

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
 TRANSPORTATION COMMISSION,)
 4 Complainant,) DOCKET NO. UT-930957
 5 vs.)
 6 U S WEST COMMUNICATIONS, INC.,)
 7 Respondent.)
 8 -----)
 9 WASHINGTON UTILITIES AND)
 TRANSPORTATION COMMISSION,)
 10 Complainant,) DOCKET NO. UT-931055
 11 vs.)
 12 U S WEST COMMUNICATIONS, INC.,)
 13 Respondent.)
 14 -----)
 15 WASHINGTON UTILITIES AND)
 TRANSPORTATION COMMISSION,)
 16 Complainant,) DOCKET NO. UT-931058
 17 vs.) VOLUME I
 18 U S WEST COMMUNICATIONS, INC.,) PAGES 1-93
 19 Respondent.)
 20 -----)

21 A hearing in the above matter was held on
 22 April 11, 1994 at 9:38 a.m., at 1300 South Evergreen
 23 Park Drive Southwest, Olympia, Washington, before
 24 Administrative Law Judge ELMER CANFIELD.
 25 Lisa K. Nishikawa, CSR, RPR, Court Reporter

1 The parties were present as follows:

2 U S WEST COMMUNICATIONS, INC. by EDWARD T.
3 SHAW and MOLLY HASTINGS, Corporate Counsel, P.O. Box
4 21225, Seattle, Washington 98111.

5 DEPARTMENT OF INFORMATION SERVICES by
6 ROSELYN MARCUS, Assistant Attorney General, 905 Plum
7 Street, P.O. Box 40100, Olympia, Washington
8 98504-0100.

9 TCA, PUGET SOUND CHAPTER, and TRACER by
10 ARTHUR A. BUTLER, Attorney, 1201 Third Avenue, Suite
11 2850, Seattle, Washington 98101.

12 METRONET SERVICES CORPORATION by BROOKS E.
13 HARLOW, Attorney, 601 Union Street, #4400, Seattle,
14 Washington 98101-2352.

15 CITY OF BELLEVUE by DAVID KAHN, Assistant
16 City Attorney, 11511 Main Street, Bellevue,
17 Washington 98009-9012.

18 KING COUNTY COMPUTER AND COMMUNICATIONS
19 SERVICES DIVISION by ROSE DEMBO, Telecommunications
20 Manager, 700 Fifth Avenue, Suite 2300, Seattle,
21 Washington 98104-5003.

22 PUBLIC COUNSEL by DONALD T. TROTTER,
23 Assistant Attorney General, 900 Fourth Avenue, Suite
24 2000, TB-14, Seattle, Washington 98164-1012.

25 THE COMMISSION by SALLY G. JOHNSTON,
Assistant Attorney General, 1400 South Evergreen Park
Drive Southwest, Olympia, Washington 98504.

ASSOCIATION OF WASHINGTON CITIES by ROBERT
E. MACK, Attorney, Suite 403, 1102 Broadway Plaza,
Tacoma, Washington 98402.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES by
LIANNE MALLOY, Assistant Attorney General, 670
Woodland Square Loop Southeast, Olympia, Washington
98504-0124.

WASHINGTON STATE SCHOOL DIRECTORS
ASSOCIATION and THE EVERGREEN STATE COLLEGE by JAN
FRICKELTON, Assistant Attorney General, P.O. Box
40100, Olympia, Washington 98504.

1 YAKIMA COUNTY by RONALD S. ZIRKLE, Attorney,
2 County Courthouse, Room 211, Yakima, Washington 98901.

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3 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

4 (No witnesses.)

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6 EXHIBIT MARKED ADMITTED

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1 PROCEEDINGS

2 JUDGE CANFIELD: This prehearing conference
3 will please come to order. The Washington Utilities
4 and Transportation Commission has set for hearing at
5 this time and place Docket Numbers UT-930957,
6 UT-931055, and UT-931058, each entitled Washington
7 Utilities and Transportation Commission, complainant,
8 versus US WEST Communications, Inc., respondent.

9 The matter is being held pursuant to due
10 and proper notice to all interested parties at
11 Olympia, Washington on Monday, April 11, 1994.
12 Conducting the prehearing conference today is Elmer
13 Canfield, administrative law judge with the Office of
14 Administrative Hearings.

15 And at the conference today we're going to
16 be taking appearances, dealing with interventions, and
17 the notice also indicated we would be dealing with the
18 distribution of the direct testimony and exhibits of
19 the respondent. We'll be dealing with hearing dates,
20 prefiling dates, and other preliminary matters as
21 well.

22 And as indicated on the notice of hearing,
23 the ultimate issues are whether the tariff revisions
24 are fair, just, reasonable, and sufficient, and for
25 the public convenience and advantage. And that

1 includes considerations of alternative rate design or
2 structure. It goes on to indicate that the burden of
3 proof is on the respondent.

4 We do have a number of appearances that
5 have been made known. There have been a number of
6 petitions to intervene filed, and I've been put upon
7 notice that there would be some oral motions to
8 intervene as well, so I would like to start out by
9 taking appearances of the parties beginning with the
10 respondent, please.

11 MR. SHAW: Ed Shaw and Molly Hastings
12 for the respondent, US WEST Communications, Post
13 Office Box 21225, Seattle, 98111.

14 JUDGE CANFIELD: Thank you. And maybe it
15 might make sense for me just to start at this end of
16 the room and go around that way. I think it would be
17 workable that way. So can I start at this end of the
18 room, please.

19 MS. JOHNSTON: Appearing for Commission
20 staff, Sally G. Johnston, assistant attorney general.
21 My address is 1400 South Evergreen Park Drive
22 Southwest, Olympia, Washington, 98504.

23 JUDGE CANFIELD: Thank you.

24 MR. TROTTER: For Office of Public Counsel,
25 my name is Donald T. Trotter, assistant attorney

(COLLOQUY)

7

1 general. My address is Suite 2000, 900 Fourth Avenue,
2 TB-14, Seattle, Washington, 98164-1012.

3 JUDGE CANFIELD: Thank you.

4 MS. DEMBO: For King County Computer and
5 Communications Services, Rose Dembo,
6 Telecommunications Manager, 700 Fifth Avenue, Suite
7 2300, Seattle, 98104-5003.

8 JUDGE CANFIELD: And can I get the spelling
9 of your last name, please.

10 MS. DEMBO: D E M B O.

11 JUDGE CANFIELD: D E M B O?

12 MS. DEMBO: Correct.

13 JUDGE CANFIELD: Thank you. Next, please.

14 MR. KAHN: For the City of Bellevue, David
15 Kahn. That's K A H N. 11511 Main Street, Bellevue,
16 98009-9012.

17 JUDGE CANFIELD: Thank you.

18 MR. HARLOW: Good morning. For Metronet
19 Services Corporation, my name is Brooks Harlow. My
20 mailing address is 4400 Two Union Square, 601 Union
21 Street, Seattle, Washington, 98101-2352.

22 JUDGE CANFIELD: Okay, thank you.

23 MR. BUTLER: For TCA, Puget Sound Chapter,
24 and for Tracer, my name is Arthur A. Butler. My
25 address is 1201 Third Avenue, Suite 2850, Seattle,

1 Washington, 98101.

2 JUDGE CANFIELD: Okay, thank you.

3 MS. MARCUS: On behalf of the Department of
4 Information Services, my name is Roselyn Marcus,
5 assistant attorney general. My address is 905 Plum
6 Street, PO Box 40100, Olympia, Washington, 98504.

7 JUDGE CANFIELD: Okay, thank you.

8 MS. FRICKELTON: I'm Jan Frickelton,
9 assistant attorney general, representing two state
10 agencies, the Washington State School Directors
11 Association and the Evergreen State College.

12 And I would also like to note that Cheryl
13 Moore who filed a petition on behalf of the Kent
14 School District called me this morning and she -- we
15 are talking about combining our petitions. She was
16 unaware that the Washington State School Director had
17 filed a petition when she filed hers, so she wanted
18 her appearance noted, and we're going to try to work
19 out combining our petitions in some way.

20 JUDGE CANFIELD: They will not be appearing
21 today?

22 MS. FRICKELTON: Well, not in person, but I
23 guess I'm sort of doing the umbrella thing this
24 morning.

25 JUDGE CANFIELD: Okay, yeah. And could I

1 get the spelling of your last name, please.

2 MS. FRICKELTON: F R I C K E L T O N.

3 JUDGE CANFIELD: Okay. Thank you.

4 MS. MALLOY: My name is Lianne Malloy. I'm
5 appearing on behalf of the Department of Social and
6 Health Services. My address is PO Box 40124, Olympia,
7 Washington, 98504-0124.

8 JUDGE CANFIELD: And the spelling of your
9 last name, please?

10 MS. MALLOY: M A L L O Y.

11 JUDGE CANFIELD: Okay. Thank you.

12 MR. MACK: For the Association of
13 Washington Cities, my name is Robert Mack, M A C K.
14 I'll be joined later by John Nettleton, N E, double T,
15 L E T O N of the firm Smith, Alling, Lane. Our
16 address in Tacoma is Suite 403, 1102 Broadway Plaza,
17 Tacoma, Washington, 98402.

18 JUDGE CANFIELD: Are there any other
19 appearances at this time? Let the record reflect
20 there are no other appearances being made.

21 MR. ZIRKLE: Mr. Chairman, my name is Ron
22 Zirkle. I'm an attorney for Yakima County and I have
23 a petition to intervene.

24 JUDGE CANFIELD: Okay. I guess that's just
25 as I was asking, if there are any more. Could I have

1 you maybe pull a chair up and have a seat at the
2 table. It might make it easier to handle things if
3 we're all around the counsel table.

4 And I'll have to get you to repeat your
5 name again, please.

6 MR. ZIRKLE: Ron Zirkle, Z I R K L E. I'm
7 a deputy prosecuting attorney for Yakima County.

8 JUDGE CANFIELD: Okay. And you have not
9 yet filed a petition to intervene, you're going to be
10 filing that today?

11 MR. ZIRKLE: Today.

12 JUDGE CANFIELD: And did you bring extra
13 copies with you as well?

14 MR. ZIRKLE: Yes, I did.

15 JUDGE CANFIELD: Okay. Hopefully enough
16 copies. That's been a problem thus far. Yeah, the
17 Commission usually requests the original and 19 and
18 I'm advised that in this case an original plus 16 will
19 suffice, so I don't know if you brought that many, but
20 hopefully that will aid those for future reference.

21 We do have a number of petitions, as I
22 indicated, and motions that we're going to be dealing
23 with, and I'm sure the parties may have some points as
24 well to cover. I should deal with the interventions
25 at the outset, and I know there had been a number of

1 them filed with the Commission and some will be filed
2 today and also motions made today, so let's just deal
3 with them in -- I tried to make a list here as they
4 came in.

5 I think the first one we received was
6 Department of Information Services. I don't know
7 if everyone has received a copy of that. Maybe we
8 could just take a break to make sure if you don't have
9 copies of the petitions, that we could have those
10 distributed around the table at this time, so maybe I
11 could just go off the record for a moment to make sure
12 that everyone has a copy to refer to while the matters
13 are being dealt with, so I'll just --

14 MR. SHAW: Your Honor, the company received
15 very few. I've only got WITA's and DIS's and Kent's,
16 GTE.

17 JUDGE CANFIELD: Yeah, that might be a
18 problem, and I'm informed by the records center
19 downstairs that in some cases just an original was
20 filed and no copies, which made it hard on them to
21 distribute copies and that, so be advised that on
22 filings we do want original plus 19 copies, or in
23 this case I guess 16 copies filed, so hopefully you
24 brought copies with you today to make available to the
25 other parties, so let's do take a short break to have

1 those distributed and then we'll deal with the
2 interventions. So go off the record for a moment.

