

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In the Matter of the Continued)
4 Costing and Pricing of) Docket No. UT-003013
5 Unbundled Network Elements and) Volume 13
6 Transport and Termination.) Pages 1659 to 1712
7 _____)

8 A prehearing conference in the above matter
9 was held on September 7, 2000, at 9:50 a.m., at 1300
10 South Evergreen Park Drive Southwest, Olympia,
11 Washington, before Administrative Law Judge LAWRENCE
12 BERG.

13 The parties were present as follows:

14 THE WASHINGTON UTILITIES AND TRANSPORTATION
15 COMMISSION, by SHANNON E. SMITH AND JEFFREY GOLTZ,
16 Assistant Attorneys General, 1400 South Evergreen Park
17 Drive Southwest, Post Office Box 40128, Olympia,
18 Washington, 98504-0128.

19 TRACER; RHYTHMS LINKS, INC.; TELIGENT
20 SERVICES, INC.; and BROADBAND OFFICE COMMUNICATIONS,
21 INC.; via bridge line, by ARTHUR A. BUTLER, Attorney at
22 Law, Ater Wynne, LLP, 601 Union Street, Suite 5450,
23 Seattle, Washington 98101.

24 COVAD COMMUNICATIONS, via bridge line, by
25 BROOKS E. HARLOW, Attorney at Law, 601 Union Street,
Suite 4400, Seattle, Washington 98101.

26 QWEST CORPORATION, via bridge line, by LISA
27 ANDERL, Attorney at Law, 1600 Seventh Avenue, Suite
28 3206, Seattle, Washington 98191.

29 VERIZON NORTHWEST, INC., via bridge line, by
30 JENNIFER L. MCCLELLAN, Attorney at Law, Hunton and
31 Williams, 951 East Byrd Street, Richmond, Virginia
32 23219.

33 Joan E. Kinn, CCR, RPR

01660

1 Court Reporter

2 NEXTLINK WASHINGTON INC.; ELECTRIC LIGHTWAVE
3 INC.; ADVANCED TELECOM GROUP, INC.; AT&T COMMUNICATIONS
4 OF THE PACIFIC NORTHWEST, INC.; CCG SEATTLE; MCLEOD USA
5 TELECOMMUNICATIONS SERVICES INC.; FOCAL COMMUNICATIONS
6 CORPORATION OF WASHINGTON; NEW EDGE NETWORKS; and NORTH
7 POINT COMMUNICATIONS; via bridge line, by GREGORY J.
8 KOPTA, Attorney at Law, Davis, Wright, Tremaine, LLP,
9 1501 Fourth Avenue, Suite 2600, Seattle, Washington
10 98101.

11 WORLDCOM, INC., via bridge line, by ANN
12 HOPFENBECK, Attorney at Law, 2885 South Ogden Street,
13 Englewood, Colorado 80110.

14 PUBLIC COUNSEL, via bridge line, by Simon
15 ffitich, Attorney at Law, 900 Fourth Avenue, Suite 2000,
16 Seattle, Washington 98164.

17 SPRINT CORPORATION, via bridge line, by Eric
18 S. Heath, Attorney at Law, 330 South Valley View
19 Boulevard, Las Vegas, Nevada 89029.

20

21

22

23

24

25

26

27

28

29

30

31

32

01661

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

2 JUDGE BERG: The conference will please come
3 to order. This is a prehearing conference before the
4 Washington Utilities and Transportation Commission in
5 Docket Number UT-003013. This is the matter of the
6 continued costing and pricing of unbundled network
7 elements and transport and termination.

8 The prehearing conference is being held in
9 Olympia, Washington, on September 7th, 2000. A notice
10 was served to parties of the prehearing conference on
11 September 1st, 2000. My name is Larry Berg, and I'm the
12 presiding administrative law judge. As the parties
13 know, at hearing I will be presiding along with the
14 commissioners.

15 I would like to begin this morning's session
16 by taking appearances from the parties who are present,
17 first present in the room, and then by teleconference.
18 And to assist the parties who are on the teleconference
19 bridge, I will cue you attorney by attorney to enter
20 your appearance just to ease the log jam.

21 So let's start with staff, counsel for
22 Commission staff.

23 MS. SMITH: Shannon Smith representing
24 Commission staff in part A.

25 MR. GOLTZ: Jeffrey Goltz with the Attorney

01662

1 General's office representing Commission staff in part
2 B.

3 JUDGE BERG: Mr. Goltz, to the extent that
4 the Commission has received a notice of substitution of
5 counsel for you in part B of this proceeding, but I
6 don't think we have actually taken your contact
7 information before, would you please provide that at
8 this time including your telephone number, fax number,
9 and E-mail.

10 MR. GOLTZ: Sure. The address and fax number
11 are the same as Ms. Smith's, 1400 South Evergreen Park
12 Drive Southwest, P.O. Box 40128, Olympia, Washington,
13 98504-0128. Fax number is (360) 586-5522. My direct
14 phone line is (360) 664-1186. E-mail is jgoltz,
15 G-O-L-T-Z, @wutc.wa.gov.

16 JUDGE BERG: Thank you, Mr. Goltz.

17 I will also indicate on the record that
18 Ms. Paula Strain, Commission staff, is present to
19 participate in any discussions regarding scheduling
20 conflicts with UT-003022 and 003040, also known as the
21 section 271 SGAT, S-G-A-T, proceeding.

22 At this time we will go to parties who are on
23 the Commission's teleconference bridge. Let's start
24 with Mr. Harlow. Go ahead, Mr. Harlow.

25 MR. HARLOW: This is Brooks Harlow, and I'm

01663

1 appearing today on behalf of Covad Communications
2 Company. We have appeared in the past on behalf of ICG,
3 MCI WorldCom, Metronet, and MGC now known as Empower.
4 We are going to just be for Covad today.

5 JUDGE BERG: All right, Mr. Harlow. If you
6 make other comments, you're going to need to project
7 just a little bit more.

8 MR. HARLOW: I will move the microphone a
9 little closer. Is that better?

10 JUDGE BERG: Yes, thank you.

11 MR. HARLOW: You're welcome.

12 JUDGE BERG: Mr. Kopta.

13 MR. KOPTA: Gregory Kopta of the law firm
14 Davis Wright Tremaine, on behalf of Nextlink Washington,
15 Electric Lightwave, Inc., Advanced Telecom Group, Inc,
16 AT&T Communications of the Pacific Northwest, Inc, CCG
17 Seattle, Focal Communications Corporation of Washington,
18 McLeod USA Telecommunications Services, Inc., New Edge
19 Networks, Inc., and North Point Communications.

20 JUDGE BERG: Ms. Anderl.

21 MS. ANDERL: Thank you, Your Honor. Lisa
22 Anderl appearing on behalf of Qwest Corporation.

23 JUDGE BERG: Ms. McClellan.

24 MS. MCCLELLAN: Jennifer McClellan here on
25 behalf of Verizon Northwest, Inc.

01664

1 JUDGE BERG: Mr. Heath.
2 MR. HEATH: Thank you, Your Honor. Eric
3 Heath, H-E-A-T-H, on behalf of Sprint Corporation.
4 JUDGE BERG: Mr. Butler.
5 MR. BUTLER: Arthur A. Butler from the Ater
6 Wynne law firm, appearing on behalf of Tracer, Rhythms
7 Links, Inc., Teligent Services, Inc., and Broadband
8 Office Communications, Inc.
9 JUDGE BERG: Ms. Hopfenbeck.
10 MS. HOPFENBECK: Ann Hopfenbeck representing
11 WorldCom, Inc.
12 JUDGE BERG: Mr. ffitch.
13 MR. FFITCH: Simon ffitch, Assistant Attorney
14 General, appearing for public counsel.
15 JUDGE BERG: All right, thank you everyone.
16 At this time, let's turn to item 2, bold 2 on
17 the agenda, the part B hearing schedule. 2.1 is to
18 coordinate with the schedule in the 271 SGAT proceeding.
19 I understand that some parties did not receive
20 Ms. Rendahl's E-mail, which is referred to in the
21 agenda, and I will just --
22 Ms. Strain, do you happen to have a copy of
23 that E-mail with you?
24 MS. STRAIN: No.
25 JUDGE BERG: All right, then I will just hit

01665

1 the main points for all parties. Ms. Rendahl presented
2 a series of options available to the parties in that
3 other proceeding for the follow-up workshop, which is
4 scheduled to occur at the same time as the part B
5 hearings. There are five options. I will just tick
6 these off for the parties.

