

0002

1 AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST,
INC., by STEVEN H. WEIGLER, Senior Attorney, 1875
2 Lawrence Street, Suite 1524, Denver, Colorado 80202;
telephone, (303) 298-6957.

3
4 COVAD COMMUNICATIONS COMPANY, by KAREN S.
FRAME, Attorney at Law, 7901 Lowry Boulevard, Denver,
Colorado 80320; telephone, (720) 208-1069.

5
6 MCI, INC., by MICHEL SINGER NELSON, Senior
Attorney, 707 17th Street, Suite 4200, Denver, Colorado
80202; telephone, (303) 390-6106.

7
8 ESCHELON TELECOM, INC., by RAY SMITH (via
bridge line), 730 Second Avenue South, Suite 1200,
Minneapolis, Minnesota 55402; telephone, (612)
9 436-1606.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0003

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

2 JUDGE RENDAHL: Let's be on the record. Good
3 morning. I'm Ann Rendahl, the administrative law judge
4 presiding over this proceeding. We are here before the
5 Washington Utilities and Transportation Commission this
6 morning, Thursday, October 2nd, 2003, for a prehearing
7 conference in Docket No. UT-033020, which is captioned,
8 In the Matter of the Six-Month Review of Qwest's
9 Performance Assurance Plan.

10 Many of you are aware that this proceeding
11 arises out of the Commission Section 271 proceeding in
12 Docket UT-003022 -- the similarity between the docket
13 numbers was not intended -- and the commission's review
14 of the statement of generally available terms and
15 conditions for SGAT in Docket UT-003040, and in those
16 dockets, the commission approved Qwest's SGAT in June
17 of 2002 and has subsequently approved some amendments
18 to the SGAT. Let's be off the record for a moment.

19 (Pause in the proceedings.)

20 JUDGE RENDAHL: Let's be back on the record,
21 having taken care of our cell phone issues. The
22 Performance Assurance Plan, or QPAP, is Exhibit K to
23 the SGAT, and Section 16 of the QPAP provides for
24 review of the QPAP and provisions of the QPAP every six
25 months to evaluate whether performance measures should

0004

1 be included, removed, or modified, as well as other
2 modifications.

3 In May, the Commission sought comments
4 concerning the scope, timing, and process of the first
5 six-month review proceeding, and that comment was sent
6 out to everyone on the 271 SGAT docket. Qwest, AT&T,
7 Covad, and Eschelon filed comments with the commission,
8 and in August, the commission entered -- I think it was
9 the last order in the 30223040 docket -- the 47th
10 Supplemental Order and Order No. 1 in this docket and
11 directed commission staff to participate in the
12 Long-Term PID Administration, or LTPA collaborative,
13 and scheduled a prehearing conference, and that
14 prehearing conference was later rescheduled to the
15 first and then to today.

16 The purpose of our prehearing today is to
17 take appearances of those who wish to participate in
18 this docket, consider any petitions to intervene --
19 although, considering this is captioned as a staff
20 investigative docket at this point, no party has
21 initiated it. I think it's really a matter of just
22 taking appearances of those who wish to participate
23 instead of filing petitions to intervene; although, we
24 won't oppose them if they are filed -- determine the
25 current status of the LTPA and where we need to be in

0005

1 this proceeding, and discuss issues and see if we can
2 narrow them, if possible, and establish a schedule for
3 discovery, if necessary, and do the usual processes and
4 see if there is anything else we need to do.

5 Before we go any further, let's take
6 appearances from parties, first those in the hearing
7 room, and those of you who are familiar with the
8 commission process know that we like to have at the
9 first prehearing conference the full set of
10 information, so your name, the party you represent,
11 your full address, telephone number, fax number, and
12 e-mail. One of the things we are trying to do now is
13 be more efficient with how the commission serves
14 information on parties, and I'm asking you to identify
15 one person who should receive a paper copy and anybody
16 else who wants to be on the list to receive an e-mail
17 copy.

18 Another thing I need to request of you is to
19 identify who should receive faxes. Should it be the
20 person who receives paper copy, or should other people
21 be receiving faxes as well. So with that proviso,
22 let's begin with Qwest.

23 MS. ANDERL: Lisa Anderl representing Qwest.
24 My business address is 1600 Seventh Avenue, Room 3206,
25 Seattle, Washington, 98191. My telephone is (206)

0006

1 345-1574. My fax is (206) 343-4040, and my e-mail is
2 lisa.anderl@qwest.com, and there are three others for
3 Qwest today; Mr. Owens to my left, and on the
4 conference bridge, Adam Sherr and Barb Brohl. It is
5 going to be Mr. Owens who should receive the paper
6 copies and the fax and that all of us should be
7 included on the e-mail list.

