in
7 the lower half, which I think we are all agreed on if
8 the Commission rejects our idea regarding another way
9 of approaching this docket.

10 JUDGE WALLIS: Do I understand correctly that
11 the matter has been fully litigated in the generic?

12 The quotation from Mr. Spinks indicated a
13 recommendation that it not be decided in that matter.

14 MR. TROTTER: I don't believe that was the
15 quote. I think what he was saying was that the
16 specific lives could be litigated in another docket,
17 but the Company is proposing specific lives in that
18 docket.

19 What he's referring to from the generic cost
20 docket is the underlying theory, is it GAAP or is it
21 economic lives? The Company is proposing GAAP and has
22 lives associated with it. Those lives are identical to
23 what is proposed here, but once the Commission makes
24 its determination of GAAP versus economic lives, then
25 the issue of what those lives should be could be before

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1 the Commission in this case if the Company wishes to
2 relitigate.

3 JUDGE WALLIS: Those lives would not be
4 determined by GAAP?

5 MR. TROTTER: The Company has filed in the
6 generic cost docket, let's call it two issues, but the
7 one that is relevant here is they are proposing in one
8 to use GAAP lives, and number two, if the Commission
9 uses GAAP lives, they are proposing specific GAAP lives
10 by account or asset grouping, whatever it is. If the
11 Commission goes with GAAP in that case, and that's
12 going to dictate that issue in this case, and the lives
13 that they propose in this case are the same.

14 Now, if the Commission goes the way Staff
15 recommends, that is, economic lives, then different
16 lives will result from that analysis. Also, if the
17 Commission says we are approving GAAP but we're not
18 specifically approving any lives, then the issue in
19 this case will be to determine whether the Company's
20 GAAP lives are appropriate, but that fundamental
21 principle of GAAP versus economic lives is what is
22 before the Commission and is what is our main focus
23 here.

24 JUDGE WALLIS: Mr. ffitch, was Public Counsel
25 a participant in the issue in the generic?

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1 MR. FFITCH: No, Your Honor. We were unable
2 to devote the resources to that, so we have not been a
3 party to that litigation.

4 JUDGE WALLIS: All I'm trying to do here is
5 explore the scope of options that might be available,
6 and I'm wondering if whether the matter has been
7 litigated that the Commission, in as much as the
8 Company and Staff are identical parties, Commission, if
9 appropriate under the circumstances, might take those
10 portions of that record and incorporate them into this
11 or the rate case record giving other parties the
12 opportunity to respond to anything that Mr. ffitich
13 adds. Would that speed us up or slow us down?

14 MR. TROTTER: Just give me a moment.

15 (Discussion off the record.)

16 MR. TROTTER: It's difficult for me to answer
17 specifically because the Company, we would have to take
18 a look at that body of evidence and compare it to what
19 they filed, because they might have to withdraw
20 Mr. Danner, for example, because his testimony goes to
21 the issue that they addressed in that other docket. So
22 we would have to take a look at that and see what
23 evidence would stay in and what would have to be
24 removed.

25 JUDGE WALLIS: Ms. Endejan?

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1 MS. ENDEJAN: Your Honor, and I'll reiterate,
2 the Company's interest here is in getting the
3 depreciation issue resolved so that the rates that are
4 adopted as a result of the rate case include that
5 result.

6 JUDGE WALLIS: We understand that. Any
7 subsequent questions that are aimed at that, and what
8 I'm looking for is the range of options that the
9 Commission might have to get that question before it
10 either in this docket or in the rate case docket.

11 Whether it's by resolution in the generic
12 that would then control, or whether it is by an
13 incorporation into that record, one of those records,
14 of the generic evidence and argument, or whether it is
15 relitigating that question. Those I see as the
16 principle three options here.

17 MS. ENDEJAN: Your Honor, it would seem to me
18 that as far as the Company is concerned, Mr. Spinks
19 could probably refile the testimony that he filed on
20 this point here. There are differences between the
21 cases in that a UNE wholesale docket -- the Commission
22 has a whole bunch of other things to determine in
23 addition to the depreciation rate, and I suspect that's
24 why it's taking a long time because they are very
25 complicated issues. So we would support carving that

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1 section out, putting it in this case, and that would
2 lead to an ultimate revision of the UNE rates.

3 But as we read Mr. Spinks's testimony, that's
4 what he thought would happen all along, because one way
5 or the other, the lives have to be determined, and at
6 least the way I read his testimony, the reprscription
7 was to occur in this docket, so we would have to go
8 forward under any scenario.