7 Option number one is to trade the November
8 28th and 29th Washington dates with the Arizona
9 Commission for Monday and Tuesday, November 20th and
10 21st. Ms. Rendahl observed that the issues involved in
11 the Arizona workshop are "back sliding" issues, which
12 may not involve the same attorneys and witnesses as the
13 issues in workshop 2 in Washington. There is a note
14 that Ms. Strain has contacted Arizona and is waiting to
15 hear back on this option.

16 MS. STRAIN: This is Paula Strain of
17 Commission staff. We are still waiting to hear back
18 from Arizona. We have not heard back from them yet.

19 JUDGE BERG: Option two is if Arizona is not
20 willing to swap dates, the option would be to just
21 schedule the follow-up workshop for the 20th and the
22 21st anyway.

23 Number three would be to defer the follow-up
24 workshop until mid January, that being the week of
25 January the 15th.

01666

1 Option four, and this is where we will
2 probably need some discussion here, would be to conduct
3 the workshop along with the part B hearings here in
4 Washington, and there are a couple ways that would work.

5 If the Commission retains the proposed
6 hearing schedule, that being generally a Monday through
7 Friday schedule for the current weeks scheduled, but we
8 would start on Tuesday 11-28 to allow parties to travel
9 on 11-27. 11-28 is the day before an open meeting of
10 the Commission, therefore hearings would not start until
11 1:30 in the afternoon because the commissioners would
12 not be available in the morning. Likewise on Wednesday
13 the 29th, the hearings would not start until the
14 afternoon to allow the open meeting to conclude. That
15 opens up several possibilities for the parties in that
16 other proceeding.

17 Number one, they could conduct follow-up
18 workshops in the afternoon on Monday, presuming that
19 parties will be arriving in time to be at the Commission
20 in the afternoon. The morning of the 28th is open for
21 workshops, and the morning of the 29th is open for
22 workshops.

23 Alternatively it is possible that we could
24 delay the beginning of the part B hearings until the
25 Wednesday afternoon session, meaning that the parties in

01667

1 the 271 SGAT proceeding could have the entirety of
2 Tuesday to use for their follow-up workshop. Now that
3 basically is the item four or option four.

4 And the option five that Ms. Rendahl outlined
5 was to evaluate whether the parties in that other
6 proceeding really need a follow-up workshop, and have
7 the parties report back to the Commission jointly in
8 writing on the status of their off line discussions.
9 Ms. Rendahl invites all parties to advise her as soon as
10 possible of your thoughts and scheduling concerns.

11 Now just for the benefit of all parties,
12 there is one other note here at the bottom of her
13 E-mail, and that says:

14 On another note, at the prehearing
15 conference on August 29th, the parties
16 asked about the format for the
17 presentation to the commissioners on the
18 18th. At this point, we anticipate an
19 oral argument type presentation that may
20 involve questions to the witnesses. So
21 please try to have your expert witnesses
22 available for questions, and we will let
23 you know as soon as possible if they
24 will not need to be present.

25 So I share that information with you for the

01668

1 benefit of the parties and to assist Ms. Rendahl and
2 Ms. Strain in the management of that other case.

3 Which brings us to on my agenda 2.1.2, which
4 is a start date for the proceeding, and this also opens
5 up the discussion for comments by the parties on
6 retaining the presently scheduled hearing dates. So let
7 me open it up at this point in time for comments from
8 the parties.

9 MS. ANDERL: Your Honor, this is Lisa Anderl.
10 I guess I will go ahead. I guess that last little note
11 that you threw in there kind of caught me off guard, but
12 that's obviously not an issue that we need to raise in
13 this prehearing.

14 I would go ahead and say that we will be
15 telling Judge Rendahl that our first choice is either
16 option one or option two, and I suppose option five is a
17 contender, but that under those circumstances, there's
18 no need for Tuesday the 28th for a follow-up workshop,
19 so we might as well get as much time in the part B
20 hearings as possible and go ahead and start those
21 Tuesday afternoon.

22 JUDGE BERG: Any other parties?

23 MS. HOPFENBECK: Yes, I will pipe in. This
24 is Ann Hopfenbeck for WorldCom. My report to Judge
25 Rendahl is probably going to be that I prefer option

01669

1 four, either of the alternatives to one or two, simply
2 because I have a conflict the week of the 20th and 21st
3 and haven't quite figured out how I was going to manage
4 that one as it was. I was kind of waiting to see if
5 that was going to come out.

6 JUDGE BERG: Any other parties want to
7 comment at this time? And certainly I'm most concerned
8 with whether the parties have objections to the proposed
9 Monday through Friday schedule with a tentative start on
10 Tuesday 11-28. Any objections?

11 All right, then that will certainly be the
12 plan for our proceeding, and we will continue to advise
13 the parties as the conflict between the 271 SGAT
14 proceeding and the generic proceeding develop.

15 The next issue is my 2.1.3, setting a
16 prehearing conference date. And the reason why I think
17 this is important at this time is because we will have
18 limited alternatives later, primarily based on the short
19 work week of November the 20th.

20 Now the problem we have encountered in the
21 past is parties have been following the routine of the
22 profession developing their case close to hearing, and
23 so the issue is whether or not it makes a difference
24 whether an exchange of cross exhibits would occur on
25 Friday the 18th or on Monday the 20th.

01670

1 MR. GOLTZ: Your Honor, Friday is the 17th.

2 JUDGE BERG: Oh, excuse me, thank you, Friday
3 the 17th. There is a typo on the form.

4 Would the parties like to state a preference
5 between either of those dates?

6 MR. GOLTZ: This is Jeff Goltz. My
7 preference as a personal -- it's a scheduling conflict
8 that I have on the 17th, so my preference, fairly
9 strong, would be the 20th between those two.

10 MS. ANDERL: Your Honor, Lisa Anderl.
11 Because we're anticipating being in a workshop, a
12 follow-up 271 workshop on the 20th, I guess we would
13 prefer the 17th, but I think that those are things that
14 we could probably split up attorneys and cover them both
15 if they were on the 20th.

16 JUDGE BERG: All right, and by that you're
17 referring to your preference for option one or two?

18 MS. ANDERL: Correct.

19 JUDGE BERG: All right.

20 MS. HOPFENBECK: There are those of us that
21 do have a problem with splitting it, that don't have the
22 ability to split coverage.

23 JUDGE BERG: What would your preference be,
24 Ms. Hopfenbeck?

25 MS. HOPFENBECK: Well, I suppose if it looks

01671

1 like we're going to have 271 workshops on the 20th and
2 21st, my preference would be to schedule a prehearing
3 conference in this docket on a date other than those
4 dates, and maybe we should try trying to explore working
5 around Mr. Goltz's conflict.

6 JUDGE BERG: If --

7 MS. HOPFENBECK: Or the other thing, I guess,
8 would be depending on how we feel about how much time we
9 need for the hearings. Because we only have half a day
10 on Tuesday anyway, you know, maybe what we should do is
11 just say that we should do the prehearing on Tuesday the
12 28th.