3 (Discussion off the record.)

4 JUDGE CANFIELD: We're back on the record
5 after a short recess during which time the parties
6 distributed what copies of their petitions for
7 intervention they brought with them, and it was
8 indicated that they would be expected to provide
9 copies to all other parties as well as file original
10 plus 16 copies with the records center of the
11 Commission if they haven't already done so.

12 And as far as the first one I was just
13 referring to, that was the one filed with the
14 Commission on March 25, 1994 by the State of
15 Washington Department of Information Services. So I
16 would like to ask Ms. Marcus if she has anything
17 further to add to her petition to intervene.

18 MS. MARCUS: We have nothing further to
19 add, and I believe everybody did receive a copy of the
20 petition in advance.

21 JUDGE CANFIELD: Okay. And those that are
22 here today that may not have received a copy, you've
23 made those available to them then?

24 MS. MARCUS: I believe they've all received
25 a copy, yes.

1 JUDGE CANFIELD: Okay. Any comments on the
2 petition to intervene of the Department of Information
3 Services?

4 MR. SHAW: Yes, your Honor. Rather than
5 go through each one of these, perhaps preliminary
6 statements by the company would be in order. I hope I
7 state the obvious when I observe that the great number
8 of petitioners for intervention here are going to
9 cause a real problem for the orderly conduct of this
10 case, as looking at the petitions, oral and written,
11 that you've received, it would appear the great bulk
12 of them, outside the two LECs and perhaps Metronet
13 representing interest of a competitive nature, all of
14 the petitions for intervention relate mostly to public
15 agencies who are customers of one of the services that
16 will be affected by this proceeding, with Tracer and
17 TCA representing private sector customers. The
18 interest of all of these public sector petitioners
19 appears to be identical, that is, they are all
20 relatively large users of the specific service
21 terminal loop service and are naturally interested in
22 what the Commission may do with the rate levels for
23 those services.

24 The Commission has amended its Rules of
25 Procedure as to interventions and made them quite

1 liberal, but does cross reference Administrative
2 Procedures Act and references specifically the ability
3 of yourself and the Commission to put limitations on
4 the participation of intervenors, particularly
5 intervenors with exactly the same interest and exactly
6 the same theme.

7 Public agencies have budgets. Budgets are
8 fixed. They can't afford or retroactively budget for
9 increased rates that might come out of this
10 proceeding.

11 I note that DIS in particular as being the
12 lead state agency, in their petition they represent
13 that they are a user of these services and in turn
14 provide these services to other state and public
15 agencies. And particularly looking at Evergreen
16 College and DSHS, all seem to be one and the same with
17 DIS, so I wouldn't normally in one of these kinds of
18 proceedings object to the intervention of DIS as kind
19 of the lead public sector customer of the company, but
20 I would object to their intervention if subsequent
21 interventions are going to be provided or at the
22 minimum allowed without very specific restrictions on
23 repetitive cross-examination, repetitive briefing,
24 repetitive discovery, and just the general conduct of
25 these hearings.

1 We are on a very short schedule. We don't
2 have very much time left if we have to try this case
3 on an open-ended basis without any limitation of the
4 issues. And it's just not going to be workable for
5 the Commission to allow intervenors that have
6 precisely the same interests and don't bring anything
7 different at all to the proceeding other than
8 repetitive massive numbers.

9 So on that basis, I will be objecting for
10 the record to the petitions to intervene of customers
11 that are located or situated precisely in the same
12 way, and particularly if they are already represented
13 by some kind of umbrella agency like DIS.

14 JUDGE CANFIELD: Okay. And as far as the
15 specific petition of DIS, maybe you could clarify your
16 position there.

17 MR. SHAW: Well, again, not knowing what
18 you're going to do as we go down this list one by one,
19 put it this way, I suppose at this point I don't
20 object to DIS's position, but I would reserve the
21 right to object to it if it becomes repetitive with
22 other petitions for intervention. That's the only way
23 I know how to approach them.

24 JUDGE CANFIELD: Okay. Let me get comments
25 starting over here. Ms. Johnston.

1 MS. JOHNSTON: I certainly have no
2 objection to DIS's intervention, but it's my
3 understanding that DIS does not represent all of the
4 parties' interests here today, at least as far as
5 those public agencies. For example, it's my
6 understanding that the Evergreen State College's
7 interests in this case are not necessarily represented
8 by DIS. Perhaps Ms. Marcus can clarify which state
9 agencies DIS does in fact represent in this
10 telecommunications arena.

11 JUDGE CANFIELD: Okay. We'll allow her to
12 do so momentarily. Mr. Trotter?

13 MR. TROTTER: Thank you. First of all, all
14 of the intervention petitions that I've seen indicate
15 that these are customers of US WEST -- I haven't heard
16 the oral interventions, obviously -- so I think they
17 have standing to intervene. It does appear if one of
18 the individual intervenors is a member of DIS or some
19 other umbrella group, that it may be appropriate to
20 ask them to appear as a member of the group instead of
21 individually, although the Commission has allowed
22 individual WITA companies to intervene when WITA
23 intervened, so I'm not sure what the precedent is, but
24 we think just by looking at the list, doesn't appear
25 to me, at least to my knowledge, which is limited in

1 this area, but that there is such an overlap. If
2 there is, perhaps those people can be encouraged to do
3 it.

4 With respect to repetitive cross, briefing,
5 and discovery, I think we can cross the repetitive
6 cross-examination bridge when we come to it. The
7 discovery I don't think should be repetitive because
8 if someone asked for the same data, I assume they'll
9 get the same data anyway. And briefing, again, we can
10 deal with that when the time comes.

11 So at this point with this number of
12 parties, it can be cumbersome. We haven't seen it
13 yet. I'm willing to give these parties the benefit of
14 the doubt, so that at this point we're not objecting
15 to any of the interventions on behalf of customers
16 whose petitions I've seen, with the understanding
17 that none of these customers happen to be members of
18 organizations that are already going to be granted
19 intervention.

20 JUDGE CANFIELD: Okay. Ms. Marcus, there
21 was one inquiry made as far as maybe you could just
22 clarify the scope of your coverage. I don't know
23 whether some of these agencies might or might not come
24 within that purview. Maybe you could just clarify
25 that a bit. Ms. Johnston made some comments about

1 some further clarification along those lines.

2 MS. MARCUS: Certainly, your Honor. As you
3 know, DIS is the agency charged by statute to provide
4 telecommunications services to other state agencies,
5 but it is a voluntary and not a mandatory requirement
6 that state agencies use DIS as the provider of the
7 telecommunications services. From what I understand,
8 DIS does not provide services to Evergreen State
9 College. They contract directly with US WEST for
10 their services.

11 For the Department of Social and Health
12 Services, a portion of their telecommunications
13 services are provided through DIS, and so that
14 overlapped, DIS will certainly represent that
15 interest. There is another portion of Department of
16 Social and Health Services that contracts directly
17 with US WEST, so they fall halfway under DIS, but not
18 all.

19 I do not believe we provide it to the
20 school districts, but the Washington State School
21 Directors Association as a separate state agency does
22 receive its telephone servicing through contract with
23 DIS.

24 JUDGE CANFIELD: Okay. And that was which
25 agency again?

1 MS. MARCUS: The Washington State School
2 Directors Association.

3 JUDGE CANFIELD: Okay. Yeah, I certainly
4 agree with a lot of the comments as far as not wanting
5 to unduly duplicate efforts and have repetitive
6 matters that aren't really furthering the record
7 coming up over and over again, but as far as this
8 petition to intervene, I'll certainly consider the
9 others as we come to them, and I'm going to grant the
10 petition to intervene of Department of Information
11 Services and it's so granted.

12 Okay. There is no particular order in
13 these. Let me just take them in the order that I have
14 assembled the petitions. The next one I have here is
15 the petition of the Washington Independent Telephone
16 Association, WITA, to intervene and that was filed
17 with the Commission on March 30, 1994. And their
18 representative, Richard A. Finnigan, contacted our
19 office by telephone last week. I wasn't in but the
20 message taken was that they would not be able to
21 attend the prehearing conference today, but that they
22 still wanted to intervene, and that they had
23 apparently contacted the respondent and Commission
24 staff concerning their intervention, and at least it
25 was indicated in this message that that would not be a

1 problem for them to intervene not appearing at the
2 session today. Maybe I could hear from Mr. Shaw on
3 that.

4 MR. SHAW: Yes. I spoke with Mr. Finnigan
5 and indicated to him that I would have no objection to
6 his petition.

7 JUDGE CANFIELD: Okay.

8 MR. TROTTER: Your Honor, I did not get a
9 copy of the petition. Can you articulate the basis
10 for intervening? Are they purchasing these services
11 from US WEST?

12 JUDGE CANFIELD: Do you have a copy, Ms.
13 Johnston, that you could show Mr. Trotter so he could
14 look that over momentarily, and as he's doing that,
15 maybe I could ask Ms. Johnston her position on the
16 intervention of WITA.

17 MS. JOHNSTON: I spoke with Mr. Finnigan
18 last week also and he indicated that he would not
19 object to any hearing schedule that was set today at
20 the prehearing conference. Staff has no objection to
21 WITA's intervention in this matter.

22 MR. TROTTER: I guess I will object. The
23 only interest I see in the petition is that they want
24 to participate to explore issues on costing for
25 private line services. It's been my experience the

1 Commission usually does not allow intervention for
2 companies if they just want to talk about theories, if
3 those theories don't actually affect them. I recall
4 cases involving US WEST where GTE and others were not
5 allowed in. This appears to be just another example
6 of one of those cases, so we will object.

7 JUDGE CANFIELD: Okay. We don't have Mr.
8 Finnigan here to respond, obviously. It does indicate
9 in the petition that WITA would not broaden the
10 issues, and with that caveat, I'll grant the petition
11 of WITA, and certainly if that problem does come up,
12 we can certainly deal with it at the time, so with
13 that, the petition to intervene of WITA is granted.
14 But that's certainly a point that is worth noting and
15 something to be on the lookout for.

16 And the third one I have here is the
17 petition to intervene of GTE Northwest, Incorporated,
18 and what was the situation with the GTE petition?
19 Anyone been contacted or made aware of GTE's position?
20 I don't see any further telephone calls or notes other
21 than the petition that was filed by GTE with the
22 Commission on April 1, 1994. Mr. Shaw, were you
23 contacted by GTE concerning their petition?

24 MR. SHAW: No, I was not. I'm quite sure,
25 given the nature of their interventions in US WEST

1 cases on an almost routine basis, it's the second
2 biggest local exchange company in the United States,
3 they are very concerned about any precedents affecting
4 how local exchange companies provide services that may
5 be set by the Commission in US WEST cases, and that's
6 the basis for their intervention, I'm sure.

7 JUDGE CANFIELD: Okay. And they didn't
8 contact you one way or the other as far as their not
9 specifically appearing today at the prehearing
10 conference?

11 MR. SHAW: No, they did not.

12 JUDGE CANFIELD: Okay. Likewise, my notes
13 don't indicate that there was a telephone contact or
14 any follow-up on that. Any comment that you have
15 to make, Ms. Johnston?

16 MS. JOHNSTON: Staff wasn't contacted
17 either by GTE. We take no position on their
18 intervention, although I do note that the stated
19 purpose for their intervention is identical to the
20 stated purpose appearing in WITA's petition for
21 intervention, and that is to explore the issues
22 surrounding costing theories. And as Mr. Trotter
23 pointed out, that could well be an intervention just
24 for the purposes of monitoring the case, or in the
25 event that these parties want to take a more active

1 role in the case and do just want to discuss
2 theoretical issues, then I suppose we could address
3 that at the time.