9 We think that given the time line that the
10 Commission is committed to in connection with issuing a
11 final rate case order, etcetera, we think it makes more
12 sense to come up with a structure that gets these
13 issues resolved that can be integrated into the generic
14 cost docket. We are not certain which tail is wagging
15 which dog, but we think that the Commission's position
16 now is somewhat inconsistent with what it had said in
17 the generic docket, and we would like to do whatever it
18 takes to get the issue resolved.

19 You raised an interesting point here in that
20 if Public Counsel did not participate in the UNE docket
21 on the issue of what's appropriate, GAAP versus
22 economic, then really the only opportunity would have
23 to weigh in on that issue would be in this docket. So
24 we think it makes sense to go forward with the schedule
25 on the second half of Page 2 and perhaps have another

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1 prehearing conference in late January in this docket to
2 see whether there have been any developments in the
3 generic cost docket that might alter things.

4 JUDGE WALLIS: What is your response to
5 Mr. Trotter's concern, if I may paraphrase, that the
6 relitigation in this docket would affect the rights of
7 parties to the generic who would then not have the
8 opportunity to litigate the matter in this docket and
9 would be drawn to it like ants to a picnic.

10 MS. ENDEJAN: Again, I feel somewhat at a
11 disadvantage because I don't know the specifics of the
12 UNE docket, but if the matter has been briefed, closed,
13 evidence submitted, it would seem to me that all the
14 parties in that docket have been afforded the
15 opportunity to present their evidence and argument to
16 the Commission on what they think the approach should
17 be, and while the Commission has that in one docket
18 while it's resolving another docket, it will no doubt
19 strive to reach a resolution of that issue after being
20 fully informed in both dockets, because this Commission
21 is not going to want to act inconsistently.

22 So I think that that docket on the
23 depreciation issue is closed. This is open for
24 additional evidence, argument, and testimony on the
25 issue of the proper lives and the actual represcription

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1 study, which we filed today and which has been on file
2 since April, and then this will afford Mr. Ffitch the
3 opportunity to weigh in on an issue that he didn't get
4 to weigh in on in the generic docket.

5 So I think it makes sense to figure out a way
6 to put this docket on a forward-looking track rather
7 than saying no, no, no, let's hold back until we know
8 exactly what the Commission is going to do in another
9 docket that seems capable of many, many, many, many
10 different permutations, and we are concerned about the
11 fact that when another status conference is ordered and
12 the Commission is indicating that it intends to conduct
13 its own runs of the party's cost models, all of this
14 tells me that it is going to be a long time before we
15 see a final order in the generic docket.

16 I could be reading the tea leaves wrong. You
17 are in a much better position than I think we are, but
18 we read that as saying that the Commission feels there
19 is a lot more work to be done in the UNE docket, and it
20 shouldn't be a reason to delay going forward in this
21 docket.

22 JUDGE WALLIS: Mr. Trotter, no party from the
23 other docket has sought to intervene in this docket.
24 Would that indicate to you a level of disinterest, or
25 would that fact be irrelevant?

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1 MR. TROTTER: Well, the notice of hearing in
2 this docket does not say that the Commission will
3 consider this to be the docket in which they will
4 determine whether to use GAAP versus economic lives,
5 and I think if that is the goal, then perhaps another
6 notice of hearing ought to be issued.

7 I think the parties that participated in the
8 generic cost study docket assume that was the docket
9 where that issue would be resolved, and that's why we
10 are offering our approach to the Commission.

11 JUDGE WALLIS: Mr. ffitch?

12 MR. FFITCH: I just wanted to weigh in
13 briefly. You've mentioned a few time in the previous
14 comments, and I think I still need to answer your
15 question about what, and I'm circling back a bit here,
16 what if the record from the generic case on
17 depreciation were bought in here and we were given a
18 chance to respond to that. That would be one
19 acceptable option to us.

20 My only comment that I wanted to make on that
21 is I think that would require something like the
22 schedule at the top of the page here in the sense that
23 when that comes in, it would be akin to some new
24 information coming from the Company -- well, it would
25 be more than just Company information, but we would ask

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1 for a different schedule than the one at the bottom
2 because we would be getting a lot more information, and
3 perhaps even the Company would want to couch it as
4 supplemental direct or something like that to sort of
5 frame it for this docket and that we would, I think,
6 just speaking on behalf of my witness, whom I haven't
7 had a chance to talk to on this, would probably have
8 trouble responding to that by February 2nd since we
9 didn't participate in the other docket. So something
10 like the top of the page with some of those contingent
11 time lines would maybe work a little better.

12 MS. ENDEJAN: Your Honor, as I understand it,
13 the lives and the methodology that the Company filed in
14 the generic docket are the same as here, so really,
15 from the Company's standpoint in terms of what
16 Mr. ffitch would be rebutting is what's sitting in
17 front of him.

18 JUDGE WALLIS: What in the context of the
19 pending rate case, what would be the magnitude of a
20 decision in this matter?