13 JUDGE BERG: Impossible.

14 MS. HOPFENBECK: Okay.

15 JUDGE BERG: I have to prepare books for the
16 commissioners with all exhibits including cross exhibits
17 for their review before the Thanksgiving break.

18 MS. HOPFENBECK: Okay, I understand.

19 JUDGE BECK: All right. Otherwise, I would
20 not have a problem with it but for that detail.

21 Ms. Hopfenbeck.

22 MS. HOPFENBECK: Yes.

23 JUDGE BERG: If there was no conflict with
24 either the 17th or the 20th, would you have a preference
25 between those dates?

01672

1 MS. HOPFENBECK: My preference would still be
2 the 17th.

3 JUDGE BERG: Mr. Kopta.

4 MR. KOPTA: At this point, I don't know that
5 I really have a preference other than more time is
6 better than less time, but obviously that's not much of
7 a consideration when people have hard conflicts. So I
8 can be available either date.

9 JUDGE BERG: You know, my thought is that
10 what we're talking about is really a weekend between the
11 two possible dates, with the second date actually
12 falling in the Thanksgiving week. For parties that
13 might be traveling for Thanksgiving, I'm not so sure
14 that they would want to travel to Washington on Monday,
15 to return home, just to travel somewhere else. Now
16 that's just my, you know, sensitivity to the situation
17 and why I'm bringing it up at this point for the
18 parties.

19 MR. KOPTA: This is Greg Kopta again. I
20 think that that is a valid consideration. And as I say,
21 I think either date would work fine for me in the grand
22 scheme of things. And so as long as we can clear other
23 people's conflicts on either the 17th or the 20th, that
24 would work for me. And given the consideration you just
25 mentioned, maybe to the extent that we can, it would be

01673

1 great to do it on the 17th if we could get Mr. Goltz's
2 conflict taken care of one way or the other.

3 JUDGE BERG: And I will indicate to parties
4 that we will work with parties to allow parties,
5 particularly Ms. McClellan, to participate in that
6 prehearing conference by the teleconference bridge, but
7 it will mean that we have to work out some of the
8 logistic details with the exchange of cross exhibits if
9 that's your choice.

10 MS. MCCLELLAN: That probably will be my
11 choice, Your Honor, thank you.

12 JUDGE BERG: Mr. Goltz, do you want to
13 respond at all?

14 MR. GOLTZ: Well, I just -- my conflict is
15 with the Attorney General's Office meeting that I have a
16 role in, and I can't get out of that without -- I just
17 can't get out of that. So Ms. Smith could cover that.
18 It would be less efficient. It would be a little
19 awkward, and it would require me getting things ready by
20 the 14th actually. But if that's the only thing that
21 can be done, then that's the only thing -- then I guess
22 it will be done.

23 JUDGE BERG: While this is not exactly a
24 democratic decision, if other parties who haven't
25 commented have a preference, this would probably be a

01674

1 good time to state that preference.

2 MS. MCCLELLAN: This is Jennifer McClellan,
3 Verizon. We could be flexible to do a prehearing
4 conference on either date. However, our preference
5 would be, all things being equal, for Monday the 20th
6 simply because the week prior to that, we will be
7 involved in a proceeding in Hawaii. But if the hearing
8 is on the 17th, we can easily accommodate it.

9 JUDGE BERG: Anyone else?

10 All right, whatever date is noticed to the
11 parties will also be subject to change based upon the
12 conflict with the 271 SGAT proceeding, but I will
13 probably include that notice of prehearing conference in
14 an order to follow after today's session.

15 The last point under bold 2, that being 2.3,
16 I would just indicate to the parties that we have two,
17 the Commission has two open meetings scheduled during
18 those part B hearings. I wanted you to be able to take
19 note of those at this time to the extent that it may
20 impact your own personal scheduling and to be cognizant
21 that while it may appear as if we have almost 14 full
22 days for hearings, that is not precisely the case. And
23 we will rely upon the parties to be diligent during
24 these part B hearings to help us stay on track much the
25 way they did during the part A hearings.

01675

1 Let's move to item 3, supplemental pre-filed
2 evidence under 3.1 is the UNE-P splitter arrangement
3 that the Commission requests parties to develop evidence
4 on as a part B issue. I looked at the calendar and
5 tried to develop what I thought were reasonable dates
6 for supplemental direct, supplemental response, and
7 supplemental rebuttal on this issue in particular and
8 would like feedback from the parties as to whether or
9 not they are in agreement or have objections to that
10 proposed schedule.

11 MS. HOPFENBECK: This is Ann Hopfenbeck, and
12 I may be asking this question because I was not at all
13 of the hearings in part A, but could you briefly
14 elaborate on what aspects of the UNE-P splitter issue
15 come up in part B?

16 JUDGE BERG: Certainly.

17 MS. HOPFENBECK: I mean are we still focusing
18 on UNE-P line splitting policy?

19 JUDGE BERG: Yes.

20 MS. HOPFENBECK: And part B is costs?

21 JUDGE BERG: In his testimony, AT&T witness
22 Gillan, and Mr. Kopta, certainly you can correct me if I
23 misstate his position in any way, suggested that the
24 Commission request parties to develop cost study
25 information for an arrangement where a splitter would be

01676

1 configured along with the UNE-P element.

2 MS. HOPFENBECK: So it's that particular
3 recommendation that this responds to?

4 JUDGE BERG: Yes.

5 MS. HOPFENBECK: Okay.

6 JUDGE BERG: And his suggestion was that if
7 the Commission later determined to make that a required
8 configuration or arrangement that the Commission would
9 have all the information it needed on hand to implement
10 its decision, whereby the record in part A did not
11 include that additional information.

12 MS. HOPFENBECK: That's all the clarification
13 I need, thanks. I didn't know if we were referring to
14 Mr. Gillan's testimony.

15 JUDGE BERG: All right.

16 MS. ANDERL: Your honor, this is Lisa Anderl.
17 If it's appropriate for the other parties to comment on
18 the schedule, I would like to go ahead and do that at
19 this time.

20 JUDGE BERG: Yes please.

21 MS. ANDERL: This proposed schedule raises
22 some significant concerns for us, because it assumes, I
23 think, that a cost study is either being developed or
24 already exists, and that for us is not the case.

25 We said during the hearings that we would

01677

1 offer or that the appropriate way to arrange for a UNE-P
2 line sharing or whatever we want to call it was through
3 a bona fide request process. The reason we said that
4 was because we didn't have any experience with it
5 before, and when we've got something that's brand new
6 that we don't know what it looks like yet, so that's a
7 way for us to handle it in a lot of instances is through
8 a bona fide request process where we're able to develop
9 the requirements.

10 Line sharing over UNE-P is not required by
11 the FCC, nor is there any other mandate that I'm aware
12 of that would define what it is that a company is
13 offering. And so we're therefore thinking that four
14 weeks to file supplemental direct testimony doesn't come
15 anywhere close to enough time for us to understand what
16 the animal looks like, much less define it in a cost
17 study and present direct testimony and evidence about
18 it. So that's kind of where we are on it.

19 MS. MCCLELLAN: Your Honor, this is Jennifer
20 McClellan of Verizon, and we are pretty much in the same
21 position. We are, because Verizon has never had any
22 experience with providing the service, we don't even
23 know what the process would be. We have a general idea
24 of that some of the costs would be similar to the line
25 sharing costs as far as the splitter itself and some of

01678

1 the activities, but there would be a collaborative
2 component coordinating with the CLECs that we have never
3 done before. And until we figure out what the process
4 would be, we can't develop a cost study.

5 As a general matter, it takes the company 90
6 days to develop a cost study, and so we don't think that
7 we could file a cost study by -- actually I know that we
8 can't file a cost study by October 5th.