8 JUDGE RENDAHL: Thank you. Should
9 Mr. Reynolds be included as well?

10 MS. ANDERL: Yes, Mr. Reynolds on the e-mail.

11 JUDGE RENDAHL: Why don't we take Mr. Owens'
12 full information, and then I'll take Ms. Brohl's
13 information.

14 MR. OWENS: Douglas N. Owens, attorney at
15 law, 1325 Fourth Avenue, Suite 940, Seattle,
16 Washington, 98101; telephone, (206) 748-0367; fax,
17 (206) 748-0369; e-mail, dnowens@qwest.net.

18 JUDGE RENDAHL: Ms. Brohl, you are on the
19 conference bridge?

20 MS. BROHL: Yes, I am.

21 JUDGE RENDAHL: Can you please give us your
22 information?

23 MS. BROHL: Yes. This will change in a
24 couple of weeks, and as a result, I will update at that
25 time, but at this point my name is Barbara J. Brohl.

0007

1 My address is 930 15th Street, Denver, Colorado, 80202,
2 Tenth Floor. My phone number is (303) 624-4444. My
3 fax number is (303) 624-6151, and my e-mail address is
4 barbara.brohl@qwest.com.

5 JUDGE RENDAHL: So for Qwest, Mr. Owens will
6 receive paper and fax. Ms. Anderl, Mr. Sherr,
7 Mr. Reynolds, and Ms. Brohl will receive e-mail copies.

8 MS. ANDERL: That's right, Your Honor.

9 MR. SHERR: Did you want my e-mail address as
10 well?

11 JUDGE RENDAHL: Yes, please. Let's clarify
12 that because I think I got it wrong the last time we
13 went through this.

14 MR. SHERR: The street address is the same as
15 Ms. Anderl. My telephone number is (206) 398-2507.
16 Fax number is the same, and my e-mail address is
17 adam.sherr@qwest.com.

18 MS. ANDERL: Do you have the correct address
19 for Mr. Reynolds' e-mail?

20 JUDGE RENDAHL: I believe I do. Is it the
21 same address and room number as Mr. Sherr and yourself?

22 MS. ANDERL: Yes, and e-mail is
23 mark.reynoldsiii@qwest.com.

24 JUDGE RENDAHL: Phone numbers?

25 MS. ANDERL: (206) 345-1568, and the same fax

0008

1 as mine.

2 JUDGE RENDAHL: Moving to our right, we are
3 going to take those in the room first and then go on to
4 the bridge line.

5 MS. SINGER NELSON: Michel Singer Nelson here
6 on behalf of MCI. My address is 707 17th Street, Suite
7 4200, Denver, Colorado, 80202. Phone is (303)
8 390-6106. My fax number is (303) 390-6333, and my
9 e-mail address is michel.singer nelson@mci.com, and I
10 will be the person to receive the paper copy, the fax,
11 and I would like to be on the e-mail list. I would
12 also like Chad Warner to be on the e-mail list, and I
13 believe Mr. Warner is on the phone.

14 JUDGE RENDAHL: Mr. Warner, would you provide
15 us with your address, fax, telephone number, and
16 e-mail, even though we will only be sending you things
17 by e-mail.

18 MR. WARNER: My name is Chad Warner at MCI.
19 The address is 6312 South Fiddlers Green Circle.
20 That's Suite 600-E, and that's in Englewood, Colorado,
21 80111. My phone number is (303) 217-4214. E-mail
22 address would be chad.warner@mci.com.

23 JUDGE RENDAHL: Your fax number?

24 MR. WARNER: (303) 217-4070.

25 JUDGE RENDAHL: Thank you, and that's Suite

0009

1 600-E?

2 MR. WARNER: Yes. "E" for east.

3 JUDGE RENDAHL: Ms. Singer Nelson, it's not
4 MCI WorldCom? It's MCI at this point?

5 MS. SINGER NELSON: The official name of the
6 corporation is still WorldCom, Inc., but we are doing
7 business or we are now known as MCI. When we emerge
8 from bankruptcy, the name will be officially changed,
9 and then we will do all the appropriate name changes
10 that are required here at the commission, so I think
11 just for simplicity sake and because this docket is
12 starting right now, I would enter appearance on behalf
13 of MCI, Inc., with that understanding.

14 JUDGE RENDAHL: Thank you. Is there anyone
15 else for WorldCom who should be receiving e-mail
16 service?

17 MS. SINGER NELSON: No, thank you, Judge.

18 JUDGE RENDAHL: For Covad?

19 MS. FRAME: Karen Shoresman Frame for Covad
20 Communications Company, 7901 Lowry Boulevard, Denver
21 Colorado, 80320. Telephone number is (720) 208-1069.
22 Fax number is (720) 208-3350, and e-mail is just
23 kframe@covad.com.