4 JUDGE CANFIELD: Okay. And any comments,
5 Mr. Trotter?

6 MR. TROTTER: I would make the same
7 objection that it be overruled for WITA.

8 JUDGE CANFIELD: Yes, again, those are
9 certainly points to consider, and if it does present
10 itself, we'll certainly deal with it. I'll note that
11 the rule does allow for interventions without the
12 presence of the intervenor, so I'll grant the petition
13 to intervene of GTE Northwest, Incorporated.

14 MR. BUTLER: Can I ask, just for my
15 information purposes here, who will be appearing for
16 GTE?

17 JUDGE CANFIELD: That might be helpful. I
18 just assumed copies of these were in everyone's hand,
19 but that, as indicated earlier, has not been the case.
20 They give the address and then --

21 MS. JOHNSTON: Mr. Potter, I believe.

22 JUDGE CANFIELD: Okay. Yes, through its
23 attorney Richard E. Potter.

24 MR. BUTLER: Thank you.

25 JUDGE CANFIELD: P O T T E R. And, yeah, if

1 you have not received a copy yet, maybe there's some
2 extra copies available at the Commission. If not, we
3 can certainly request Mr. Potter to provide copies to
4 all parties as well. Maybe that can be touched upon
5 in prehearing conference order that all parties are to
6 be served copies of the documents.

7 And the next one is petition to intervene
8 of the Kent School District, and I understand, Ms.
9 Frickelton, you're basically appearing for them today
10 or at least considering the incorporation of their
11 intervention --

12 MS. FRICKELTON: Right.

13 JUDGE CANFIELD: -- into your
14 representation?

15 MS. FRICKELTON: Right. In the same spirit
16 of trying to keep all these documents at a minimum,
17 we're -- I spoke with the attorney for the Kent School
18 District and she indicated that she would be
19 interested in incorporating her petition into ours,
20 therefore, we would eliminate some of the repetition.

21 JUDGE CANFIELD: Okay. But as of yet, that
22 has not been --

23 MS. FRICKELTON: That has not happened.
24 And I can't speak on their behalf, but one of the
25 suggestions is if they withdraw their petition, and

1 that may happen.

2 MR. SHAW: Your Honor, I suggest that we
3 not deal with this one, on the hopes that they will
4 withdraw and we don't have to discuss it.

5 JUDGE CANFIELD: Okay. There are going to
6 be further discussions on that, Ms. Frickelton?

7 MS. FRICKELTON: Right.

8 JUDGE CANFIELD: Okay. Would you be
9 agreeable to withholding ruling then on that
10 particular petition, and if it's withdrawn that'll
11 take care of itself, or if they decide to go it alone,
12 that can certainly be brought up at that time if that
13 be their desire? Would you have any objection to
14 taking that approach?

15 MS. FRICKELTON: I think that would be
16 fine.

17 JUDGE CANFIELD: Okay. I'll defer ruling
18 and defer taking any action on the intervention
19 petition of the Kent School District based upon what's
20 been made known to us thus far at the hearing. And,
21 yeah, I would encourage any consolidation of those
22 types of matters so that we don't have the duplication
23 of parties and copies of documents, that sort of
24 thing. So I'll defer action on the Kent School
25 District intervention and at the same time note that

1 it was filed with the Commission on April 4, 1994.

2 The next one I have is the petition for
3 leave to intervene by the Association of Washington
4 Cities that was filed with the Commission on April 8,
5 1994.

6 MR. TROTTER: Your Honor, if I could
7 interrupt, could I just offer maybe a time-saving
8 solution here?

9 JUDGE CANFIELD: Okay.

10 MR. TROTTER: It could take quite a while
11 for each and every intervention to be teed up. I
12 think this goes to Mr. Shaw's concern about
13 repetition. We don't object to looking at the list
14 that was read off. We don't object to any other
15 intervenors. Maybe we could take Mr. Shaw's
16 objections as posed and see what we can do about
17 that, and if we need to go through them one by one, so
18 be it. I don't know if Mr. Shaw is demanding that we
19 go through them one by one. These are customers, as I
20 see it, customers that are going to be on the
21 receiving end of the potential rate increase. I'm
22 looking for a way to streamline the process. If
23 there's not a way, then I'm willing to carry on.

24 MR. SHAW: Your Honor, I'm not interested
25 in form over substance either, but I'm troubled by Mr.

1 Trotter's earlier assertion and now assumption that
2 all customers are entitled to intervene as parties as
3 a matter of right. Intervenors have full party status
4 if they are allowed in, and it shouldn't be something
5 that is handed out like candy.

6 US WEST has millions of customers in this
7 state. If every customer has an absolute right to
8 intervene in a rate proceeding, we have an absolutely
9 unworkable situation. And just because these are
10 customers doesn't make them automatic entrants. If
11 they have absolutely no distinguishing feature from
12 other customers that have already intervened and they
13 have like interests and in fact they are the same
14 class of customer, their petitions for intervention
15 should be consolidated in some fashion and limited.
16 That's the company's position.

17 MR. TROTTER: That's my point. I think we
18 should get to that point rather than dealing with them
19 piecemeal. That was my only point. These are
20 obviously persons with standing, and then I think we
21 just need to know how to deal with them. That's my
22 point.

23 JUDGE CANFIELD: Okay. I don't know if
24 there's a way we could streamline or shorten it
25 somewhat. I don't know if the remaining petitions if

1 there are any on there that we know ahead of time that
2 there's no objection to. I don't know without asking.
3 I don't know if I could do that in a group type of
4 fashion or whether you would prefer, Mr. Shaw, going
5 through them individually.

6 MR. SHAW: Well, the petitions, of course,
7 are very cryptic, your Honor, but the only interest
8 they do suggest is that they are public sector
9 customers. I'm now talking about Association of
10 Washington Cities and so forth, and putting the
11 Tracer, TCA, Metronet group aside for a minute. The
12 Association of Washington Cities proposes to
13 intervene, the City of Bellevue proposes to intervene,
14 and Yakima County proposes to intervene, for instance.
15 There's three petitions for intervention that seem to
16 be identical. No distinguishing features whatsoever.

17 And my dilemma is if Association of
18 Washington Cities is allowed to intervene, then I
19 suggest perhaps the City of Bellevue should not be and
20 Yakima should not be. Maybe these three parties could
21 get together in the interests of the wallets of the
22 taxpayers and in the interests of making this
23 proceeding work, they could somehow find their way to
24 come together. They don't have any conflicting or
25 different interests. It's the exactly same interest.

1 I don't know, maybe a short recess to
2 allow those customers that are absolutely similarly
3 situated could agree to consolidate their efforts. We
4 have five or six assistants attorney general sitting
5 around here. The staff represents the interests of
6 the public, Mr. Trotter represents the interest of the
7 public, and then each public agency is coming in.
8 It's just very repetitive. And you have full
9 discretion under the APA and the rules of this
10 Commission to put some restrictions on these kinds of
11 interventions.

12 JUDGE CANFIELD: I'm certainly agreeable to
13 a break so that the parties have an opportunity at
14 least to discuss those types of matters among
15 themselves, and maybe they would be more -- maybe we
16 would be better able to proceed after that so they at
17 least have had an opportunity to have discussed that.
18 And this is pretty close to time that we might have
19 been taking a break anyway, so I have got no problem
20 with taking a break for that purpose as well as just
21 taking a morning break as well, and also to get copies
22 of petitions to the other parties if they haven't
23 already done so. So any problems with taking a break
24 for that purpose then?

25 MS. JOHNSTON: No, your Honor.

1 affidavit attached to their petition that their
2 expected costs increase are less than our expected
3 costs increase. Maybe we don't understand the
4 formula. But just on that basis alone, we don't have
5 the same interest.

6 JUDGE CANFIELD: Yeah, maybe I'm looking
7 for progress rather than arguing petitions right now.
8 We can certainly get into that if that's what we're
9 looking at, but I don't know if there's any
10 streamlining or combining that has taken place. Are
11 you indicating, Mr. Zirkle, that following those
12 discussions you're indicating that such a combination
13 was discussed and not deemed feasible?

14 MR. ZIRKLE: Yes. We're not comfortable
15 with it at this time at least.

16 JUDGE CANFIELD: Okay. You're speaking for
17 the county of Yakima?

18 MR. ZIRKLE: Yes.

19 JUDGE CANFIELD: Okay. And there were
20 other comments as well?

21 MR. KAHN: Your Honor, on behalf of the
22 City of Bellevue, I discussed during the break the
23 possibility of combining with the Association of
24 Washington Cities, which Bellevue is a member of. At
25 this point, because of my client's strong concern with

1 being a party, we're not prepared to consolidate the
2 petition, however, we did discuss with the Association
3 the ability to combine to the extent possible for
4 examination, for briefing, and the City certainly is
5 prepared to do everything it possibly can to minimize
6 repetition and to make sure that we do not submit the
7 same arguments twice, and we'll work with the
8 Association towards that end.

9 JUDGE CANFIELD: Okay. Was there any
10 discussion about possibility of -- I don't know if you
11 planned to have a presentation or whether the
12 Association does, whether there's any chance of
13 combining any efforts along those lines. If that
14 hasn't been discussed, that would be a possible --

15 MR. KAHN: Your Honor, I think that's a
16 possibility. Until we do some further discovery and
17 determine whether the impact on the City of Bellevue
18 is exactly the same as that of all the cities, on the
19 smaller cities represented by the Association, we
20 can't guarantee that it will be the same briefing, but
21 I think our intention would be to minimize and
22 streamline the briefing process.

23 JUDGE CANFIELD: Not making a headway as
24 far as any combination, but certainly the concern is
25 certainly well known by the parties. Any other

1 comments before we proceed? Now it sounds now like
2 we're left with where we were a moment ago, that
3 there's no voluntary combining of representations and
4 we're faced with individual petitions by the entities
5 as they were identified earlier. Unless there is
6 something different to report in that regard, I'll
7 proceed through the list. Anything other than what's
8 already been discussed? No? Okay. Why don't we
9 proceed then.

10 We were dealing with the petition to
11 intervene of the Association of Washington Cities and
12 maybe, Mr. Mack, I can ask if there's anything that
13 you have to report or any comments you want to make
14 with respect to the petition to intervene of the
15 Association of Washington Cities.

16 MR. MACK: Only briefly. First of all, we
17 filed an original and 19 copies with the Commission
18 and served some of the -- we served everyone we
19 thought was a party of record as of the time we did
20 that, and I've distributed additional copies this
21 morning of our petition. If a party doesn't have one,
22 I would like to know and I can give them a copy now.

23 I've talked to Mr. Kahn on behalf of the
24 Association. Since our membership is so varied, we
25 have not only large cities but also smaller cities and

1 towns. Of our largest members, the City of Bellevue,
2 to my knowledge, is the only member to date who has
3 indicated interest of actually petitioning to
4 intervene and participate in these hearings. I can't
5 speak for all of them, but it's my understanding that
6 Seattle, City of Seattle, has not indicated such an
7 interest, and Bellevue has a population of the fourth
8 largest member.

9 We would hope to -- although we're not
10 prepared to say that we would consolidate our petition
11 with that of Bellevue, I've talked to Mr. Kahn. It
12 would be our hope and I would assure you and the
13 Commission that we would coordinate as best as we can
14 not having duplication of files, prefilings, or
15 cross-examination or participation at the hearings.

16 The Association itself is a user of US WEST
17 services, but that is not the reason for us
18 petitioning to intervene. The reason is primarily to
19 represent our 270 member cities and towns, and it
20 would be our hope if we were allowed to intervene it
21 would certainly provide an incentive for members other
22 than the City of Bellevue for petitioning to intervene
23 in the future.