9 MS. ANDERL: The other thing is, you know,
10 there's kind of more than one way to look at line
11 sharing over UNE-P.

12 I mean, for example, you could have a
13 situation where we are sharing a line with a CLEC, and
14 we're providing, Qwest is providing the voice service,
15 and say Covad is providing the data service. One option
16 would be that MCI or WorldCom would come and want to
17 then take the customer for the underlying voice service.
18 You know, that's kind of one option.

19 The other option is where we are providing
20 only voice service to a customer, and there is no DSL
21 service, and that a CLEC and a DLEC both come to us at
22 the same time and say, you know, the CLEC says, we would
23 like this UNE platform to serve this end user customer,
24 and by the way, at the same time we want you to arrange
25 for us to split that line so that our partner, the DLEC,

01679

1 can provide DSL service.

2 And then there's also, of course, the option
3 where it wouldn't happen concurrently. It could be
4 staggered where a carrier just takes the UNE-P to
5 provide voice only and then wants to share the line
6 after the fact.

7 I mean it's not easy to comprehend what the
8 options might be, much less, you know, sit down and cost
9 it out.

10 JUDGE BERG: Well, it seems there's a costing
11 component, and there's a policy component. The policy
12 component, at least from the incumbent's perspective, is
13 that this is not a service that the incumbents provide,
14 therefore, we need not do the actual work required. At
15 the same time, it seems that from a costing perspective,
16 it really is a matter of cut and pasting some of the
17 cost study work that has already been done and combining
18 it or adding it to the cost of the UNE-P, which is going
19 to be developed in part B.

20 MS. ANDERL: Your Honor, well, I guess I
21 would respectfully disagree.

22 MS. MCCLELLAN: So would I.

23 JUDGE BERG: Explain that to me, if you can,
24 and then, Mr. Kopta, since it was AT&T's witness that
25 presented the request, I will want to hear from you

01680

1 next. But let's, Ms. Anderl, elaborate and then
2 Ms. McClellan follow up.

3 MS. ANDERL: And, Your Honor, I don't know
4 that I can do the costing process justice, because I'm
5 not a cost analyst. But my understanding of what it
6 takes to do a cost study is that you first have to
7 define the product, and we have not defined the product
8 based on some of the variables that I earlier described
9 in terms of not understanding what it's going to look
10 like. And so, you know, at a very high level, an
11 analyst, even if there were existing elements that could
12 be used, an analyst would still have to have a product
13 description.

14 Within Qwest, that means assigning a product
15 manager and having the product manager define exactly
16 which pieces Qwest will provide, what functions Qwest
17 will perform, so that we can input into the cost study
18 assumptions about labor times and distances and all the
19 things that we talked about for other things in part A.
20 And so it's that whole front end of needing to know what
21 the product looks like before you can cut and paste a
22 cost study together which is where we are kind of
23 stubbing our toe going in.

24 And as I said, I want to emphasize that we
25 stand by our commitment that we made in the cost

01681

1 proceeding in August that we will -- the appropriate way
2 to pursue this option is for a CLEC who wants to is
3 through the bona fide request process, which helps us
4 through that initial process of defining what the
5 product looks like.

6 MS. MCCLELLAN: This is Jennifer McClellan.
7 I think Verizon's perspective is because the company is
8 getting out of the business of owning and providing
9 splitters to begin with, we are struggling with what
10 would Verizon's role even be in providing splitters or
11 in providing line sharing over a UNE platform.

12 So the first step for us would be similar to
13 Qwest, to identify what is the product, what are the
14 activities that we would have to provide. Once we
15 figure that out, then we would have to go through a
16 similar process of developing what the costs would be.

17 It is possible that we could figure out what
18 the process would be by October. However, it takes 90
19 days to create a cost study for something that we have
20 never done before. Now it is possible that some of the
21 cost elements and the material provided or if some of
22 the labor activities are the same, then we would have
23 those costs. But there is this new component of
24 coordinating activities between CLECs that we have never
25 done before, we have never had to do in any state

01682

1 before, and we just have no idea whether that's going to
2 require new cost studies or not.

3 JUDGE BERG: Mr. Kopta.

4 MR. KOPTA: Thank you, Your Honor. I would
5 just expand upon actually the comments that you had
6 made. I think based on the record that was created in
7 part A of this docket, UNE-P line splitting would be
8 indistinguishable from the line sharing with the ILEC
9 that was proposed by both Qwest and Verizon and
10 discussed at length in part A, at least from a
11 provisioning standpoint. I think witnesses from both
12 companies conceded that from a provisioning standpoint
13 it would be the same. So that leaves how it would be
14 ordered, I suppose, in terms of OSS processes perhaps.

15 The concern that we have certainly is that as
16 described by both Ms. Anderl and Ms. McClellan, it would
17 be a lengthy process to try and even decide what kind of
18 "product" this would be, much less to develop systems
19 and processes and costs, which lead me to be concerned
20 over the bona fide request option that Qwest has
21 proposed and how viable that really is in terms of
22 establishing how and when and at what price line
23 splitting would -- UNE-P would be made available.

24 I think that it's much less complicated than
25 Qwest and Verizon have represented and that the result

01683

1 is going to be, if the Commission doesn't address this
2 issue in this cost docket, a lengthy bona fide request
3 process for either Qwest or Verizon and additional
4 litigation after that in terms of trying to establish
5 what's going to happen when a carrier using a UNE-P
6 wants to line share with a data service provider.

7 So while I think that the schedule that's
8 been proposed is aggressive, and certainly we would want
9 more time if we had the luxury of time to evaluate
10 whatever cost proposals are put forward by Verizon or
11 Qwest, I think we're certainly willing to work within
12 this proposed schedule to make sure that the issue gets
13 addressed in part B of this docket, especially in light
14 of our position, which is really that we have gone
15 through all of the major if not virtually all of the
16 cost issues with respect to provisioning of line
17 sharing, whether it's the ILEC providing the voice
18 service or it's the CLEC providing the voice service, so
19 we would certainly support the proposal in the agenda.

20 JUDGE BERG: Counsel, be sure that your
21 voices don't trail off.

22 I understand both Verizon's and Qwest's
23 position very well at this point, and I want to hear
24 from other parties if they have positions to state.

25 Mr. Goltz.

01684

1 MR. GOLTZ: Your Honor, a portion gets
2 unencumbered by a great deal of technical knowledge on
3 this issue, but it seems to us that, and I may just
4 digress for a moment which would -- for a brief
5 discussion of what would fall under part 3.2 of your
6 agenda, because we are going to -- when you get to that,
7 we are going to request an option at least to prepare
8 some supplemental responsive testimony relating to the
9 cost models, only portions of which have been provided
10 to Commission staff, and we were going to propose an
11 October 30th date for that. That's driven in part just
12 because we don't have them all yet, and when we should
13 have had them on August 4, and also our -- the analyst
14 that will be doing this will be out of the country until
15 October 22nd or 23rd.

16 So it seems to me that although this is an
17 aggressive schedule, referring to the UNE-P splitter
18 schedule, that that could still be -- that entire
19 schedule could be slipped a week. So if that little bit
20 of a few extra days for Verizon and Qwest would be
21 beneficial, and it sounds that it would be, we would be
22 requesting in any event another four or five days or a
23 week for our purposes, and then either the rebuttal
24 could remain the same, or that could slip a few days.
25 So in general, we would say stick with the schedule, but

01685

1 maybe slip it a few days, slip it a few days or a week.
2 JUDGE BERG: Let me ask that when parties
3 comment on Mr. Goltz's position that they also respond
4 to the possibility of slipping the supplemental direct
5 date, slipping the supplemental response date on the
6 UNE-P splitter arrangement issue, and then taking oral
7 rebuttal.