24 I would like to receive both paper and fax
25 copies. If we can add to the e-mail list Michael

0010

1 Zulevic. It's just mzulevic@covad.com, and Brooks
2 Harlow from Miller Nash, and I believe that is just
3 brooks.harlow@millernash.com, as well as David Rice at
4 Miller Nash, and that's just david.rice@millernash.com.

5 JUDGE RENDAHL: So they will be receiving
6 e-mail only. One of the comments that came in was sent
7 in by Mr. Watkins, I believe. Should Mr. Watkins be on
8 the list at all?

9 MS. FRAME: Yes, he can be on the list
10 temporarily, but he will be removed within, I would
11 say, a short period of time. Let's leave him on the
12 list, please.

13 JUDGE RENDAHL: As an e-mail only?

14 MS. FRAME: Correct.

15 JUDGE RENDAHL: He had included his
16 information in the comments so I will take that from
17 there.

18 MS. FRAME: Thank you.

19 JUDGE RENDAHL: For AT&T?

20 MR. WEIGLER: Steve Weigler. My address is
21 1875 Lawrence Street, Denver, Colorado, 80202, and my
22 telephone number is (303) 298-6957. My fax number is
23 (303) 298-6301. My e-mail address is weigler@att.com,
24 and with me is Cathy Brightwell. Her e-mail address is
25 brightwell@att.com.

0011

1 JUDGE RENDAHL: Do you have an address for
2 Ms. Brightwell?

3 MR. WEIGLER: 2120 Canton Way Southwest,
4 Olympia, Washington, 98502. Also on the telephone is
5 John Finnegan, F-i-n-n-e-g-a-n, and if I could ask him
6 what his e-mail address is.

7 JUDGE RENDAHL: Mr. Finnegan, would you
8 provide your telephone, fax, and e-mail?

9 MR. FINNEGAN: I have the same address as
10 Steve Weigler. My telephone number is (303) 298-6335.
11 My fax number is (281) 664-9850. My e-mail address is
12 finneganjf@att.com.

13 JUDGE RENDAHL: Thank you.

14 MR. WEIGLER: To put a twist on it,
15 Mr. Finnegan will receive the paper and fax copies and
16 I will just receive the e-mails.

17 JUDGE RENDAHL: Is there anyone else from
18 AT&T?

19 MR. WEIGLER: No.

20 JUDGE RENDAHL: Thank you, and for staff?

21 MR. TRAUTMAN: Gregory J. Trautman, assistant
22 attorney general for commission staff. My address is
23 1400 South Evergreen Park Drive Southwest, Post Office
24 Box 40128, Olympia, Washington, 98504. My telephone
25 number is (360) 664-1187. The fax number is (360)

0012

1 586-5522, and my e-mail is gtrautma@wutc.wa.gov.

2 JUDGE RENDAHL: Thank you. On the bridge
3 line, we have Mr. Finnegan and Mr. Warner and Mr. Sherr
4 and Ms. Brohl, who we have information from.
5 Mr. Smith, are you still there for Eschelon?

6 MR. SMITH: Yes, I am.

7 JUDGE RENDAHL: Are you an attorney?

8 MR. SMITH: I am not.

9 JUDGE RENDAHL: But you are putting an
10 appearance in for Eschelon.

11 MR. SMITH: That's correct.

12 JUDGE RENDAHL: Why don't you go ahead and
13 give us your address, telephone, fax, and e-mail and
14 any others who should be receiving the information.

15 MR. SMITH: Ray Smith. The address is 730
16 Second Avenue South, Suite 1200, Minneapolis,
17 Minnesota, 55402. My phone number is (612) 436-1606;
18 facsimile, (612) 436-6816; e-mail,
19 rlsmith@eschelon.com.

20 JUDGE RENDAHL: Thank you. Is there anyone
21 else who should be receiving notification from the
22 commission for Eschelon?

23 MR. SMITH: No, there would not be. Karen
24 Clauson would be the attorney representing Eschelon in
25 this matter.

0013

1 JUDGE RENDAHL: Do you have information for
2 her?

3 MR. SMITH: Yes, I do. The same physical
4 address. Telephone number, (612) 436-6026; same
5 facsimile; e-mail address, kclauson@eschelon.com.

6 JUDGE RENDAHL: Should she be receiving the
7 paper and fax copies?

8 MR. SMITH: Send them to me, please.

9 JUDGE RENDAHL: So Ms. Clauson should be
10 receiving e-mail.

11 MR. SMITH: That would not be necessary.

12 JUDGE RENDAHL: In order to notify her, she
13 would just be receiving a courtesy copy of what's
14 happening. Otherwise, she will be receiving paper
15 service. That's the way the commission does it. If
16 you designate e-mail, you won't be receiving paper.