24 JUDGE CANFIELD: Was it your anticipation
25 to file testimony in this proceeding?

1 MR. MACK: I honestly do not know at this
2 point until we've had a chance to review with the
3 Association staff the prefiled testimony. I really
4 don't know whether the Association itself had intended
5 to file testimony or not.

6 JUDGE CANFIELD: Okay. I didn't know
7 whether that might have been discussed between
8 yourself and Mr. Kahn as far as any possible
9 consolidation of those evidences.

10 MR. MACK: Yes. I'm sorry, sir. Yes, we
11 have discussed it. If we do that, that we will
12 consolidate that and try to not duplicate.

13 JUDGE CANFIELD: Anything further you want
14 to add or state on your petition to intervene then?

15 MR. MACK: Not at this time. Thank you.

16 JUDGE CANFIELD: Okay. And as indicated,
17 Mr. Mack has copies of the petition available to any
18 of you that don't have a copy in front of you now.
19 Any comments or objections, Mr. Shaw?

20 MR. SHAW: I have nothing further to add,
21 your Honor.

22 JUDGE CANFIELD: Okay. And Ms. Johnston?

23 MS. JOHNSTON: No objection.

24 MR. TROTTER: No objection.

25 JUDGE CANFIELD: Okay. The petition to

1 intervene of the Association of Washington Cities is
2 granted.

3 And the next is the Washington State School
4 Directors Association petition to intervene, and
5 also just beyond that is the Evergreen State College
6 petition to intervene, and, Ms. Frickelton, you're
7 representing both entities, is that correct?

8 MS. FRICKELTON: Yes. I'm assigned to the
9 education division in the attorney general's office,
10 so we felt this would be a way to limit complications
11 in repetition. The Washington State School Directors
12 Association is making attempt to not duplicate efforts
13 and work closely with the members so that their
14 interests are represented.

15 In terms of the Evergreen State College,
16 I'm not prepared at this time to say that their
17 interests are exactly the same as the other state
18 agencies represented by DIS. They contract directly.
19 Higher ed institutions are always considered unique
20 among state agencies. They purchase these services
21 directly through contract and they do have a direct
22 interest, not a theoretical interest in the case, so
23 that they should be allowed to intervene.

24 It has always been our intention, both from
25 WSSDA's point of view and Evergreen's point of view to

1 work closely with DIS so that we do not have
2 repetition and that there is a conservation of
3 resources. But if there are divergent interests, we
4 wish to be allowed to purview those.

5 JUDGE CANFIELD: Anything further you have
6 to add with respect to either of those petitions, the
7 Washington State School Directors Association or the
8 Evergreen State College?

9 MS. FRICKELTON: No, I don't.

10 JUDGE CANFIELD: Okay. Was there any
11 headway made as far as any possibility of combining
12 the petitions or is it still requested that they be
13 individually granted intervenor status?

14 MS. FRICKELTON: At this time we would
15 request they would be granted individually because we
16 do not have enough information to know if all
17 interests are identical.

18 JUDGE CANFIELD: Mr. Shaw?

19 MR. SHAW: Yes, your Honor. I would just
20 object on the basis that the School Directors
21 Association and Evergreen College and the nature of
22 the state agencies already represented by the staff of
23 the Commission, the one assistant attorney general,
24 public counsel through yet another assistant attorney
25 general, DIS through yet another assistant attorney

1 general, I don't see any distinction in these
2 entities. No more than US WEST would be allowed to
3 intervene several times through its corporate
4 subdivisions should the state be allowed to intervene
5 through its corporate subdivisions.

6 JUDGE CANFIELD: Okay. Ms. Johnston?

7 MS. JOHNSTON: No objection to their
8 intervention.

9 MR. TROTTER: No objection.

10 JUDGE CANFIELD: Okay. I certainly agree
11 with the sentiment expressed by Mr. Shaw and I think
12 they've been encompassed in the statement of Ms.
13 Frickelton that that will not be a problem. And with
14 that, I'm certainly going to keep an eye on that to
15 make sure we don't have that undue repetition, but
16 with the assurance that they are going to consolidate
17 and minimize any possible duplication and redundancy
18 in the record, I'm going to grant the interventions
19 separately. And if it appears that they can be
20 combined or there's indication that can be handled in
21 some streamlined fashion later in the proceeding, that
22 can certainly be dealt with at that time, but I'll
23 grant the interventions separately of the Washington
24 State School Directors Association and the Evergreen
25 State College, and that's made in the spirit of the

1 comments just made by Ms. Frickelton as far as her
2 efforts to consolidate and not encumber the record
3 with duplication. So those petitions are granted.
4 And the addresses to be used, Ms. Frickelton, are in
5 the petitions themselves?

6 MS. FRICKELTON: Yes, they are.

7 JUDGE CANFIELD: Okay. And likewise if
8 copies aren't possessed by all parties, be sure to
9 contact Ms. Frickelton and maybe she has extra copies
10 today or at least she'll make those available by
11 supplying copies.

12 MS. FRICKELTON: Yes.

13 JUDGE CANFIELD: Okay. And the next one
14 here is the Department of Social and Health Services.
15 I believe that it was captioned with the Department of
16 Information Services on the petition. Maybe I can ask
17 Ms. Malloy to clarify that.

18 MS. MALLOY: The petition should be
19 captioned Department of Social and Health Services.

20 JUDGE CANFIELD: Okay. And anything that
21 you have to add to the petition to intervene of the
22 Department of Social and Health Services?

23 MS. MALLOY: Not at this time.

24 JUDGE CANFIELD: Mr. Shaw, any comments
25 on that petition?

1 MR. SHAW: Same objection, your
2 Honor, as I previously stated as to the educational
3 agencies. DSHS has already been stated to have at
4 least a half or a significant part of its service
5 supplied by DIS which is already an intervenor, so
6 this is totally repetitive.

7 JUDGE CANFIELD: Okay. Maybe while we're
8 on that point I can ask for clarification of that from
9 you, Ms. Malloy, as far as the duplication aspect.

10 MS. MALLOY: Yes, your Honor. The
11 Department of Social and Health Services contracts
12 with DIS and receives a significant portion of their
13 services through DIS, but in addition to that, they
14 also receive services directly from US WEST and pay US
15 WEST directly. My client has a strong concern in the
16 US WEST loop file, does wish to intervene. At the
17 same time we recognize that there may be overlap
18 between DSHS's interest and DIS's interest and I
19 expect to be working very closely with DIS to avoid
20 duplication.

21 JUDGE CANFIELD: Okay.

22 MS. MALLOY: But at this stage in the
23 proceeding it's difficult to know exactly whether
24 there will be 100 percent overlap or not.

25 JUDGE CANFIELD: It's your indication that

1 they are not identical, there is some contract with
2 DIS and also some contracting directly with US WEST?

3 MS. MALLOY: Yes.

4 JUDGE CANFIELD: I've heard Mr. Shaw's
5 objection to their petition. Any comments, Ms.
6 Johnston?

7 MS. JOHNSTON: No objection.

8 MR. TROTTER: No objection.

9 JUDGE CANFIELD: Okay. I'll grant the
10 petition to intervene of Department of Social and
11 Health Services. And I believe Ms. Moore did indicate
12 that she agrees to avoid duplication to every extent
13 possible, and that will be the spirit in which the
14 petition is granted as well. Like with the rest of
15 the petitions, if it becomes apparent or brought to my
16 attention that there is a problem with repetition or
17 duplication, that can be brought back to the bench for
18 further discussion about possible conditions being
19 imposed at that time, but with the spirit that's being
20 expressed, I don't know that that's going to be a
21 problem. We'll certainly keep that in mind. The
22 petition of the Department of Social and Health
23 Services is granted.

24 And the next one I have is King County
25 Computer and Communications Services Division's

1 petition for leave to intervene that was filed with
2 the Commission today, April 11. And, Ms. Dembo, maybe
3 I can ask you if there's anything you have to add and
4 state concerning your petition.

5 MS. DEMBO: No, your Honor, just that I
6 don't want to add to the proceedings, and if it
7 develops that other parties' interests are the same as
8 King County's and that they are representing us with
9 their testimony and evidence, we will withdraw our
10 petition at that time, but at this stage I can't say
11 that I know that.

12 JUDGE CANFIELD: You're certainly going to
13 be looking into that possibility?

14 MS. DEMBO: Yes. Certainly.

15 JUDGE CANFIELD: Any comments, Mr. Shaw?

16 MR. SHAW: Same objection, your Honor.

17 JUDGE CANFIELD: Okay. And Ms. Johnston?

18 MS. JOHNSTON: No objection.

19 MR. TROTTER: No objection.

20 JUDGE CANFIELD: Okay. I'll grant that
21 petition to intervene of King County Computer and
22 Communications Services Division, and likewise I'll
23 take Ms. Dembo at her word she is going to make every
24 effort to consolidate and alleviate any possible
25 duplication. So that petition is granted.

1 repetition or duplication, you're indicating you plan
2 to make every effort to consolidate to every extent
3 possible?

4 MR. KAHN: That's correct, your Honor.

5 JUDGE CANFIELD: Mr. Shaw?

6 MR. SHAW: Same objection. Clear
7 duplication, your Honor. I note the written
8 application of the City of Bellevue tells us that they
9 have four named individuals that they would like
10 possibly to testify in this proceeding. Assuming you
11 are going to grant this petition over my objection, I
12 would request you make it clear that by granting, that
13 does not give the City of Bellevue a guarantee that
14 that evidence is going to be entertained from those
15 four named individuals. I have no idea who they are,
16 what they are going to talk about, but granting this
17 petition does not at this juncture of the proceeding
18 allow the City of Bellevue to present that evidence.

19 JUDGE CANFIELD: Okay. I had noticed that
20 on page 3 of the petition that there were four named
21 individuals there that would be called to testify.
22 Maybe I could get that clarified, Mr. Kahn, whether
23 that's the intent if the petition is granted that the
24 City of Bellevue would be presenting testimony from
25 those four witnesses.

1 Honor.

2 MR. TROTTER: No objection.

3 JUDGE CANFIELD: Okay. With those
4 considerations and the caveats noted, the City of
5 Bellevue's intervention is granted.

6 And I don't have a copy of the petition by
7 the county of Yakima. I believe it was indicated, Mr.
8 Zirkle, that you had copies available today?

9 MR. ZIRKLE: I had a few and I distributed
10 what I had, saving one copy.

11 JUDGE CANFIELD: Okay. I've just been
12 handed a copy to look at momentarily. Maybe you can
13 just briefly indicate the basis of your petition for
14 the record then, Mr. Zirkle.

15 MR. ZIRKLE: Well, as indicated previously,
16 I don't know if there's much I can add except that if
17 we understand the petition, the rate increase, it's
18 going to have a substantial impact on Yakima County's
19 government. We are a large user -- because of the
20 size of our county and because of the number of
21 outside lines we have, we're a large user of these
22 services.

23 JUDGE CANFIELD: And you made comments
24 earlier about not knowing at this point about the
25 extent of possible duplication with other entities at

1 this time, that there may be some consolidation of
2 efforts that could be made.

3 MR. ZIRKLE: I think there's a possibility
4 for that. We'll certainly seek that wherever we can
5 find it. We don't want to put any more effort into
6 this than any of the other parties have to, nor to
7 cause US WEST.

8 JUDGE CANFIELD: Any comments, Mr. Shaw?

9 MR. SHAW: Same objection, your Honor.

10 MS. JOHNSTON: No objection, your Honor.

11 MR. TROTTER: No objection.

12 JUDGE CANFIELD: Okay. Likewise with the
13 intent as expressed by Mr. Zirkle of consolidating to
14 every extent possible, I'll grant the petition to
15 intervene of Yakima County.