8 MR. GOLTZ: Do I get to respond to that
9 first?

10 JUDGE BERG: Yes, sir.

11 MR. GOLTZ: In general, I would prefer not
12 oral rebuttal. I think that can lead to an inefficient
13 hearing process. And so what you may gain in the
14 prehearing time, you might lose when it really -- and it
15 might not be as crisp as it otherwise could be. That's
16 been our experience at least in the telecommunications
17 area. In some sort of tort case maybe, but it's not.

18 JUDGE BERG: So your position, Mr. Goltz,
19 would be that we could slip the supplemental direct,
20 slip the supplemental response, and just shorten the
21 supplemental rebuttal time period?

22 MR. GOLTZ: That would be my preference,
23 although I don't have any objection to a brief slippage
24 of the supplemental rebuttal either.

25 MS. HOPFENBECK: We can't hear you very well.

01686

1 MR. GOLTZ: I'm sorry.

2 MS. HOPFENBECK: Now we can't hear you at

3 all.

4 MR. GOLTZ: I was suggesting that it would
5 be, from our point of view obviously, that the
6 Commission may feel otherwise on slipping a rebuttal
7 date, but that the supplemental direct be slipped, there
8 be -- up to a week, the supplemental response date be
9 slipped up to a week perhaps to coincide with an
10 optional on our part supplemental response to some costs
11 -- to the cost studies of Qwest, and that the
12 supplemental rebuttal either stay where it is, or it
13 could be slipped at least a few days into the week of
14 the 13th. Now that obviously doesn't give everything
15 for the Commission as early as it otherwise would be,
16 but it would be only on this one issue.

17 JUDGE BERG: And I know that does present
18 some additional information for Qwest and Verizon to
19 respond to, but before you do, let me just check.

20 I know, Mr. Harlow, you're at a little bit of
21 a disadvantage, it seems like an issue that your client
22 Covad may have an interest in. Mr. Butler, I believe
23 your clients would have an interest in this matter.
24 And, Ms. Hopfenbeck, your clients might have an
25 interest. Could I just hear from Mr. Harlow,

01687

1 Mr. Butler, and Ms. Hopfenbeck if you have anything to
2 add.

3 MR. HARLOW: This is Mr. Harlow, I guess I'll
4 go first. Covad does have an interest in this matter
5 but is likely to wait to the response round and see what
6 other parties propose on this. This is not something
7 that Covad has really been behind in developing, and so
8 Covad's position is still kind of being developed. So
9 we really don't have a position with scheduling. We
10 will go with what makes sense. We do want to have time
11 to respond, but I think we have the flexibility to work
12 within the suggestions of the various parties today.

13 JUDGE BERG: Mr. Butler.

14 MR. BUTLER: Yes, I concur with the position
15 that we would prefer to have an opportunity for written
16 response as opposed to oral.

17 JUDGE BERG: Ms. Hopfenbeck.

18 MS. HOPFENBECK: Judge Berg, I would join in
19 the comments of Mr. Kopta. As you know, WorldCom's
20 witness Mr. Lathrop in part A also requested that,
21 although he didn't make a specific recommendation like
22 Mr. Gillan, but also requested that the Commission
23 address the question of UNE-P line splitting in this in
24 either part A or part B.

25 In part A when it became clear that at least

01688

1 Qwest was willing to provide line sharing over UNE-P or
2 willing to split the line but was willing to do it
3 through a bona fide request process, that raised a flag
4 in our minds about just how cumbersome that kind of a
5 process can be, particularly because I mean UNE-P -- the
6 benefit of UNE-P and the benefit of UNE-P with line
7 splitting is it's a benefit of being able to get into
8 the market in a big way, and the BFR process doesn't
9 seem to lend itself to signing up numerous customers
10 quickly.

11 So that we think we agree strongly that we
12 should address the costs associated with provisioning
13 UNE-P with line splitting in this docket and would
14 support Mr. Goltz's recommendation that if that would
15 help Qwest and Verizon do that to slip those dates, we
16 wouldn't have any objection to that, to slipping your
17 proposed dates by a week. But I guess I would also add
18 to Mr. Goltz's and Mr. Butler's statements that I think
19 that written rebuttal does really help the efficiency of
20 the hearing, even if it's late.

21 JUDGE BERG: And before I hear again from
22 Ms. Anderl and Ms. McClellan, Mr. Kopta, if the
23 Commission were to commit to hearing costing evidence
24 for providing UNE-P with line splitting, would AT&T be
25 preparing a cost study to submit as direct evidence?

01689

1 MR. KOPTA: At this point, I'm not sure. I
2 think it likely that there may be some direct evidence
3 in terms of what should be required in terms of
4 providing line splitting over UNE-P as opposed to line
5 sharing when the ILEC is providing the underlying voice
6 service. I'm not sure whether that will be to the level
7 of a cost study or whether it will simply be an attempt
8 to identify any distinguishing characteristics or the
9 absence of a distinguishing characteristic between those
10 two types of provisioning.

11 But whatever AT&T would provide by way of
12 supplemental direct testimony we will certainly do
13 according to the schedule either as you have proposed it
14 or as other parties have suggested.

15 JUDGE BERG: Well, the point I want to make
16 here is that the Commission doesn't mandate parties to
17 present evidence, and if it's the position of Qwest and
18 Verizon that they can not produce cost studies, and it's
19 the position of AT&T that cost studies can be produced
20 within the time frame but they don't choose to do so,
21 that may leave the Commission with no record upon which
22 to take action.

23 MR. KOPTA: And as I say, it may be that, and
24 as far as I know it is, it is at this point without
25 having consulted with a subject expert at AT&T on this,

01690

1 that AT&T's position is that it doesn't require anything
2 more than what the ILECs and the DLECs will be having to
3 do when it's a line sharing between the two of them,
4 when it's a UNE-P that is essentially the same, and
5 therefore there are no additional costs, and there is
6 nothing that the Commission needs to consider above and
7 beyond what has been considered from a costing
8 perspective in part A.

9 JUDGE BERG: All right, I understand that
10 position. Let's go ahead and hear from Ms. Anderl and
11 Ms. McClellan, and then I think we need to move on to
12 the discussion of other supplemental pre-filed evidence.

13 MS. HOPFENBECK: Judge Berg, before you do
14 that, this is Ann Hopfenbeck, I should just add that it
15 is possible that WorldCom would put on supplemental
16 direct testimony on this issue. This is just a very
17 important issue to WorldCom.

18 JUDGE BERG: All right, thank you,
19 Ms. Hopfenbeck.

20 MS. ANDERL: Thank you, Your Honor, Lisa
21 Anderl on behalf of Qwest. We remain very concerned
22 about being able to respond to this issue at any time in
23 the October time frame. We have effectively only really
24 had 48 hours notice that the Commission was intending to
25 consider this and potentially order an October 5th

01691

1 filing date. And I have done what I could within the
2 company to understand what our position is and present
3 that to you today. A week does not help us based on the
4 comments that you have heard from myself and
5 Ms. McClellan. We're looking at significant additional
6 time.

7 Honestly, you know, I think if the Commission
8 wants to do this, we really ought to start thinking
9 about calendaring this for January instead of December,
10 because I think it does add a significant additional
11 issue. I guess maybe we will talk about that some more
12 when we talk about staff requests to file supplemental
13 direct on other issues as well.

14 But, you know, in the October-November time
15 frame, we need to be doing our rebuttal testimony on the
16 main issues as well as preparing for hearings. And
17 addressing a new issue that's added and placed on a
18 later schedule simply complicates the case for us to the
19 extent where I think it will damage our ability to
20 prepare for the case.

21 I was going to raise the issue that you have
22 already covered, Your Honor, which is that, you know, I
23 don't even know if we would be able to file direct
24 testimony. And if no one else is, then I don't know
25 whether the Commission have will a record on this. It

01692

1 does seem to me that the parties who are proposing that
2 they can define the product and establish the cost by
3 October 5th be required to do that. But I don't know
4 that Qwest is in a position to do that, and we may be in
5 a position where all we are able to file is responsive
6 testimony to other parties' proposals, but we really --
7 we don't want to have to be in that type of a position.