17 MR. SMITH: Then e-mail is fine. Thank you.

18 JUDGE RENDAHL: Is there anyone else
19 appearing on the bridge line who wishes to make an
20 appearance in this docket? Hearing nothing, we have
21 our parties. Anyone wishing to make a petition for
22 intervention in the room or on the bridge line?

23 MS. ANDERL: This is Lisa Anderl. We think
24 it would be appropriate for all the appearing parties
25 today to be considered as parties with no need for

0014

1 petitions to intervene, even though the docket doesn't
2 have any individual company names captioned.

3 JUDGE RENDAHL: I tend to agree with you. I
4 wasn't asking for parties to make petitions today or
5 file petitions today, but sometimes it occurs, so just
6 wanted to make sure we were covering the bases.

7 So the first thing I would really like to
8 hear from all of you since you are all involved in this
9 process at some level is what's happening and where
10 should we start? Open the floor to anybody here who
11 wants to get in. Mr. Weigler?

12 MR. WEIGLER: Although I haven't been
13 directly involved, I know that the parties are involved
14 in a long-term PID Administration, at least framing the
15 boundaries in order to have a Long-Term PID
16 Administration and that certain PID's are being
17 discussed among the parties.

18 Based on that, in other states that we've
19 engaged in the six-month review, because Washington
20 falls kind of in the middle, we've had the six-month
21 review process, but the discussions on the major PID
22 changes have occurred, have been basically put off or
23 occurred outside the frameworks of the six-month review
24 because the parties are still, number one, getting the
25 Long-Term PID Administration process together, and

0015

1 number two, are working through the changes through a
2 collaborative process. Mr. Finnegan, who is on the
3 telephone, has been working more directly on that and
4 is available for questions or may wish to comment.

5 JUDGE RENDAHL: Mr. Finnegan, do you have
6 anything to add to what Mr. Weigler said on the record?

7 MR. FINNEGAN: Just to bring you up to date
8 on what has happened in Colorado, we've already gone
9 through the six-month review process once, and the good
10 news is on a relative level, the list of issues raised
11 by the parties was not very long. I don't know if all
12 the parties were represented in Colorado that are here
13 today, but a lot of them are.

14 The issues that were raised, a lot of them
15 focused on the performance measurements themselves, and
16 it looks like the Long-Term PID Administration Group,
17 once it gets going, is going to be the first forum
18 parties would go to to try and get any changes to the
19 performance measurements.

20 The Long-Term PID Administration Group has
21 progressed a little slower than I think anybody had
22 anticipated. I was on a conference call with folks
23 from Qwest yesterday, and Nancy Lubamersky had
24 indicated that the contract with the facilitator that
25 is going to work with parties on the Long-Term PID

0016

1 Administration Group is close to being resolved, and
2 that should accelerate the development of Long-Term PID
3 Administration Group and formalize the forum that we
4 will be using to address the performance issues. That
5 concludes my comments.

6 JUDGE RENDAHL: For Qwest?

7 MS. ANDERL: Lisa Anderl for Qwest.

8 Ms. Brohl is on the line and she's been closely
9 involved in the LTPA. I will ask her in a moment to
10 see if there is anything she would like to add to
11 Mr. Finnegan's comments, but we did want at this
12 prehearing conference to raise the issue of whether or
13 not this docket should be appropriately in some sort of
14 a monitoring posture because it is so early in the
15 process and the LTPA has not yet really had a chance to
16 show whether it's going to work or how quickly it's
17 going to work. I think it already has worked even
18 without a facilitator.

19 But it struck me that the comments of the
20 parties that were filed back in May did seem to
21 indicate a preference to allow things to be worked
22 through the LTPA, and even those parties that raised
23 substantive issues they would like addressed in the
24 six-month review, those issues were PID-related issues,
25 and therefore, I think may be still appropriately --

0017

1 the LTPA should take a first crack at those issues
2 rather than going on a state-by-state basis.

3 With that, I will ask Ms. Brohl if she has
4 anything to add.

5 MS. BROHL: Just that I've recently become
6 involved in the Long-Term PID Administration, and I
7 would echo Mr. Finnegan's comments that the LTPA is the
8 proper forum for any type of performance-measured
9 modifications. All the parties are represented, and
10 it's a very collaborative effort with a lot of give and
11 take, and that would conclude my comments.

12 JUDGE RENDAHL: Thank you. For MCI?

13 MS. SINGER NELSON: I would just ask Chad
14 Warner, who has been involved in the process, to
15 present any comments that he feels are appropriate at
16 this point.

17 MR. WARNER: John Finnegan and others have
18 pretty much given you the basic overview of what's
19 happened so far. Just one additional point to add, in
20 Colorado we've actually started comments or feedback of
21 comments related to a second six-month review, so that
22 will be happening, and I think we have a meeting
23 scheduled for October 8th, if that's helpful
24 information as well.