21 MS. ENDEJAN: It's pretty large, Your Honor.

22 JUDGE WALLIS: In terms of a percentage of
23 existing rates.

24 MS. ENDEJAN: We are talking about a
25 difference of 42 to 48 million dollars in additional

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1 expense, whether that would be allowed or not allowed.
2 I couldn't tell you off the top of my head what that
3 would equate to in terms of recovery and actual rates,
4 but it's a very large pro forma.

5 JUDGE WALLIS: It's what, 40 percent of your
6 --

7 MS. ENDEJAN: Revenue requirement, right.

8 JUDGE WALLIS: -- increased revenue
9 requirement in the rate case.

10 MS. ENDEJAN: We are seeking to recover in
11 rates 110 million, so if one of the issues is what do
12 those rates recover, and if that expense is 42 million,
13 then it is significant.

14 MR. TROTTER: We would agree it's
15 significant, but the proper comparison would be, I
16 believe it's 48 million on an intrastate basis, and
17 we're seeking to prove a deficiency of around 240
18 million on an intrastate basis, so by my math, that's
19 approximately 20 percent. I don't think it's fair to
20 compare that to the 110.

21 JUDGE WALLIS: I'm trying to care it to the
22 existing rates, and the question that follows from that
23 is if it's likely to increase rates by more than the
24 amount specified in the rule, does that make this a
25 general rate case?

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1 MR. TROTTER: Because the Company did not
2 file tariffs in this docket, I don't believe it would
3 qualify. What we had agreed to do would be to
4 incorporate -- well, for example, this is how it could
5 occur procedurally. If a decision is made in this
6 docket that has a positive increase in expenses, the
7 Company, if the timing is correct, could address that
8 in the context of a general rate case.

9 If the timing is not correct, then we would
10 have no objection to them filing a tariff afterwards
11 that would effectuate such an increase in their
12 operating revenues, and that would come before the
13 Commission for suspension or implementation, and the
14 Staff would recommend that if the rate decision is
15 correct that they implement and not suspend.

16 JUDGE WALLIS: But the effect of this
17 adjustment is calculated within the amount that the
18 Company has requested and the amount that the Company
19 has requested and the amount it indicates it believes
20 it can justify; is that right, Ms. Endejan?

21 MS. ENDEJAN: That is correct. That's my
22 understanding. The problem with Staff's approach here
23 is this. We are going to be looking in the general
24 rate case not only at revenue requirement but also at
25 rate design issues. Under their approach, we would

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1 have to relitigate the issue of rate design if the
2 Commission were to authorize an increase in expense,
3 Problem No. 1.

4 Problem No. 2 is if that occurred after the
5 rate case orders was issued, Verizon would be deprived
6 of the opportunity to recover increased rates that it
7 would be entitled to. It would have to relitigate the
8 rate design issue again. In terms of sheer efficiency,
9 if the Commission is looking at all of the Company's
10 revenues and expenses in the context of a general rate
11 case and coming up with a proper rate design, the
12 represcription issue and the depreciation issue should
13 be resolved within that context.

14 That's what they did in the US West rate
15 case; although, that situation was they resolved the
16 depreciation issue before the rate case was filed.
17 Here, we don't have that, but the bottom line is still
18 the same. It should be implemented at the same time,
19 and the rates adopted in the rate case should recognize
20 the impact of the depreciation.

21 MR. TROTTER: Let me just respond briefly.
22 No. 1, if the Company wanted the depreciation result to
23 coincide with the rate case result, they should have
24 filed the testimony in March in the depreciation docket
25 instead of today and asked for a hearing schedule.

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1 They didn't do either.

2 So to the extent this causes issues for the
3 Company, it's largely of their own creation. They will
4 not be deprived of their opportunity to recover
5 anything. What they need to do is when this case is
6 resolved file a tariff. We agree that that ought to be
7 implemented, given the juxtaposition of these two
8 cases, and the fact that the Company and Staff agree
9 that the depreciation issue ought to be litigated in
10 this docket. The Company could have presented a
11 depreciation expert in the rate case. They elected not
12 to do that as well.

13 So there is a number of opportunities here
14 that have been missed, but Staff is committed, as we've
15 said on many occasions, to reflect the result of this
16 docket and rates in appropriate time. It would be nice
17 if that could be done contemporaneously with the
18 decision in the rate case, but a decision in the rate
19 case may not be issued until mid summer. We are not
20 advocating that, but if that's what needs to be done,
21 if contemporaneous recovery is required, that could be
22 accomplished.

23 There has been many opportunities here for
24 this to be handled appropriately. We thought we were
25 on a track to handle it appropriately, and we have

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1 proposed a resolution that will handle it
2 appropriately, but there is no statement by Staff that
3 the Company will be deprived an opportunity to recover
4 these revenues and rates, period.