16 And those were the extent of the written
17 petitions that I've been put upon notice that have
18 been filed or will be filed after the session today.
19 There are also indications of oral motions that are
20 going to be made and I don't particularly care which
21 order those come in, so just take them --

22 MR. BUTLER: I'll jump at the chance. I
23 have two petitions to intervene to present, and with
24 the court's permission, I'll do them both at the same
25 time.

1 First like to petition to intervene on
2 behalf of Tracer which is an association of large
3 telecommunications users, many of whose members are
4 customers of one or more of the specific services
5 impacted or which could be impacted by the proposed
6 filings in this case. Their interest is as customers,
7 and as customers they do have an interest in whatever
8 change of rates are proposed by US WEST. Tracer's
9 address is 1201 Third Avenue, Suite 2850, Seattle,
10 Washington, 98101. That is counsel's address as well.
11 We do not seek to broaden the issues in this
12 proceeding.

13 I am also seeking to intervene on behalf of
14 TCA, the Telecommunications Association, Puget Sound
15 Chapter. TCA's address for purposes of this
16 proceeding would be care of Arthur A. Butler at 1201
17 Third Avenue, Suite 2850, Seattle, Washington, 98101.
18 And the name and address of TCA's attorney is mine as
19 well.

20 TCA is a non-profit California corporation
21 with ten chapters located in Washington, Oregon,
22 California, Colorado, Arizona, and Maryland. There
23 are over 2,000 members representing 1,200 companies.
24 The Puget Sound Chapter of TCA is comprised of over
25 120 companies and 300 members located throughout the

1 Puget Sound region, Eastern Washington, and Alaska.
2 Virtually every sector of the business community is
3 represented. TCA's members include many who are
4 customers of the US WEST services that are the subject
5 of this proceeding, and many of those customers are
6 smaller businesses.

7 Between the two, TCA and Tracer, we
8 represent the gamut of the business community in terms
9 of size. We will be consolidating our presentations
10 in this proceeding and we will confer with other
11 parties to try to determine all possible areas in
12 which we can either consolidate presentations or avoid
13 duplication.

14 JUDGE CANFIELD: Okay. And the address
15 again, Mr. Butler, it's 1201 Third Avenue, Suite --
16 what was the suite number again?

17 MR. BUTLER: 2850.

18 JUDGE CANFIELD: 2850, Seattle, Washington,
19 98101?

20 MR. BUTLER: Yes.

21 JUDGE CANFIELD: Okay. And you had not
22 filed a petition to intervene, you're orally making
23 that motion at today's session?

24 MR. BUTLER: Correct.

25 JUDGE CANFIELD: Okay. Any comments, Mr.

1 Shaw?

2 MR. SHAW: Yes, your Honor. We've had this
3 issue before and so I will object to both
4 interventions of these entities. Substantial
5 membership overlap between TCA and Tracer. They are
6 virtually the same thing. They work in lockstep as
7 evidenced by the fact that both, for purposes of this
8 proceeding, run out of Mr. Butler's law office,
9 represented by him.

10 I may be mistaken, but I believe that TCA
11 even has membership a lot of the earlier intervenors
12 in this case and public entities. It's not restricted
13 to the private sector. So it's just piling on of
14 named parties under different label representing
15 exactly the same people. It's ironic because probably
16 some of these members would like to see the rate
17 decreases that are coming out of this case too. So
18 nice to see some of the individual members here, but
19 the two associations overlap substantially and are
20 repetitive, so we would object.

21 JUDGE CANFIELD: Ms. Johnston?

22 MS. JOHNSTON: No objection.

23 MR. TROTTER: No objection.

24 JUDGE CANFIELD: Okay. Any response, Mr.
25 Butler? You've heard the objection of Mr. Shaw as far

1 as his comments.

2 MR. BUTLER: Just to add that I guess it's
3 important to keep in mind that the filings involved in
4 this case affect a variety of services that impact
5 customers differently depending upon their individual
6 circumstances, so while there may be some overlap
7 among the various parties represented here, in fact
8 the range of interests is quite wide and it is not
9 accurate to say that any two parties definitely have
10 exactly the same interests. Tracer, representing
11 interests of larger users with limited membership,
12 face individual circumstances which can be different
13 from those faced by some smaller members or even other
14 companies operating, so again, it is not accurate to
15 say that in fact the interests are identical. And
16 since we are intending to try to consolidate
17 presentations and to avoid any unnecessary
18 duplication, I don't see that there would be any
19 problem.

20 MR. SHAW: Your Honor, I just have to
21 observe for the record that if their interests are
22 different, how could they possibly be represented by
23 the same attorney.

24 MR. BUTLER: I didn't say they were in
25 conflict. I said they were different.

1 JUDGE CANFIELD: Okay. I'll grant the
2 interventions of Tracer and TCA, and I believe Mr.
3 Butler has made it clear that he intends to
4 consolidate to every extent possible, as have the
5 other parties, so hopefully we won't run into the
6 problems that we're anticipating. So with that
7 spirit, those interventions are granted.

8 And there was one other I was put upon
9 notice that would be made and that is yours, Mr.
10 Harlow.

11 MR. HARLOW: Thank you, your Honor. Good
12 morning. Hopefully last is not least, but if nothing
13 else, it will be a relief when it's concluded. My
14 name is Brooks Harlow. I represent Metronet Services
15 Corporation which is orally petitioning to intervene
16 at this time. The address of Metronet is 800 Stewart
17 Street, Suite 300, Seattle, Washington, 98101.
18 Metronet's counsel are myself and Clyde MacIver and we
19 are both located at 4400 Two Union Square, 601 Union
20 Street, Seattle, Washington, 98101.

21 Metronet is a rebiller of
22 telecommunications services and as such is a very
23 large customer of US WEST as well as a competitor of
24 US WEST. Metronet has approximately a thousand
25 customers of its own, and Metronet acts as agent for

1 those customers. Some of those customers purchase
2 private line and terminal loop services from US WEST
3 that are at issue in this proceeding. It's probably a
4 safe bet that nearly all of those customers, as well
5 as Metronet itself, are pretty much users of directory
6 assistance service. However, Metronet's primary
7 interest in this proceeding is very unique from the
8 other intervenors' and that is, as a competitor of US
9 WEST services, the rates are of which may be affected
10 by this proceeding. Metronet does not intend to
11 broaden the issues in this proceeding if its
12 intervention is granted.

13 JUDGE CANFIELD: Okay. And again just so I
14 have the address down, 4400 Two Union Square, 601
15 Union Street, Seattle, 98101?

16 MR. HARLOW: That's correct, your Honor.

17 JUDGE CANFIELD: And Mr. Shaw?

18 MR. SHAW: Yes, your Honor. This
19 Commission knows Metronet resells US WEST Centrex type
20 services. Listening to Mr. Harlow, I did not hear him
21 represent to you that Metronet is a customer of US
22 WEST for terminal loop services. It's such that I
23 don't believe they have any standing at all in this
24 case as a customer. As a competitor, they are a
25 registered telecommunications company with this

1 Commission authorized to currently resell US WEST
2 Centrex services, and as such, they don't have any
3 interest -- immediate interest in any of the issues in
4 this case that I can see. The only connection to this
5 case at all is that they might want to provide either
6 business exchange service, switch business exchange
7 service in competition with US WEST in the future,
8 ordirectory assistance services in the future, or
9 private line terminal loop type services in the
10 future. As such, it's a thin reason to be a full
11 party in this case. I object on that basis.

12 MS. JOHNSTON: No objection, your Honor.

13 MR. TROTTER: I guess I didn't hear Mr.
14 Harlow indicate that Metronet was a customer either,
15 so that the exact nature of the impact on the business
16 is unclear to me. Unless they are here to develop
17 issues, which was the basis for allowing WITA and GTE
18 in, to which I objected, but I guess a further
19 interest to my mind would need to be demonstrated.
20 We'll join the company on that motion to intervene.

21 JUDGE CANFIELD: Okay. Having heard those
22 comments, Mr. Harlow, maybe I'll allow you an
23 opportunity to respond.

24 MR. HARLOW: Thank you, your Honor. First
25 of all, I do not believe Metronet is a customer of

1 terminal loop, however, Metronet has customers that
2 are customers of terminal loop as well as private line
3 services. Metronet has a letter of agency from each
4 and every one of its customers allowing it to lie
5 Metronet at on their behalf on matters dealing with
6 telecommunications, so Metronet does have standing as
7 a customer.

8 The primary interest of Metronet is,
9 however, as a competitor and with any filing that you
10 have that involves rates that are in competition, you
11 have issues that the Commission must address, and
12 these do not proceed in the scope of the proceedings
13 but are indeed inherent in the proceeding with regard
14 to pricing above cost, imputation, and assuring that
15 the fair rates are fair, just, and reasonable, as well
16 as in compliance with statutes that deal with
17 preference and advantage such as RCW 80.36.170, 180,
18 and 186, among others.

19 Metronet clearly has an interest in this
20 proceeding. I do not know what Metronet's position
21 will be on the issues at this time, but I think it's
22 essential that Metronet be a party to this proceeding
23 to protect its interests as no other party has
24 interest of the nature of Metronet.

25 JUDGE CANFIELD: Okay. Based upon the

1 presentation I've heard, I'll grant the intervention
2 of Metronet, rule that there has been sufficient
3 interest in the subject matter of the proceeding, and
4 should that change or should this become a different
5 situation down the line, I'll certainly be open to
6 review that, but as it stands now, I'll rule that
7 sufficient interest has been established, and the
8 motion to intervene of Metronet Services, Inc. is
9 granted.

10 MR. SHAW: Your Honor, could I just ask for
11 a point of clarification. Is the basis for your
12 ruling the fact that Metronet is a competitor of
13 US WEST?

14 JUDGE CANFIELD: Okay. I believe there was
15 an interest expressed by Mr. Harlow in his last series
16 of comments addressing your concerns that you had
17 raised earlier, and that he indicates he's not going
18 to seek to broaden the issues, but as far as the
19 interest in those particular matters, I'll accept it
20 as it was orally stated, that there is a sufficient
21 interest of standing, and I would have to get it read
22 back as far as the specific matters, but if you've got
23 further inquiry of Mr. Harlow that wasn't clear in his
24 comments, I would certainly allow that to be inquired
25 into presently.

1 MR. SHAW: No, your Honor, just as it is
2 going to affect down the road in terms of discovery
3 the testimony on what basis they are in this case. I
4 just want --

5 JUDGE CANFIELD: Any further clarification,
6 Mr. Harlow, that you want to add as far as the
7 specific interest in the case?

8 MR. HARLOW: No. I think the record is
9 clear, your Honor.

10 JUDGE CANFIELD: Okay. With that, I'll let
11 the record stand then, and should that become a
12 problem down the road, we'll certainly revisit that.

13 I don't have any indication that there was
14 any additional possible interventions to be made. Let
15 me just ask if there are any further interventions
16 being made in these matters. Let the record reflect
17 that there are none.

18 So with that, we'll proceed, and we can
19 either proceed now or take a break and have the motion
20 dealt with, or if there are other matters that might
21 be dealt with before we get to that motion of US WEST,
22 we could entertain those initially and have that
23 motion distributed and considered over the lunch
24 break. I don't know that we're going to finish this
25 morning. There's a possibility that we might. Any

1 comments on what parties want to discuss next?

2 MR. SHAW: Your Honor, under the notice, as
3 is often the case, that the company was instructed to
4 file and distribute its direct testimony. We have a
5 pile of paper that we are going to file and we have
6 some copies, but not enough copies for all the
7 parties. That raises a couple of issues.