25 JUDGE RENDAHL: Thank you. For Covad?

0018

1 MS. FRAME: Thank you, Your Honor. We would
2 like to have considered the comments that have already
3 been filed on behalf of Covad Communications by Charles
4 Watkins, Jean Watkins, as well as if there are any
5 comments that were filed by our former senior counsel,
6 Harry Pliskin out of Denver. I believe he filed
7 comments back in late May. Thank you.

8 JUDGE RENDAHL: Thank you, and anything for
9 staff?

10 MR. TRAUTMAN: No, Your Honor, not at this
11 time.

12 JUDGE RENDAHL: Mr. Weigler?

13 MR. WEIGLER: There is just one thing I want
14 to clarify. The changes that AT&T are looking for in
15 the initial six-month review are PID changes, and we
16 feel that the Long-Term PID Administration process is
17 appropriate for that. That doesn't mean that all
18 changes in the future have to go through -- or AT&T's
19 position is that those changes don't have to go through
20 the Long-Term PID Administration process, but it's just
21 changes that relate to PID's and PID management.

22 JUDGE RENDAHL: Mr. Smith?

23 MR. SMITH: I guess I would like to clarify
24 the long-term PID has primarily worked on the creation
25 of new performance measures, and as Mr. Finnegan

0019

1 indicated, it has gone slowly. It's gone well but gone
2 slowly and that Long-Term PID's' plate is kind of full
3 for the future, and so I think there are PID changes
4 that we've brought to the Colorado commission that have
5 occurred in the first review that the Colorado
6 commission completed in July and that we are bringing
7 to the Colorado commission in their second six-month
8 review, so Eschelon believes it is appropriate to look
9 at those PID changes that we proposed in our comments
10 and that Covad has proposed in their comments at this
11 six-month review.

12 JUDGE RENDAHL: That kind of brings me to my
13 next question, which is if there is anything that's
14 outside of the LTPA that's really Washington specific
15 or Washington QPAP specific that can be addressed by
16 the commission while issues are progressing at the
17 LTPA, and I think I got the sense from Eschelon and
18 Covad that they would prefer that approach. Is that a
19 correct understanding?

20 MR. WEIGLER: As far as AT&T, I just wanted
21 to make the clarification that we don't have anything
22 that we feel is Washington State specific or outside
23 the PID changes that we've referenced in our comments.
24 However, in the future, if we do, for example, the next
25 six-month review, it may be appropriate for the

0020

1 Washington commission to take a look at it, but at this
2 point, we don't have anything that I know.

3 JUDGE RENDAHL: Ms. Frame?

4 MS. FRAME: Yes. I believe that we probably
5 would like to be able to bring in some of our
6 proceedings in Colorado, but I am a little unclear at
7 this point as to what direction we want to take because
8 I believe that this proceeding is going to be
9 proceeding a little bit more slowly than Colorado.

10 JUDGE RENDAHL: I think the intent was to get
11 started earlier. However, it took the commission
12 awhile to state its intention to participate in LTPA.
13 Once we got there, we have tried to move as quickly as
14 we could.

15 So granted that 271 order was -- the FCC
16 granted Qwest's application in December, so
17 essentially, the first six-month review period was
18 over, or I guess started in June, so we are kind of
19 starting smack dab in the middle of that first session,
20 and the next six-month review period would probably
21 begin in January, if my counting is correct, so we are
22 getting started a little more slowly, and part of what
23 I'm trying to get from all of you is should we go ahead
24 with a six-month review for this first session, or
25 should we wait until the LTPA has progressed further?

0021

1 Do we need to do something now? Do the parties want us
2 to do something now, or should we kind of put this on
3 hold until January, and I'm trying to get a sense.

4 QPAP says we must do it, and we've started
5 it, but the question is, what do the parties want us to
6 do? You are all the parties affected by the QPAP and
7 involved in the QPAP, so what's appropriate? I got the
8 sense from Qwest it is your perception we should wait.

9 MS. ANDERL: Yes, we think we should. If we
10 want to stick to the six-month calendar, we have
11 basically less than three months to go, and in light of
12 the other things that are on the commission's plate
13 between now and the end of the year, it seems to make
14 sense. Rather than try to hurry through this
15 proceeding, leapfrogging ahead of the LTPA, it would
16 make a lot of sense administratively and not harm any
17 participants to start a proceeding in January and have
18 a prehearing conference, even schedule a prehearing
19 conference now for late December or early January to
20 scope and identify issues for that next six-month
21 review process.