8 So I guess there are a lot of things out
9 there, as I said, not the least of which is if the
10 Commission is serious about this, then perhaps we should
11 talk on a larger scale of moving the hearings into
12 January, as we had talked about last week.

13 MS. MCCLELLAN: Your Honor, this is Jennifer
14 McClellan, and I would just echo what Ms. Anderl says.

15 I do want to respond to one thing that
16 Mr. Kopta said that I think was not the same as my
17 recollection in the phase A proceeding. I don't recall
18 that Verizon represented that the provisioning of line
19 splitting would be the same as line sharing. My
20 understanding is our position has always been that
21 because we are getting out of the job of providing
22 splitters in general that we don't understand what our
23 role would be period in providing line sharing over
24 UNE-Ps between two CLECs other than coordinating jobs on
25 how to help those two CLECs provision the services

01693

1 themselves. So I would disagree that it would be pretty
2 much the same and could be based on the records as phase
3 A or for line sharing.

4 MS. ANDERL: Thank you, Ms. McClellan, for
5 bringing that point up. This is Lisa Anderl again. I
6 had wanted to mention that, that that was not my
7 recollection of the record either, but I don't have a
8 transcript for those days yet.

9 MR. GOLTZ: Let me just add one thing, Judge
10 Berg. This is Jeff Goltz. I didn't want to be silent,
11 because that may be perceived as acquiescing in a couple
12 of statements. I am not sure -- we are not sure that
13 it's true that if Verizon and Qwest file nothing that
14 that is consistent with their obligations and that is
15 all right. I think that it is reasonable to expect that
16 they, whenever the date is, that they have an obligation
17 to affirmatively produce whatever they can do for a cost
18 study in that time. It may not be as adequate as
19 everyone would like, but I do not believe that they have
20 the option of simply sitting back and doing nothing.

21 JUDGE BERG: All right, thank you very much.
22 Let's go on and discuss the matter of other subjects
23 that may require supplemental pre-filed evidence. And
24 Mr. Goltz has made a reference to one point. Certainly
25 when I listed this as an agenda item, what I had

01694

1 anticipated was that Verizon or Qwest might be filing
2 supplemental cost study information as additional
3 direct, which then would require responses by other
4 parties. And let me check with all parties to see, but
5 particularly Verizon and Qwest, to inquire what
6 additional direct evidence remains to be filed in part
7 B.

8 MS. MCCLELLAN: This is Jennifer McClellan
9 for Verizon. Other than the UNE-P splitter issue, I am
10 not aware of anything that was left out of our phase B
11 filing.

12 JUDGE BERG: And Ms. Anderl.

13 MS. ANDERL: Yes, thank you, Your Honor.
14 Staff did ask us informally for some copies of
15 additional cost studies, some of which fed into the cost
16 study of or underlying the studies that we actually
17 filed. We provided those to staff. It is our plan, as
18 soon as I can get copies made because they're so
19 voluminous I don't even believe I can file paper copies,
20 but it is our plan to file and serve compact disks with
21 all of that data with the Commission and with the other
22 parties to the extent that they wish to avail themselves
23 of that. But it's not as though we're going to be
24 proposing that new elements be costed or anything like
25 that.

01695

1 JUDGE BERG: When do you anticipate that
2 filing and service will take place?

3 MS. ANDERL: Oh, this is a difficult issue.
4 I attempted to print some of the files off the CD ROM
5 that I obtained today, and it was frankly staggering,
6 the volume of paper. As I said, I'm struggling now and
7 wanted to talk to parties about whether or not I can
8 even produce a hard paper copy of these documents. My
9 expectation is that we could make that filing on Monday
10 though if we just provide electronic copies.

11 JUDGE BERG: All right, so worst case
12 scenario is we're looking at filing of service sometime
13 during the week of September the 11th?

14 MS. ANDERL: Right.

15 JUDGE BERG: And if that were the case, do
16 you have any objections or comments regarding
17 Mr. Goltz's proposed response date of, oh, I believe he
18 mentioned October the 30th.

19 MR. GOLTZ: That's correct, I mentioned
20 October the 30th, but, you know, it might be for
21 convenience sake if the UNE-P splitter schedule got
22 slipped a week that those dates coincide.

23 JUDGE BERG: So let's say the week of October
24 the 30th.

25 MS. ANDERL: Your honor, I guess one thing

01696

1 that Mr. Goltz had stated that I was not clear about was
2 whether staff believes it now has everything it has
3 asked for or not.

4 MR. GOLTZ: We do not have everything that
5 was asked for. I guess there's three parts, and we have
6 two.

7 MS. ANDERL: I was not aware of that.

8 MR. GOLTZ: Maybe we can contact you after
9 this prehearing.

10 MS. ANDERL: All right.

11 JUDGE BERG: Barring anything unforeseen or
12 unexpected, Ms. Anderl, do you think that if, in fact, U
13 S West was able to fully respond to staff's request
14 during the week of September 11th, next week, is it
15 reasonable that other parties would be able to respond
16 during the week of October the 30th?

17 MR. GOLTZ: Excuse me, this is Jeff Goltz
18 again, I'm a little unclear on one piece of information,
19 that is whether what U S West is planning to serve and
20 file is simply the cost studies, or is it also
21 supplemental direct testimony?

22 MS. ANDERL: The former.

23 MR. GOLTZ: Okay.

24 MS. ANDERL: Just the studies.

25 MR. GOLTZ: Okay.

01697

1 MS. ANDERL: And maybe, you know, two pages
2 of supplemental direct telling us what it is, but that
3 would be it. That doesn't seem unreasonable.

4 JUDGE BERG: Any other expected supplemental
5 direct testimony that would have to be filed by any
6 party in this part B proceeding that we have not
7 discussed yet?

8 All right, then I think I have heard what I
9 need to with regards to supplemental pre-filed evidence.

10 Moving on to the item 4, party post hearing
11 briefs, 4.1 is just to confirm again for the parties
12 that opening briefs would be due Monday, October the
13 9th, and reply briefs would be due Monday, October the
14 23rd. As we previously discussed, electronic filing and
15 service would be allowed on the due date conditioned
16 upon filing service of a paper copy on the next business
17 day.

18 The Commission had notified parties that it
19 was in the process of converting to Word, some less
20 willing than others, and that that transition should be
21 complete after the end of this month, and so there will
22 be some additional direction to parties to file their
23 brief in Word 2000 or a prior version. My understanding
24 is that Word 2000 will accept and open any version of
25 Word that the parties might realistically be using.

01698

1 And the Commission does request that parties
2 number paragraphs in their briefs. We understand that
3 this may present some technical difficulties to other
4 parties. Please understand that this is no less a
5 technical difficulty for the Commission as well. And in
6 our training sessions, ALD, the administrative law
7 department, will be focusing on how to efficiently
8 integrate paragraph numbering into briefs in such a way
9 that, for example, sub headings don't get numbered. And
10 if, in fact, parties are not fully proficient, we are
11 going to be available to consult with parties and advise
12 parties after October the 2nd. Hopefully once this is
13 worked out from a word processing point of view, it will
14 become easier and easier for all of us. It is a great
15 benefit to have those paragraphs numbered.

16 Any comments from any parties regarding item
17 4?

18 MR. BUTLER: Yes, Your Honor, this is Art
19 Butler. Does that mean that you will no longer accept
20 filings in Word Perfect?