8 A great bulk of the testimony consists of
9 confidential exhibits, as you would expect being this
10 case is mostly about prices in relation to cost, and
11 we don't have any protective order in this case, and
12 I'm not willing to distribute it until we have some
13 commitments to keep the confidentiality. What we're
14 willing to do since we have several parties here that
15 aren't personally of knowledge of how this works
16 before the Commission, we're willing to stipulate to
17 kind of the standard protective order that we've used
18 over and over in the recent telecommunications cases
19 which I know Mr. Butler and Ms. Johnston and Mr.
20 Trotter and Mr. Harlow are familiar with.

21 We have blank copies of the attorney's
22 commitment to abide by the protective order, so we
23 would ask that maybe the counsel new to this process
24 could chat with Mr. Trotter and Ms. Johnston,
25 whoever, and get an understanding of what's in that

1 protective order, and then if they are willing to sign
2 that form without seeing the formal protective order,
3 we would be willing to give them a copy of the
4 testimony today, to the extent we have enough copies.
5 If we run out, we will have to take business cards and
6 get one in the overnight mail. We didn't anticipate
7 quite these many parties.

8 JUDGE CANFIELD: Okay. Yeah, that does
9 bring up the matter of the protective order, and I
10 don't have a copy with me to show parties that might
11 not be familiar with the standard protective order
12 form that the Commission uses, and maybe some of the
13 counsel do have a copy available that they can show
14 other parties, but with that, I'll open it up for
15 discussion on the protective order matter. There's
16 been a request that the protective order be filed.
17 And any comments from parties? Ms. Johnston?

18 MS. JOHNSTON: I would be willing to get a
19 copy of a protective order and show it to the other
20 intervenors here to see if they can satisfy themselves
21 that the attorney confidentiality agreement is
22 something they are willing to sign. It's the company
23 that's asserting that a protective order is needed in
24 the case. It's the company's financial data, so I am
25 certainly not going to object to the entry of a

1 protective order in the case. Generally have
2 protective orders in telecommunications cases, it
3 seems.

4 JUDGE CANFIELD: Mr. Trotter?

5 MR. TROTTER: If what's before the
6 commission is a motion for a protective order, we
7 don't object to that.

8 JUDGE CANFIELD: Okay. That's my
9 understanding. Okay. Any other comments to the
10 request for a protective order? Let the record
11 reflect there are none. And a copy will be available,
12 if not now, during the next break. Ms. Johnston
13 indicates she'll get a copy available to have the
14 parties look at. And with that, I'll grant the
15 request that the Commission issue a protective order
16 along the same lines and under the same form as has
17 been used in the past. And I'll request that that be
18 issued as soon as possible, but in the meantime, a
19 copy will be made available to look at.

20 And Mr. Shaw has copies of the attorney
21 agreement portion of that that could be signed, and if
22 there's no signing or agreement to be bound by that, I
23 believe Mr. Shaw indicates he'll withhold the
24 confidential matters until those are signed or made on
25 the record today. With that, the motion for

1 protective order is granted.

2 Any further matters along those lines, Mr.
3 Shaw? I don't know if there's been discussion as far
4 as discovery in this proceeding. We have had a real
5 tight schedule. We're going to have to discuss the
6 scheduling as well. I don't know if any discussion
7 among the parties has been had on the possible
8 schedule.

9 MS. JOHNSTON: No, your Honor. I just
10 circulated staff's proposed hearing schedule to the
11 intervenors, but we haven't had an opportunity to
12 discuss the actual hearing dates.

13 MR. SHAW: Generally indicate, your Honor,
14 that the hearing schedule is acceptable to the company
15 as proposed by Ms. Johnston. We have very little
16 time for discovery, and that was my concern about
17 repetitive discovery and witnesses and so forth.
18 Company hopes that there will need to be very little
19 discovery in this case, because company's been in
20 extensive discussions for months with Tracer and its
21 expert witness and DIS, and most of the data of the
22 company has already been supplied to those parties as
23 well as to the staff that has to do with these
24 filings, so hopefully no discovery will be required,
25 and it can be dealt with somewhat informally. But at

1 the same time, with these numbers of intervenors and
2 the fact that we have competitors as well as
3 customers, I think we do need to invoke the discovery
4 rule, and I would ask for you to do that.

5 JUDGE CANFIELD: Okay. Any comments on the
6 request to invoke the discovery rule in this
7 proceeding?

8 MR. BUTLER: Tracer and TCA would join
9 in that proposal.

10 MS. JOHNSTON: I think it's a great idea.
11 I was going to ask for it if US WEST didn't.

12 JUDGE CANFIELD: Okay. With those
13 comments, that request is granted. The discovery rule
14 will be invoked.

15 I haven't yet seen the proposed hearing
16 schedule so I can't comment on it, but a copy has just
17 been handed to me here, and like it's been indicated,
18 there's been no discussion among the parties yet on
19 this, so I can either take discussion on the record or
20 allow a short recess to have the matter discussed and
21 come back on the record to make more meaningful
22 discussion at that time.

23 MS. JOHNSTON: Your Honor, I would prefer
24 to go off the record to discuss the availability of
25 counsel.

1 JUDGE CANFIELD: Okay. That might make
2 more sense. I don't know if this needs to be combined
3 with the lunch break or not, I don't know how much
4 discussion might be anticipated, but let's take a
5 ten-minute recess at this point, and if more
6 discussion is needed, we'll address it at that time.
7 So let's take a ten-minute break until 11:50 a.m.

8 (Recess.)

9 JUDGE CANFIELD: Back on the record. We're
10 back on the record now after a break, during which
11 time apparently the parties have had an opportunity to
12 look through a copy of the protective order form that
13 the Commission has used, and there was also a proposed
14 hearing schedule that was distributed and the parties
15 have had an opportunity to look through that, and we
16 can open that up for discussion.

17 I don't know, I haven't had a chance to
18 check with the Commission as far as the proposed
19 hearing schedule goes and its acceptability to them,
20 but I can certainly take as much comment as we can and
21 get back to that, but as far as the -- we've had the
22 protective order matter that was earlier discussed. I
23 don't know whether those matters have been resolved as
24 far as the signing of the attorney form and then the
25 distribution of the confidential materials or not.

1 That will have to be dealt with as well.

2 We would like to mark the exhibits today
3 and maybe the withholding of those exhibits,
4 confidential exhibits, from those that haven't yet
5 read or signed the agreement to be bound by the
6 protective order we'll have to deal with that, but I
7 believe that has gone around, the parties have looked
8 it over. And I guess as of yet, Mr. Shaw, you have
9 not distributed the testimony and exhibits, is that
10 correct?

11 MR. SHAW: During the break, your Honor, we
12 distributed to everybody that agreed to sign the
13 confidentiality agreement. I think that's by and
14 large everybody. It is everybody.

15 JUDGE CANFIELD: We'll endeavor to get the
16 protective order out as soon as possible to all
17 parties of record. I haven't yet received copies of
18 the testimony and exhibits.

19 MR. SHAW: Your Honor, we have it stacked
20 here, the 19 copies. Some of the judges are different
21 than others. Do you want 19 copies of all the
22 confidential information or just one copy of the
23 confidential information? We have 19 copies.

24 JUDGE CANFIELD: I wouldn't need 19 copies
25 of it. I would just need one copy, and the record

1 center would need the original. I don't know that
2 they would want the extras there as well, but you can
3 certainly double-check with them when it's dropped off
4 down there, but I believe they would want just the
5 original of the confidential and they would not
6 maintain those extra copies, so you might just hold on
7 to those yourself if they don't want them all in the
8 records center.

9 MR. SHAW: (Handing.)

10 JUDGE CANFIELD: Is this one set?

11 MR. SHAW: That's one complete set.

12 JUDGE CANFIELD: Is there one more for the
13 official record? Are these in the order you're
14 requesting they be marked?

15 MR. SHAW: Not particularly. We didn't
16 think about that.

17 JUDGE CANFIELD: I don't have a preference
18 either so I would leave that up to you and I'll mark
19 them in whichever order you request.

20 Had you discussed the distribution of the
21 exhibits to the parties who are not here? I'm just
22 trying to look at some --

23 MR. SHAW: Yes, your Honor. I will take
24 care of that with Mr. Finnigan and Mr. Potter. I will
25 commit to do that.

1 JUDGE CANFIELD: Okay, thank you. Any
2 particular order, Mr. Shaw, that you would request
3 they be marked in?

4 MR. SHAW: Mary Owens' testimony and
5 exhibits first, your Honor.

6 JUDGE CANFIELD: Okay. I'll mark that
7 testimony as Exhibit T-1. That's the testimony of
8 Mary S. Owens and that consists of 16 pages. And
9 there are exhibits as well?

10 MR. SHAW: Yes, your Honor.

11 MR. TROTTER: I don't think there were any.

12 MR. SHAW: No. Maybe I'm mistaken here.

13 JUDGE CANFIELD: I don't have any attached
14 to my copy anyway.

15 MR. SHAW: There are none, your Honor.

16 JUDGE CANFIELD: Okay. Let's premark that
17 for identification as Exhibit T-1 then, with no
18 accompanying exhibits. And the next exhibit?

19 (Marked Exhibit No. T-1.)

20 MR. SHAW: Mr. Rees's testimony, your
21 Honor.

22 JUDGE CANFIELD: Okay. The next one is
23 testimony of Gary A. Rees, R E E S. I'll mark that as
24 Exhibit T-2, the T indicating it's testimony.

25 (Marked Exhibit No. T-2.)

1 MR. SHAW: Your Honor, there's a number of
2 nonconfidential exhibits.

3 JUDGE CANFIELD: Okay. The testimony
4 itself I don't see a page number on it. I guess they
5 are not numbered.

6 MR. TROTTER: In the upper right-hand
7 corner.

8 MR. BUTLER: It goes through 18.

9 JUDGE CANFIELD: Okay. It's in the rest of
10 the information. I wasn't looking there. Yeah, that
11 consists of 18 pages on the testimony. That's Exhibit
12 T-2. And then the GAR-2 I'll mark as Exhibit 3.
13 Then there's GAR-3 I'll mark as Exhibit 4. And these
14 are the nonconfidential exhibits, Mr. Shaw, is that
15 correct?

16 (Marked Exhibits Nos. 3 and 4.)

17 MR. SHAW: Correct.

18 JUDGE CANFIELD: Right, okay. And then the
19 GAR-4 I'll mark as Exhibit 5. And then GAR-6 I'll
20 mark as exhibit -- well, let's see. I might have
21 missed one here. Okay. 5 is confidential so we can
22 -- let's take them in order. Yeah, the GAR-5, that's
23 the confidential exhibit, so let me mark that as a C
24 exhibit, denoting its confidentiality, so I'll mark
25 that as Exhibit C-6, and that being a confidential

1 exhibit subject to the terms and conditions of the
2 protective order.

3 And then GAR-6 is a nonconfidential exhibit
4 which would be Exhibit 7. And then the next one is a
5 confidential exhibit, GAR-7, and that is marked as
6 confidential Exhibit C-8. And then the next one is
7 also a confidential exhibit, GAR-8, and I'll mark that
8 as confidential Exhibit C-9. And is that the extent
9 of the accompanying exhibits of Mr. Rees?

10 (Marked Exhibits Nos. 5, C-6, 7, C-8, and
11 C-9.)

12 MR. SHAW: Yes, your Honor.

13 JUDGE CANFIELD: Okay. Thank you. And the
14 next exhibit to be marked?

15 MR. SHAW: Would be Ms. Nownes, I believe.

16 JUDGE CANFIELD: Peggy A. Nownes,
17 N O W N E S?

18 MR. SHAW: Yes.

19 JUDGE CANFIELD: Okay. I'll mark that as
20 Exhibit T-10. And that consists of seven pages. And
21 then there are two accompanying exhibits. PAN-2 I'll
22 mark as Exhibit 11 and PAN-3 as Exhibit 12 for
23 identification. And was that the extent of the
24 accompanying exhibits of Ms. Nownes?