22 JUDGE RENDAHL: Ms. Frame?

23 MS. FRAME: Your Honor, what I believe that
24 Covad would like to do is to reserve the right to raise
25 issues during the six-month period that are specific to

0022

1 the State of Washington, so that is basically our
2 position at this point. I don't know if we will have
3 issues that we do want to raise, but we would like to
4 reserve that right.

5 JUDGE RENDAHL: For MCI?

6 MS. SINGER NELSON: Mr. Warner, will you
7 please speak to this issue?

8 MR. WARNER: I think the basic issues that we
9 would have right now would probably be PID related, so
10 you can certainly try to work that through the
11 Long-Term PID Administration. Hopefully, that will be
12 going quickly, but again, as we start, we just got the
13 Triennial Review Order, and I'm not sure of Qwest's
14 position on the PID, so we would like to certainly
15 leave it open if there are other issues that we can
16 bring up in the six-month review, but at this point,
17 it's probably worth it to work through the Long-Term
18 PID.

19 JUDGE RENDAHL: For AT&T?

20 MR. WEIGLER: Your Honor, our current issues
21 are Long-Term PID Administration related, so therefore,
22 AT&T doesn't see a need to commence a six-month review
23 proceeding in Washington this term.

24 JUDGE RENDAHL: For staff? Mr. Spinks, why
25 don't you come up to the table.

0023

1 MR. TRAUTMAN: Staff does not have any
2 aspects of the QPAP that it feels needs to be addressed
3 at this time.

4 JUDGE RENDAHL: So staff is amenable to
5 waiting until LTPA has completed more of its work.

6 MR. TRAUTMAN: That is correct.

7 JUDGE RENDAHL: Mr. Smith for Eschelon?

8 MR. SMITH: I think the comments that we
9 submitted in earlier this year regarding the things we
10 felt should be completed at the first six-month review,
11 some of those could be addressed in the Long-Term PID
12 Administration or in the second six-month review
13 commencing in January.

14 There was the issue we raised, and I think it
15 also applies to Covad, that certain products that are
16 measured under the PID's are not currently included in
17 the Washington PAP, and so I don't see that as a
18 Long-Term PID question. I see it as something for the
19 Washington commission to resolve, and in our comments,
20 we addressed the inclusion of EEL's to enhance the
21 expanded lengths into the product categories measured
22 in the various PID's in the Washington PAP.

23 For what it's worth, we did resolve this
24 issue with the stipulation before the Colorado
25 commission, and so I would be hopeful that we could do

0024

1 something similar here so it wouldn't involve
2 significant resource burdens on this first six-month
3 review.

4 JUDGE RENDAHL: Okay. This kind of segues
5 into another issue. I put into a list the issues that
6 I captured from the various comments. So let's be off
7 the record for a minute. I'll distribute them, and
8 Mr. Smith, I'll read them into the record, and it's
9 just a recitation of the comments that people filed,
10 and maybe we can take a break, and once you get it, you
11 can all talk amongst yourselves, and if I can maybe
12 e-mail to those during the break and you can get the
13 list on e-mail as well, then we can come back and talk
14 off the record about whether any of these issues are
15 still alive, whether they are being dealt with in the
16 LTPA, to try to narrow down what really is at issue in
17 Washington versus the LTPA. Would that be helpful?
18 Yes. I'll distribute the list in the hearing room and
19 e-mail to those on the bridge. Let's be off the
20 record.

21 (Recess.)

22 JUDGE RENDAHL: Back on the record to discuss
23 the issues list that I compiled from the filed
24 comments. I'm hopeful that you on the bridge line have
25 either received it now or at least you listened to my

0025

1 reading of the list into the record. Actually, it
2 wasn't on the record, so just reading it over the
3 bridge line.

4 It's a compilation of just the issues that
5 Eschelon, AT&T, Covad, and Qwest identified in their
6 comments filed in this docket, and those issues are
7 filed; they are on the record in the docket, and so I
8 guess my question from this list, is there anything
9 that maybe is no longer an issue based on the Triennial
10 Review or is changed because of the FCC's Triennial
11 Review Order or anything that we can label as being
12 resolved in LTPA or label as something that really is
13 just something that needs to be addressed in
14 Washington. Any takers?

15 MR. FINNEGAN: The OP-5 issue -- that was
16 Issue 1 -- it was a Qwest, AT&T, and Eschelon issue.

17 JUDGE RENDAHL: Right. Adding modified PID's
18 into the QPAP that are agreed to in LTPA.

19 MR. FINNEGAN: That has been resolved for
20 OP-5, and Qwest has begun in some states sending a
21 modification to the SGAT to incorporate the newly
22 revised OP-5. I don't know whether or not they have
23 done that for Washington.

24 JUDGE RENDAHL: I haven't received it, so I
25 don't think it's been filed.

0026

1 MR. OWENS: It's being filed today.

2 MR. FINNEGAN: The PO-20 issue is still
3 unresolved, but there has been progress made.

4 MR. OWENS: I believe there is a revised
5 draft that's been circulated. Perhaps Ms. Brohl could
6 address that. I think she has more direct knowledge of
7 that.