21 JUDGE BERG: I think that's -- let me put it
22 this way, Mr. Butler. The Commission's preference is
23 that all filings be made in Word 2000. I will follow up
24 on that and include some mention in the order whether or
25 not, in fact, we have a transition period wherein

01699

1 parties can continue to file in Word Perfect.
2 Considering the complications we have had with some
3 parties that did not have Word Perfect and could only
4 file in Word, it would seem feasible that if there was a
5 party that only had Word Perfect capability that there
6 would be some period of transition. But I will need to
7 consult with the administrative law department senior
8 management on that point.

9 MR. BUTLER: Thank you.

10 JUDGE BERG: Anything else?

11 MS. HOPFENBECK: Judge Berg, this is Ann
12 Hopfenbeck, I will just tell people that I know if
13 anybody does need help with paragraph numbering, I've
14 got some shortcuts that have helped me, and people can
15 call me up and ask.

16 JUDGE BERG: Well, good, we may be calling
17 you, Ms. Hopfenbeck.

18 MS. HOPFENBECK: It's a pain, there's no
19 perfect way that I have.

20 MS. MCCLELLAN: I would suggest waiting until
21 your document is finished and then mark them. If you go
22 back and cut and paste things around, it screws
23 everything up.

24 MS. HOPFENBECK: That is true.

25 JUDGE BERG: That has been what we have done

01700

1 here at the Commission with regards to Word Perfect
2 documents with paragraph numbering as well. I would
3 certainly appreciate it if we could use E-mail for
4 parties to start sharing helpful hints if this will be a
5 problem.

6 With regards to item 5, status of responses
7 to Bench requests and record requests, I did fax to the
8 parties a list of outstanding, oh, excuse me, a list of
9 all Bench requests. I had noted that Bench requests 1
10 through 4, Qwest had previously indicated a September
11 8th response date. Is that still realistic, Ms. Anderl?

12 MS. ANDERL: Unfortunately, it is not. I
13 just received a CD ROM with some of the Bench request
14 responses in it over my mail, and then I received
15 emergency E-mail saying some of those things are wrong.
16 And so we're going to need to redo them. I apologize.
17 Again, it's probably going to be the 11th or 12th.

18 JUDGE BERG: Well, why don't we say the 13th
19 just to provide a little bit extra room, and if you need
20 additional time, let me know.

21 MS. ANDERL: Thank you.

22 JUDGE BERG: All right. With regards to
23 Bench Request Number 5, I believe that was related to
24 Ms. Casey; is that right, Ms. McClellan?

25 MS. MCCLELLAN: That's correct. Your Honor,

01701

1 for all of Verizon's outstanding Bench requests, we will
2 be -- my understanding is we will be mailing them out
3 tomorrow, and I know -- my understanding is that the
4 backup requested in Bench Request 5 is actually
5 contained in two exhibits to Mr. Behrle's testimony.
6 Unfortunately, I don't know right now which ones, but
7 they will be identified in the cover letter with the
8 Bench requests. And if the Commission would like, we
9 can just repeat those exhibits as responses to Bench
10 requests as well.

11 JUDGE BERG: Let's not do that this time. I
12 think if you can point to exhibits already in the record
13 as satisfying the Bench request, then certainly as a
14 preliminary matter, that suffices. And if there is some
15 follow-up need for additional information, the
16 Commission will respond.

17 MS. MCCLELLAN: Okay, thank you.

18 JUDGE BERG: You're welcome. And I will take
19 note that Bench Request 9 has already been responded to.

20 MS. MCCLELLAN: Right.

21 JUDGE BERG: All right. So we will look for
22 that here at the Commission on 9-11, and that would be
23 for Bench Requests 5, 8, 10, 11, and Bench Request 12.

24 Mr. Harlow, you may be somewhat at a
25 disadvantage. There was a Bench Request 6 directed to

01702

1 Covad.

2 MR. HARLOW: Yes, I am prepared to discuss
3 those responses.

4 JUDGE BERG: All right. And there was
5 previously an indication on the record that Bench
6 Request 7 would be handled as a late filed exhibit. If
7 you would address Bench Requests 6 and 7.

8 Mr. HARLOW: Sure. We anticipate that number
9 6 will be overnighted tonight, so it should be received
10 tomorrow. With regard to Number 7, I understand that
11 Covad and Qwest need to coordinate their response, and
12 our expectation was that we could do that and respond by
13 next Thursday. I wasn't aware there was an issue about
14 treating it as a late filed exhibit as opposed to a
15 Bench request response.

16 MS. ANDERL: Thank you, this is Lisa Anderl,
17 thank you, Mr. Harlow, for remembering to bring that up.
18 That is correct.

19 JUDGE BERG: All right, so is that,
20 Ms. Anderl, then should we just treat this as a Bench
21 request and response to Bench request as opposed to a
22 late filed exhibit?

23 MS. ANDERL: Yeah, my understanding has been
24 that Bench requests are routinely given exhibit numbers
25 and made a part of the record, so I'm not too sure that

01703

1 ultimately there's any difference in how it ends up
2 being treated, but I think that the request from the
3 Bench makes it easier for the parties to track if we
4 just call it a Bench request.

5 JUDGE BERG: All right, that's what we will
6 do.

7 And as far as records requests go, I am going
8 to generally leave that to parties making records
9 requests to track the timely response, but let me ask at
10 this point in time whether there are any problems that
11 have developed regarding records requests that require
12 the Commission's involvement?

13 MS. MCCLELLAN: Your Honor, this is Jennifer
14 McClellan with Verizon, and it is our understanding that
15 outstanding records requests will also be mailed out
16 tomorrow.

17 JUDGE BERG: Thank you, Ms. McClellan.
18 Anything else from anybody on item 5?

19 MS. ANDERL: Yes, Your Honor, Lisa Anderl
20 again. We have one issue that almost slipped through
21 the cracks here. We have been asked to rerun the
22 co-location cost model without the attenuator because we
23 have responded to a records requisition on the record
24 and stated that we were willing to remove the attenuator
25 costs from the cost study.

01704

1 However, resubmission of that co-location
2 cost study was never given a Bench request number or
3 identified as something that would be a late filed
4 exhibit. It was, however, my understanding that the
5 Bench and the parties did want Qwest to do that, and we
6 have that ready to send. I was just waiting until we
7 had this conversation today to find out how you wanted
8 us to identify that in the cover letter.

9 JUDGE BERG: Yes, I'm looking at Bench
10 Request 2 where there was the initial point of whether
11 Qwest actually deployed the attenuator when providing
12 entrance facilities, and if not, would the charge be
13 removed. Was that the records request that more or less
14 spawned the document that you're producing?

15 MS. ANDERL: You're right, records request
16 number 2 was do we split attenuators and will we remove
17 them. And on the record, we said, no, we don't, and
18 yes, we will remove them from the study. And the filing
19 that I have is simply the study that does that, the
20 model run that does that.

21 JUDGE BERG: All right. Why don't we make
22 that Bench Request 13.

23 MS. ANDERL: Great.

24 JUDGE BERG: All right.

25 MS. ANDERL: Thank you, we will provide that.

01705

1 JUDGE BERG: Hold on for one moment while I
2 make a note to myself. And, Ms. Anderl, help me once
3 more, is that a version of the co-location cost model?

4 MS. ANDERL: Yes, it is actually, I'm trying
5 to find it, it's Exhibits 15 and C-15 in the record.

6 JUDGE BERG: Yes, that was JLT-4.

7 MS. ANDERL: Yes.

8 JUDGE BERG: All right.

9 Anything else on this agenda point?

10 Item 6, do any parties have corrections to
11 the exhibit list?

12 MS. SMITH: Your Honor, this is Shannon Smith
13 from Commission staff. I don't have a correction at
14 this time, but that's because I haven't had an
15 opportunity to go through it. So I might bring that to
16 your attention later if there is one.

17 JUDGE BERG: All right, that is an open
18 standing invitation for any parties that become aware of
19 any correction that needs to be made to the exhibit
20 list, I would certainly appreciate knowing about it at
21 any point in time.