25 (Marked Exhibit No. T-10, 11, and 12.)

1 MR. SHAW: Yes.

2 JUDGE CANFIELD: And the last one is the
3 testimony of Geraldine G. Santos --

4 MR. SHAW: Rach, your Honor.

5 JUDGE CANFIELD: That's Rach. Okay. I'll
6 mark that as Exhibit T-13. And then I guess all the
7 accompanying exhibits of Ms. Santos-Rach are
8 confidential?

9 (Marked Exhibit No. T-13.)

10 MR. SHAW: That's correct.

11 JUDGE CANFIELD: Okay. I'll continue the
12 numbering, and the GGSR-2 is Exhibit C-14; GGSR-3 is
13 Exhibit C-15; GGSR-4 is Exhibit C-16; GGSR-5 is
14 Exhibit C-17, GGSR-6 is Exhibit C-18, and GGSR-7 is
15 Exhibit C-19. And that's the extent of the
16 accompanying exhibits of Ms. Geraldine G. Santos-Rach?

17 (Marked Exhibits Nos. C-14, C-15, C-16,
18 C-17, C-18, and C-19.)

19 MR. SHAW: Yes.

20 JUDGE CANFIELD: Okay. Is that the extent
21 of the prefiled testimony and exhibits then, Mr. Shaw?

22 MR. SHAW: Yes, your Honor. This is our
23 intended direct testimony. We would of course like to
24 reserve the usual right to make any amendments or
25 changes we have to it before it's admitted as

1 evidence. We don't anticipate any, however.

2 JUDGE CANFIELD: Okay. Those are so marked
3 for identification. And as indicated, Mr. Shaw will
4 provide copies of those to the absent parties. And
5 I'm assuming you'll request their signing of the
6 agreement upon doing that, Mr. Shaw?

7 MR. SHAW: Yes, your Honor.

8 JUDGE CANFIELD: Okay. That may be before
9 the protective order is actually issued. So that
10 would be appreciated. Okay. Those exhibits are so
11 marked for identification then.

12 And there is also the matter of the
13 proposed hearing schedule and we've also got the
14 motion of Mr. Shaw to address. I don't know if the
15 parties want to go through and handle these matters or
16 take a lunch break and come back for these matters.
17 Has that been discussed among the parties?

18 MR. SHAW: No. Not to my knowledge. Your
19 Honor, were you intending to take full argument on our
20 motion today, because we only filed it Friday. I
21 guess we didn't anticipate we would fully argue it
22 today.

23 JUDGE CANFIELD: That's a good point. The
24 fact that it was just filed Friday and we've got a
25 number of parties here who probably haven't seen

1 and/or read it yet, so, no, it was my position on it
2 to give the parties an opportunity to review it and
3 give them an opportunity to respond, set a certain
4 number of days within which the response would be
5 filed, and then have the ruling done by order rather
6 than oral argument at today's session, so, no, I don't
7 anticipate oral argument on that at today's session.

8 MR. SHAW: Okay. If all we have left to do
9 is the schedule, maybe we could just go ahead and wind
10 that up.

11 MS. JOHNSTON: That's a good idea.

12 JUDGE CANFIELD: My only reservation is
13 that we're during the lunch hour, and as far as the
14 acceptability of the proposed schedule to the
15 Commission, I haven't had an opportunity to confirm
16 that, so that's a loose end that might be a problem,
17 and that would give flexibility if we went beyond the
18 lunch hour to allow me to do that, but I can always
19 run it by the Commission after the conference, and if
20 there's any change, I would certainly endeavor to
21 notify all parties by letter or set forth in the
22 prehearing conference order such that we would have to
23 address it again at that point.

24 But let's open it up for discussion on the
25 proposed hearing schedule then, because as I

1 understand it, this is going to be an administrative
2 law judge only case. There's no indication that the
3 Commission anticipates a sitting on the case, and that
4 means that we're looking at an initial order and there
5 would be a time for petitions and then the Commission
6 ordering. It's really tight as far as all that to be
7 accomplished in the time line of the proposed hearing
8 schedule, so we've got the statutory deadline of July
9 29 that we're looking at. And the briefs date is July
10 1, which is a real tight time to get all that in. I
11 recognize from the other parties' perspective it's
12 condensed as well, so those are all so noted, but any
13 comments that the parties have to make on the proposed
14 hearing schedule that has been distributed? Mr. Shaw,
15 you've already made your comments that it would be
16 acceptable to the company?

17 MR. SHAW: Yes, your Honor. With the
18 discussion of this could be a two-stage order case, it
19 would be satisfactory to the company if we could look
20 to have the proposed order by July 29 and then the
21 company would be willing to waive the suspension date
22 for another 30 days to allow the final order to be
23 issued.

24 MS. JOHNSTON: The company's not willing to
25 waive the statutory deadline for the purposes of

1 allowing more time between these hearing dates?

2 MR. SHAW: It's not clear to me that that
3 is required. It's the company's view that this case,
4 although of obviously broad interest, is of simple
5 issues, issues that have been decided by the
6 Commission time after time, so we should be able to do
7 this case by July 29.

8 MR. TROTTER: Your Honor, from our
9 perspective -- well, this is the first time we have
10 seen the company's case. Apparently there have been a
11 series of discussions between company and the staff
12 and perhaps others over the course of time since this
13 case was filed. I believe the case was filed sometime
14 in September. We have not been a party to those
15 discussions and any -- we are surprised it took this
16 long to get set for hearing, and now we are being
17 called upon to agree to a schedule that is most
18 unprecedented in its ambitiousness, if there is such a
19 word.

20 It has caused us some problems. We also
21 now have a motion for a directed settlement, so we now
22 have to allocate resources to that. I have no problem
23 with discussing settlement with the parties, but it's
24 usually a context of a ten-month suspension period,
25 not what has been effectively for us a less than three

1 months suspension period in effect. So giving the
2 Commission itself more time to decide the case after
3 it's submitted is no help to the parties in giving it
4 a quality case to consider, and so we don't see any
5 particular merit in just extending it an additional
6 couple weeks.

7 For the decision part what I think the
8 Commission should be looking for is quality
9 presentation to it of these issues that we're not real
10 sure what they are. If it comes to be that these
11 issues are not that weighty or important or difficult
12 to reach, then great, but, again, it's hard for me to
13 commit to a schedule. I've been glancing through the
14 testimony during the breaks.

15 So this whole thing comes to the Commission
16 in a very awkward posture in terms of timing, but the
17 company is unwilling to waive suspension period for
18 purposes of allowing the parties more time to get the
19 case to the Commission. Then let's just stick with
20 the schedule. My preference is that we do be offered
21 more time to prepare.

22 MS. JOHNSTON: It is certainly staff's
23 preference as well, your Honor. I think for the
24 record I want it known that at least in part it took
25 staff a long time to get the notice of hearing sent in

1 this case, but that was due in large part to the fact
2 that the parties were attempting to negotiate a
3 settlement. In fact, the parties negotiated
4 settlement for over seven months in this case. I just
5 want the record to reflect that.

6 MR. TROTTER: Let the record also reflect
7 public counsel is not one of those parties.

8 MR. HARLOW: Your Honor, we likewise will
9 live with this schedule because it's driven by the
10 statutory deadline. For that reason we don't object
11 to it. To the extent that the Commission can urge the
12 company to consider extending that, I think it would
13 be certainly helpful to the parties. To the extent
14 the Commission is not successful in urging the company
15 to do that, I hope it takes recognition of the fact
16 that a schedule such as this greatly favors the
17 company.

18 The company in my experience spends
19 anywhere from a year or more in preparing its filings
20 and strategizing them and studying them, and as Mr.
21 Shaw commented I think it was off the record, the
22 company was ready to try their case on the day it
23 filed it. Well, although the case was filed
24 apparently six months ago, Metronet is in a position
25 where effectively the case -- to it, the case has been

1 filed today, and we have to start from scratch.

2 Just taking a look at the first time
3 period, if we review the testimony and determine
4 within about a week, which would be fairly quick, to
5 hire an expert and get it reviewed, to send data
6 requests, the responses wouldn't even be coming in
7 till right about the day cross is to begin. We have
8 similar time constraints throughout. There's really
9 essentially almost no allowance for the preparation of
10 transcript for the next stage of the proceeding, and
11 so while we don't object to the schedule, again, I
12 think the Commission should recognize that this kind
13 of schedule really favors the company who's had time
14 to prepare for its case for a long time before it
15 filed it.

16 MS. JOHNSTON: Not only that, your Honor, I
17 think it's particularly ironic the company's refusing
18 to waive the statutory deadline in this case, and at
19 the same time the first paragraph of its motion which
20 is not only unusually unprecedented states that its
21 1994 alternative dispute resolution is a worthy goal.
22 And what in effect is happening now is the staff and
23 the other parties that participated in the settlement
24 discussions are being penalized for those very
25 efforts, so staff is not pleased with the schedule at

1 all.

2 MR. SHAW: Your Honor, I have to be heard
3 on that. We have a statutory situation in this state
4 where the company is entitled to have its tariffs
5 decided within ten days of its suspension. If they
6 are not decided, there could still be hearings and
7 investigation and we could spend the rest of our lives
8 trying this case if we wanted to, but the company
9 cannot be delayed forever in moving ahead with what it
10 needs to do by the fact that we have very liberal
11 intervention, and we need to have a lot of process
12 around these cases. This schedule is workable.

13 It is not the company's fault that the time
14 has been running on it, and we're not willing to just
15 carte blanche give all these parties, adversarial
16 parties, as much time as they want to try this case
17 while the company holds the bag. And given the
18 liberal intervention, I don't think that these
19 late-coming parties are entitled to demand an endless
20 amount of time to do their case.

21 And certainly the staff knows the company's
22 case inside and out. There is no reason we couldn't
23 start this afternoon trying this case if it was just
24 the staff and the company. So I reject and resent the
25 idea that the company is somehow unfairly or

1 wrongfully manipulating this process when the law of
2 the state of Washington for 60 years has required
3 these proceedings to move forward on an 11-month
4 basis. Company did not ask for any delay in the
5 notice of hearing. That is why we have the motion to
6 try to get the Commission to direct the parties to get
7 rid of this case.

8 JUDGE CANFIELD: Okay. Has there been a
9 discussion among the parties as far as you're aware,
10 Mr. Shaw, as far as any discovery deadlines or what's
11 the company's position on that?

12 MR. SHAW: We really hope that there will
13 not need to be a great deal of discovery in this case.
14 If every one of these parties want to get an expert
15 witness and repeat what every other party has done and
16 what the staff has done, we will have a dilemma. We
17 can respond to any additional discovery from the
18 individual customers on what will be the impact on
19 them, for instance. We can respond to that in these
20 time frames. In terms of --

21 JUDGE CANFIELD: That's what I'm wondering,
22 whether the response would be workable within these
23 times frames.

24 MR. SHAW: Yes, it will. The major parties
25 in this case, the staff, DIS organizations, Tracer

1 organizations, have all the paper that the company has
2 on the issues in this case, and there's just nothing
3 more to discover in that regard. That's what my
4 concern was about about the multiple interventions.
5 Intervenor specific discovery, like what's the impact
6 on me, we can respond to in this schedule. And we
7 will respond to the extent we can on the ten-day
8 turnaround required by the rule for all discovery.