8 JUDGE RENDAHL: I guess the question is, is
9 this something that's really appropriate to the LTPA,
10 or does it need to be addressed in a
11 Washington-specific forum?

12 MR. OWENS: It appears it's already being
13 addressed on a broader-than-Washington-specific forum,
14 so it would seem like it would be at least duplicative
15 to separate off that effort here in Washington.

16 JUDGE RENDAHL: That's what I'm really trying
17 to find out from all of you. Ms. Frame?

18 MS. FRAME: Michael Zulevic, who is our
19 director of government and external affairs has some
20 comments on some of our earlier Covad comments.

21 MR. ZULEVIC: I'm not exactly sure where to
22 start here. The Triennial Review Order is going to
23 place a considerable burden on this commission as well
24 as the other commissions, and it's definitely not
25 Covad's intent to unnecessarily throw a lot of

0027

1 additional issues before this commission that could be
2 dealt with six months down the road, but as well as the
3 issues specifically addressed in the TRO, it has had an
4 impact on a lot of the issues that are being dealt with
5 through the LTPA and issues that need to be dealt with
6 at some point, and we feel sooner rather than later,
7 with respect to some of the specific services that we
8 offer.

9 During the past six or eight months, a lot of
10 the products that we now find ourselves dependent upon
11 were not considered significant. We were providing a
12 lot of line sharing due to the TRO. A lot of that
13 emphasis is now going onto line splitting and
14 eventually loop splitting. These services are not
15 adequately represented in any of the measurements that
16 are currently in place. In fact, a number of
17 measurements that are in place are in places diagnostic
18 rather than actual measured PID's.

19 For this reason, I think we would like to be
20 able to identify certain specific issues; although,
21 they are not necessarily specific only to the State of
22 Washington, but certain specific measurements that we
23 would like this commission to take under consideration
24 for change in this six-month review process, and again,
25 a lot of this is driven by the TRO, and to a certain

0028

1 extent, Qwest's reluctance to consider these products
2 during that time period because they were under the
3 belief that the TRO would result in the elimination of
4 these offerings.

5 So that's pretty much the position that Covad
6 is taking right now. We definitely feel that some of
7 the issues that we identified in the comments that we
8 filed could be more appropriately dealt with in an LTPA
9 environment, and we would be happy to try to split
10 those out and identify only the ones that we feel are
11 critical to our business needs at this point. Thank
12 you.

13 JUDGE RENDAHL: We've just heard from Covad
14 in terms of their preferences for dealing with the
15 issues that they have, including those on the list that
16 I've circulated. We've heard from Qwest at least as to
17 the first issue that's listed on this list. Maybe a
18 better way that takes less time this morning is to have
19 you all take this back, take this list back, because
20 this is just a compilation of what was filed, and
21 consider if there are, looking at this list and other
22 things that may have arisen because of the Triennial
23 Review Order and changes in our lives these days
24 because of the Triennial, whether there is merit to
25 proceeding with nonLTPA issues between now and the end

0029

1 of the year and resolving first-go, first-run six-month
2 review issues and setting up a comments date for that,
3 and that will tell us if we need to go or not in this
4 run.

5 I'm hearing, particularly from Covad and
6 Eschelon, that they may have some Washington-specific
7 issues that they wish to be addressed that aren't going
8 to be addressed in the LTPA, and I'm also hearing from
9 the parties that for everything that is addressed in
10 the LTPA, it's probably best to wait until January to
11 start that. Is that a pretty good encapsulation of
12 what I've heard this morning?

13 MR. WARNER: I guess I will just clarify
14 that. We too are also very interested or concerned
15 with the inclusion of line splitting and eventually
16 loop splitting measures in the PID and bringing that
17 into the PAP, so again, it's bigger than the Washington
18 PAP specifically because it's really the other states
19 as well for their inclusion in line splitting and line
20 sharing that -- line splitting and loop splitting are
21 going to be important for MCI as well. We've had some
22 discussions in the Colorado hearings as well, so again,
23 it's bigger than just the Washington commission alone.

24 But as Mr. Zulevic had pointed out, Qwest has
25 been holding off on these discussions given that the

0030

1 Triennial Review Order was coming out, so we are happy
2 to work it through the Long-Term PID Administration to
3 get the line-splitting measures included, but again, we
4 are concerned that it's taken so long to get this
5 Triennial Review Order out, and we do have stuff in
6 queue in the long-term PID.

7 So I guess what I'm trying to say is we can
8 continue to work it through the Long-Term PID, but
9 depending on how slowly that's evolving, we may need to
10 address that more quickly here through the commission
11 even though it's not just Washington specific.