22 MR. KOPTA: Yes, Your Honor, this is Greg
23 Kopta. That was the same remark that we would make,
24 although we are severely handicapped because Ms. Webber
25 was not at the hearings. She was the one who was able

01706

1 to find most of the errors the last time around. So we
2 will miss her eagle eye I'm sure unless Ms. Anderl has
3 her working on that even as we speak.

4 JUDGE BERG: Well, maybe her --

5 MS. ANDERL: Since she didn't get the fun of
6 being at the hearings, I didn't ask her to review the
7 exhibit list.

8 MS. MCCLELLAN: To the extent that you trust
9 another attorney, the exhibit list that the ALJ sent is
10 identical to the one that Verizon was keeping a running
11 tally of, so for whatever that's worth.

12 JUDGE BERG: Thank you very much,
13 Ms. McClellan, I appreciate the vote.

14 And, Mr. Kopta, perhaps Ms. Webber has a side
15 consulting business that you may want to subscribe to.

16 With regards to item 7, I would just ask that
17 parties at this time add Jeffrey Goltz to their service
18 list. I think it would be prudent to retain both
19 Ms. Smith and Mr. Goltz's name on current filings.

20 And as we clearly move into part B,
21 Ms. Smith, is it your expectation that you would receive
22 no further service?

23 MS. SMITH: It's my expectation that I would
24 receive no further service for anything in part B. And
25 to the extent I need anything, I can always get it from

01707

1 Mr. Goltz.

2 JUDGE BERG: All right. So if parties can
3 figure out how to document that and to make sure that
4 either Ms. Smith or Mr. Goltz gets served in any event,
5 but with the expectation that filings and service
6 relevant to part A go to Ms. Smith, and filings and
7 service relevant to part B go to Mr. Goltz, I will also
8 be updating a parties' representative list to assist the
9 parties with that point.

10 Number 8 is just a series of checkpoints I
11 would like to reaffirm for the parties as they file
12 evidence in part B.

13 All exhibits must be paginated.

14 There were two instances of testimony being
15 adopted in part A that wasn't as clear as it could be,
16 so we would just ask parties to be sure to clearly
17 designate where one witness's testimony is going to
18 consist in large part of another party's pre-filed
19 testimony, and also make that very, very apparent on
20 your cover letter.

21 With regards to 8.3, I will just indicate the
22 Commission's preference against illustrative exhibits.
23 Certainly the exhibit that Mr. Deanhardt developed
24 during the course of the hearing was instructive, but
25 I'm concerned about the time we have in part B. And if

01708

1 parties are aware ahead of time of an exhibit that they
2 wish to produce to inform or educate the Bench, we would
3 ask that it be developed as either a pre-filed exhibit
4 or as a cross exhibit. We understand that there's still
5 a role for illustrative exhibits at the Commission, but
6 we want to avoid any unnecessary time in developing that
7 exhibit in the hearing room.

8 And I will just indicate to parties that
9 there will be some presentation standards for cross
10 exhibits to follow. We're going to try and standardize
11 the way parties produce both the cover list of cross
12 exhibits and the way they bundle their cross exhibits so
13 that they can be efficiently distributed in that last
14 prehearing conference and to assist the Commission in
15 putting together exhibit books for the Commissioners.

16 Which brings us to number 9, other matters,
17 is there anything that any other party would like to
18 bring up at this point in time?

19 MS. ANDERL: Your Honor, yes, I guess I would
20 ask at this point for clarification on the condition of
21 the cost studies that we wish to file. As I said, my
22 experience in printing some of these out this morning
23 has been such that I think it would make Verizon's
24 filing pale in comparison, and Verizon's filings are a
25 foot thick. I'm very concerned about our ability to

01709

1 provide hard copies at all.

2 Although we could certainly entertain to do
3 that, I was wondering if it might be acceptable, at
4 least as an initial matter, to provide the Commission
5 with CDs and provide the other parties with those as
6 well. And in the event that certain documents are going
7 to be asked about in the hearings, we would undertake,
8 you know, then on our watch to produce the copies
9 necessary of those particular documents, but I suspect
10 that most will not be in that category.

11 JUDGE BERG: Mr. Goltz.

12 MR. GOLTZ: I guess I'm -- these are the cost
13 studies that you are going to be filing within the early
14 part of next week?

15 MS. ANDERL: Yes.

16 MR. GOLTZ: I think we really need a hard
17 copy I mean, and so --

18 MS. ANDERL: Well, you have the disk, right?

19 MR. GOLTZ: Well, I guess I don't understand,
20 if you're saying you're having trouble printing out a
21 hard copy, why wouldn't we have the same difficulty?

22 MS. ANDERL: Well, I mean that was my
23 question is to the extent that the documents are ones
24 that are Excel spreadsheets for the most part and can be
25 viewed on screen that accessible.

01710

1 JUDGE BERG: Ms. Anderl, why don't you hold
2 on for a moment, I'm going to have Ms. Roth come join
3 us.

4 Well, tell you what, Mr. Goltz, is this a
5 discussion we can keep Ms. Anderl on the line and
6 conduct informally?

7 MR. GOLTZ: That's fine, that's fine to do
8 that. I just know that historically at least, there's a
9 strong preference for having a hard, at least a hard
10 copy or actually a preference for having two hard
11 copies, because it is then split up among various
12 people. So I'm a little bit I guess anxious about the
13 difficulties that Ms. Anderl is describing for producing
14 a hard copy on her own. So I guess I would prefer to
15 receive one even if it's --

16 MS. ANDERL: And maybe those difficulties
17 have more to do with, you know, my own inability or
18 unfamiliarity with Excel, but as I said, I know that
19 they're massive. I know that the files are massive.

20 JUDGE BERG: I think it would be timely for
21 Commission staff and Qwest to address this issue at this
22 time, but not necessarily on this record.

23 So, Ms. Anderl, I'm going to ask that you and
24 any other interested parties stay on the line for the
25 discussion to ensue, and I will leave it to Qwest to

01711

1 work out with the other parties, all other parties, the
2 format for which it is to produce that evidence.

3 At this time for the record center, for the
4 Commission's record center, I will just indicate that
5 preliminarily U S West may file an electronic version or
6 a CD version, but that record center version it should
7 be understood does not satisfy or address Qwest's
8 obligation to make service on other parties, all right,
9 Ms. Anderl?

10 MS. ANDERL: Thank you, Your Honor, I
11 understand that perfectly, and I will work with staff
12 and each of the other parties to make sure that we
13 address their needs.

14 JUDGE BERG: It may be that at some other
15 point in time, in fact, the Commission itself will ask U
16 S West or Qwest to make a paper filing. But at this
17 point in time for the Commission's purposes, Qwest may
18 file electronic versions.

19 And then, Mr. Goltz, do you want to --

20 MR. GOLTZ: Well, I was just going to say
21 that we have run out and checked with Ms. Roth, and we
22 really need hard copy on this and I -- we may have had a
23 hard copy on a couple of pieces already, and we
24 understand also now that the third piece is going to be
25 here within the next day or two. But it may be that we

01712

1 can, you know, if it's not hard copy that we're getting,
2 then we can just reconnect informally in a day or two,
3 and if we need the assistance of the administrative law
4 judge, we will make that communication.

5 JUDGE BERG: All right, that's my preference,
6 because there may be, in fact, a problem with the way
7 that it's being printed out so that if you were to get
8 several thousand pages that you would find that there
9 was still a problem that needed to be corrected. So I
10 would like the issue to be dealt with directly. And if,
11 in fact, there is some other -- if the parties reach
12 some impasse, then I'm prepared to sit down and work
13 with the parties.

14 Anything else, counsel?

15 Hearing nothing, we will be adjourned.

16 (Hearing adjourned at 11:15 a.m.)

17

18

19

20

21

22

23

24

25