5 MS. ENDEJAN: Your Honor, and I don't want to
6 belabor this point, but I am very troubled by the fact
7 that the Company is being accused of delaying its
8 filing when in fact, the Company since April has been
9 in discussions with Mr. Spinks in an attempt to work
10 this out informally, and at the request of Staff,
11 Staff's witness, Staff requested, because Mr. Spinks
12 was working on his testimony in the UNE docket, that we
13 kind of hold back in abeyance in terms of filing what
14 we are going to be filing or basically dealing with the
15 depreciation case until now.

16 So I don't want the Commission to have any
17 sense that the Company has sat on its hands in this
18 filing. It filed it in April with the hope that Staff
19 and the Company could reach agreement. That didn't
20 happen. We were sort of put on hold several times.

21 JUDGE WALLIS: Do you know approximately when
22 the filing was made in the generic?

23 MS. ENDEJAN: By the Company?

24 JUDGE WALLIS: Yes.

25 MS. ENDEJAN: Sometime spring, Your Honor.

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1 JUDGE WALLIS: Roughly contemporaneous with
2 the filing of this docket, roughly.

3 MR. TROTTER: It's my understanding that the
4 UNE filing would have been in the fall of 2003, and
5 this depreciation August was filed in the late winter,
6 early spring of 2004.

7 JUDGE WALLIS: As parties have noted, I think
8 that history is less significant to us than where we go
9 from here, and I have been proved again to be overly
10 optimistic in my statement earlier that I would like to
11 enter an order on the prehearing conference within the
12 next day or two because I do believe that this
13 scheduling issue is one that must be discussed with the
14 commissioners, and I have none available at the moment.
15 So we will have to take things under advisement and
16 discuss with the commissioners their options and
17 determine what their preferred option would be.

18 MS. ENDEJAN: That would be fine.

19 MR. TROTTER: Thank you, Your Honor.

20 MS. ENDEJAN: Your Honor, in light of that,
21 should we just file 12 copies with the records center
22 just to be safe, or what would be an appropriate
23 number?

24 JUDGE WALLIS: If you have 12 copies with
25 you, go ahead and file them, and we will get back with

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1 you and identify the right number. If you do not,
2 that's certainly a matter that I can inquire into
3 informally and let you know informally with a copy of
4 the correspondence to all parties.

5 MR. FFITCH: Your Honor, just an
6 afterthought, in any of the schedules that are adopted
7 here, I'm going to suggest that we do go to a
8 seven-business-day discovery turnaround in the later
9 portions of the schedule. I would certainly request
10 that after the rebuttal case is filed by the Company as
11 we get into that last period of time between rebuttal
12 and the hearing -- I don't know if the Company wants to
13 extend that back to the period following our filing,
14 but I think that's just very helpful in getting
15 discovery turned around as we get into the final flurry
16 of activity before the hearing.

17 JUDGE WALLIS: Ms. Endejan, what's the
18 Company's view on that?

19 MS. ENDEJAN: Your Honor, the Company really
20 tries to do what it can to respond promptly, and we
21 will work with a seven-day turnaround. If there are
22 specific requests that are problems, I've been fairly
23 successful in working with Mr. ffitch in terms of
24 having his expert talk to our experts and getting this
25 worked out. So bottom line is we can live with the

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1 seven day if that's what you order.

2 MR. FFITCH: I'm saying seven business days.

3 JUDGE WALLIS: Very well. We will so
4 provide, but we will recognize that there may be times
5 when the Company may be unable to respond in that time
6 frame, and as Ms. Endejan indicates, if that arises, as
7 soon as they are aware, they will get in touch with the
8 other parties and do their best to work things out.

9 MS. ENDEJAN: Thank you, Your Honor.

10 JUDGE WALLIS: Is there anything further? It
11 appears that there is not. Thank you all very much,
12 and we will enter an order when the issues posed by the
13 parties affecting scheduling are resolved.

14 MR. FFITCH: I'm sorry. I just need to say
15 this for the record. I apologize for thinking of this
16 late. Just in case this comes up in discussions with
17 the commissioners, our witness is simply not available
18 in January to work with an earlier filing date than the
19 one that's written down here, and we communicated that
20 to counsel. Because of personal issues, he will
21 actually be out of circulation part of January and has
22 other professional commitments, so this was the
23 earliest date that we could actually meet for filing
24 testimony.

25 JUDGE WALLIS: Is that the February 2 date?

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1 MR. FFITCH: Yes, Your Honor. I just wanted
2 to get that on the record. Thank you.

3 JUDGE WALLIS: Thank you very much. This
4 conference is adjourned.

5 (Prehearing conference concluded at 2:35 p.m.)

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