12 MS. SINGER NELSON: So, Your Honor, just to
13 add to what Mr. Warner has said, I think that your
14 suggestion that we have comments on how this commission
15 should address these issues is appropriate, and we
16 would join in Covad's concern for the line-splitting
17 and loop-splitting issues, and we probably will just
18 ask the commission to reserve, or I guess we would like
19 the commission to be open to receiving comments or
20 motions from the parties, if this does end up being a
21 problem, to wait until January to address this issue,
22 but we can address that in comments.

23 JUDGE RENDAHL: Mr. Owens?

24 MR. OWENS: Your Honor, it seemed like in the
25 47th Supplemental Order the commission laid out how it

0031

1 expected this process to work, which was that the
2 commission was going to participate in the
3 collaborative on issues of broader-than-a-single-state
4 significance, and it seemed that it did that for
5 efficiency reasons for its own resources.

6 I haven't heard anybody identify yet an issue
7 that they think is specific to Washington that needs to
8 be considered in this proceeding that isn't also going
9 to be considered in the LTPA, and it seems like the
10 commission, if it considers issues that have been
11 spoken of such as the line splitting and loop splitting
12 here, will also be considering them in another venue,
13 another forum, which doesn't seem to make any sense.
14 We'll be glad to comment.

15 JUDGE RENDAHL: I think it's appropriate to
16 get -- it's been almost five months since we got those
17 initial comments in, and so that's a large amount of
18 time in this area of telecom, especially considering
19 the Triennial has come out and changed things around,
20 so I think it's worth it to get another sense of what's
21 going on out there and what are Washington-specific
22 issues. Maybe based on the comments schedule two
23 rounds so we get some paper comments going on what the
24 parties' thoughts are and what the response is to that,
25 and then if it looks like there is some issue that

0032

1 really should be addressed, then the commission will
2 look into whether we can do it by the end of the year
3 or whether they become priority issues for starting in
4 January. Does that seem to be an acceptable approach?
5 Mr. Zulevic?

6 MR. ZULEVIC: Yes, I think that's more than
7 acceptable. I would like to say that even though some
8 of these issues are much broader than just Washington
9 State, they are extremely important to Washington State
10 with the way that we are able to compete, and again, we
11 will definitely be willing to work with Qwest and this
12 commission to try to define those very narrowly so we
13 don't come up with a lot of issues that are more
14 appropriately worked through in the LTPA, but as was
15 mentioned earlier, we don't even have a facilitator yet
16 in place so time is of the essence.

17 JUDGE RENDAHL: Why don't we go off the
18 record and set some deadlines for filing comments and
19 response and see what else we need to work on. We'll
20 be off the record.

21 (Discussion off the record.)

22 JUDGE RENDAHL: While we were off the record,
23 we set a comment period for really refining the issues
24 that might need to be dealt with in the first six-month
25 review period. I've asked the parties to take a look

0033

1 at the list of issues that was circulated today, let
2 the commission know which of these issues are
3 appropriately handled at the LTPA collaborative and
4 which of these issues are appropriately dealt with at
5 the commission.

6 Secondly, are there any additional issues
7 that are not included on this list, given the time
8 that's gone by that, should be addressed here at the
9 commission specifically, and then third, make your
10 argument as to whether the commission should address
11 any of these Washington-specific issues by the end of
12 the year, or can they be appropriately deferred to a
13 second round six-month review; essentially, whether the
14 commission should forego a first round six-month
15 review.

16 Responses to those comments are due on
17 October the 27th, which is a Monday. The commission
18 will expeditiously look at the comments and responses
19 and determine whether to proceed between now and the
20 end of the year. I've also asked the parties to either
21 jointly or separately or through the LTPA facilitator
22 provide a report to the commission by January 9th,
23 2004, about the status of the LTPA discussions, and
24 that will kick us off as to where we need to go in the
25 second six-month review process. Is there anything

0034

1 else we need to discuss on the record or anything I've
2 left out of my recitation of our off-the-record
3 discussions?

4 MS. ANDERL: Not that I can think of, Your
5 Honor. I was going to ask if you will be issuing a
6 prehearing conference order identifying the scope of
7 the comments, or should we go just based on our notes
8 from today?

9 JUDGE RENDAHL: I will be issuing a
10 prehearing conference order, and I hope to get that out
11 next week. There is still a lot of things pending
12 from last week's Triennial Review prehearing that I
13 haven't yet gotten to. I will endeavor to get a
14 prehearing conference order out by next week early, but
15 please go by your notes if you are starting to work on
16 this at this point. Anything further? Okay, we are
17 adjourned.

18 (Prehearing conference adjourned at 11:07 a.m.)

19

20

21

22

23

24

25