9 MR. BUTLER: If I might add a few things,
10 your Honor. While it is true that a considerable
11 amount of information has been provided by US WEST to
12 at least Tracer and I understand DIS and the staff,
13 not everything that was requested has been produced.
14 I don't believe it should take long to do that and we
15 wouldn't anticipate any considerable amount of
16 additional discovery, but additional discovery may
17 well be necessary.

18 And Mr. Shaw is correct that he's entitled
19 as a matter of law to a decision by that statutory
20 deadline, and it's really in our view up to him
21 whether additional time is granted. I think we would
22 all benefit by having additional period of time,
23 perhaps three months, given all these parties here,
24 giving them the opportunity to explore the areas in
25 which they do have common interests and can

1 consolidate presentations or whatever. I think we all
2 might benefit from that.

3 In addition, I personally believe that
4 there's considerable room for narrowing issues in this
5 case. The filings presented present a myriad of
6 issues, many of which I think probably won't be of
7 that much interest to many parties or that they may be
8 willing to compromise them in the interest of
9 concentrating on other issues, and we might benefit
10 greatly by having a little bit extra time to explore
11 that in the context of preparing the case. Again,
12 that's really up to US WEST whether they want to give
13 us that flexibility.

14 I do think the schedule is extremely short
15 and I'm not really asking for endless periods of time
16 to do anything. If we stick with the schedule, it may
17 be appropriate to discuss a shorter turnaround time
18 for discovery requests.

19 MR. SHAW: This schedule is longer, your
20 Honor, than the schedule that was adopted by the
21 Commission over US WEST's objection in the application
22 of GTE to become a primary toll carrier. That case
23 with effort by the parties was tried in a very short
24 period of time, a very much more complex case than
25 this simple repricing, so I think we can get this case

1 done in the time remaining, largely done, at least.

2 JUDGE CANFIELD: And you've already
3 indicated your willingness to work with the parties
4 for a quick turnaround of the information, should
5 additional information be requested, to still stick
6 within the proposed schedule?

7 MR. SHAW: Yes, your Honor. If the
8 discovery is reasonable and not unduly repetitive, we
9 should be able to turn it around.

10 MR. TROTTER: Your Honor, in the spirit of
11 that, we would ask that the ten-day requirement be
12 reduced to five days for all parties.

13 MR. SHAW: Your Honor, we can't agree with
14 that. We will not hold it and wait until the tenth
15 day, we will send it as soon as we have it. But I
16 would oppose any blanket waiver of the order. That's
17 not fair to the company when we don't even know what
18 discovery we're going to get. It's very easy to ask
19 the questions. It's much harder to answer them. And
20 if we get overwhelmed with discovery, we simply will
21 not be able to do that. And the parties should not be
22 allowed to flood the company with discovery in order
23 to create an excuse why they need more time. The
24 discovery should be relevant and pointed.

25 MR. TROTTER: The time we have to do this

1 case prohibits anyone from asking for more time. I
2 don't see how you could fit any more time. Also, I
3 did not mean by my request to waive the requirement --
4 to waive the option if the company cannot complete,
5 just have a good faith effort that these things need
6 to be turned around in five days if at all possible.
7 That that be done.

8 JUDGE CANFIELD: I believe Mr. Shaw was in
9 agreement with that, that the company would endeavor
10 to turn that information around as soon as possible,
11 and a good faith effort to target it at that I think
12 is essentially what Mr. Shaw's response was, that he
13 would certainly be endeavoring to do that, but he
14 didn't necessarily want a waiver of --

15 MR. TROTTER: I'm asking for it from you,
16 your Honor. I'll just make it formal. I would move
17 that the ten-day requirement be changed to five days
18 for purposes of this case.

19 MS. JOHNSTON: I'll concur the motion.

20 MR. BUTLER: As will I.

21 JUDGE CANFIELD: Other comments on that
22 motion? I'll get back to Mr. Shaw in a moment. Any
23 others before I get back to Mr. Shaw?

24 MS. MARCUS: DIS would also concur in that
25 motion, especially since, as Mr. Shaw said, our expert

1 has been in contact with US WEST and has been dealing
2 with them, but there is information that had
3 previously been promised that has not been as yet
4 given and which we understand is readily available, so
5 that information should not take ten days to then be
6 provided to our expert.

7 JUDGE CANFIELD: Okay. Any others before I
8 get back to Mr. Shaw? Let the record reflect there
9 are none. Mr. Shaw, additional comments you have to
10 make?

11 MR. SHAW: No, your Honor. I don't think
12 that it could do that in the abstract until we see the
13 discovery. I could just as well move to, you know,
14 limit each party to ten data requests. In the
15 interest of fairness and keeping to the schedule, the
16 rules are there, they are the rules of procedure that
17 this Commission has to adopt, and I don't think the
18 Commission can or should waive those rules or
19 procedures to the detriment of one party only.

20 MS. JOHNSTON: It certainly can, your
21 Honor. In the Puget Power rate case that has spanned
22 the last ten months or year, we had five-day
23 turnaround time because the parties were cooperative
24 with one another and recognized we were under a short
25 time frame for preparing for hearing and issuing data

1 requests and receiving responses to data requests.

2 MR. TROTTER: My five-day motion, your
3 Honor, would apply to all parties.

4 JUDGE CANFIELD: Okay. I believe the
5 spirit of Mr. Shaw's comments were that he was
6 certainly going to endeavor to get the information
7 turned around as soon as possible, and maybe rather
8 than a ten-day target as discussed, that could be
9 changed to a five-day target, and if there is a
10 problem with that, then it would be incumbent that
11 that be brought forth and be known, but I think in
12 view of the tight schedule, it would be appropriate to
13 reduce the turnaround time, and I'm inclined to do
14 that, and if that's going to pose a hardship, we don't
15 have the request before us now and we don't know what
16 problems might come up, if any, but I think in view of
17 Mr. Shaw's comments, that he's certainly going to
18 endeavor to do that and that's the concern of the
19 parties as well, that the turnaround time be reduced
20 to five days.

21 So I will grant that motion to reduce the
22 response time to five days, and if there's a problem
23 that it just can't be done for the particular
24 circumstances of a request, I think that should be
25 made known to me so that we can deal with it at that

1 time, but I think the target of five days certainly is
2 more fitting of the proposed schedule that we've got
3 before us now. So I'll grant that motion.

4 MR. BUTLER: Your Honor, I would also like
5 to request, if US WEST is willing, to deem the data
6 which has already been produced under separate
7 agreement can be used for purposes of this case
8 without the necessity for another formal request or
9 production. Is that acceptable?

10 MR. SHAW: Your Honor, I've already
11 discussed this with Mr. Butler and I told him that I
12 would discuss working it out so they wouldn't have to
13 resubmit data requests. I can foresee problems unless
14 that's not handled carefully in terms of fairness to
15 the other parties and so forth, and we're not
16 demanding that all the data be returned, but we are --
17 we will request Mr. Butler that he indicate what data
18 he has and where he got it. We've exchanged a lot of
19 data and we have more here today.

20 JUDGE CANFIELD: Is that something that the
21 parties could work out among themselves?

22 MR. BUTLER: Yes, I'm sure we could do
23 that.

24 JUDGE CANFIELD: Okay. Why don't we leave
25 that to the parties to work out, and with the

1 expedited schedule that we've got, it'll take an
2 effort on all parties to cooperate and work these
3 things out.

4 And any further comments on the proposed
5 hearing schedule that's been distributed around the
6 table? I've gotten comments thus far from some of the
7 individuals. Let the record reflect there are no
8 additional comments on the proposed hearing schedule.

9 There was an indication earlier by Mr. Shaw
10 to indicate that he would be willing to extend the
11 suspension date 30 days from the end of July to the
12 end of August, specifically through the end of the
13 month. Would that be your offer, Mr. Shaw?

14 MR. SHAW: Yes, in order to give the
15 Commission the time to consider your Honor's proposed
16 order.

17 JUDGE CANFIELD: Okay. I don't know
18 whether there's been earlier comments on that as far
19 as leave the rest of the schedule as is and extending
20 just the end of it, but I can't require the company to
21 extend the suspension date, and he has indicated an
22 agreement on record to extend it through the end of
23 August of '94, that would be through August 31. And
24 that would allow additional time for the Commission to
25 consider the matter, because it would appear that they

1 were looking for an initial order by the
2 administrative law judge and then a petition period,
3 and it would still be tight as far as the turnaround
4 for the Commission order, but that certainly is better
5 than as it stands now, a July 29 statutory deadline.

6 So I would accept that offer of extension
7 of the suspension date to August 31 and I'll -- I
8 haven't had a chance to check with the Commission on
9 that or the proposed hearing schedule, but be that as
10 it may, I'm willing to adopt the proposed hearing
11 schedule as is except for that one change as far as
12 the waiver -- or the extension of the statutory
13 deadline date to August 31. That would be the only --

14 MS. JOHNSTON: Excuse me, your Honor. On
15 this point, is there some reason why the Commission
16 needs two months to get the order out? Because now
17 that we know that Mr. Shaw is willing to extend the
18 statutory deadline for the Commission's benefit but
19 not for the parties, it would be nice if we could use
20 some of those days to juggle the schedule in there.

21 JUDGE CANFIELD: I don't see two months for
22 the Commission. We're still looking at initial order
23 being issued and then a petition period and then the
24 Commission final order. So they are not one and the
25 same, the initial order.

1 MS. JOHNSTON: I understand, your Honor,
2 but the briefs are due July 1, and apparently August
3 31 that's going to be for ALJ proposed order?

4 JUDGE CANFIELD: No. That's the Commission
5 final order by August 31.

6 MS. JOHNSTON: Right. I guess my point is
7 that the decision maker I guess needs two months.
8 Okay.

9 JUDGE CANFIELD: Decision makers, plural.
10 Okay. Yes, with those comments noted, and unless
11 there's a change after running the schedule by the
12 Commission, but I would certainly alert the parties in
13 the prehearing conference order, I'll adopt the
14 proposed hearing schedule except for the change of
15 statutory deadline, and that's being extended to
16 August 31, 1994.

17 And there was also the motion that had not
18 been received by all parties earlier today. I don't
19 know if it has been by now or not, and if not, maybe I
20 could ask Mr. Shaw whether he's got extra copies of
21 the --

22 MR. SHAW: If anybody still doesn't have
23 one, I have more extra copies.

24 JUDGE CANFIELD: Okay. For the record, Mr.
25 Shaw is making those available to some of the parties

1 now that have not had copies previously, and rather
2 than take oral argument on it, I am going to give the
3 parties an opportunity to respond to that motion in
4 writing and then have the matter decided by the
5 Commission. I don't know exactly how long the parties
6 might need to respond, but I would want that in a
7 pretty short time to fit the rest of the schedule.
8 I'm looking at as short as a week to eight days,
9 something of that nature. And the parties that
10 haven't even received a copy, like the absent parties,
11 would you endeavor to get a copy of your motion to
12 those parties, Mr. Shaw?

13 MR. SHAW: I believe I already sent copies
14 to those two parties.

15 JUDGE CANFIELD: Okay. So as far as you're
16 aware, all parties have received as of now a copy of
17 your motion?

18 MR. SHAW: Yes.

19 JUDGE CANFIELD: Okay. That helps that.
20 And I would like to set a time within which the
21 parties will have had a chance to review the motion
22 and file an answer with the Commission. And we can
23 set a date for that. I would hope a week or so from
24 today's hearing for that. If that's not going to be
25 workable, we could extend it a few days. Any comments

1 one way or the other on the time for responding to the
2 motion?

3 MR. BUTLER: A week from today is fine with
4 us.

5 JUDGE CANFIELD: Okay. A week from today
6 for the record would be next Monday, April 18. Any
7 other comments?

8 MR. KAHN: City would prefer the 20th, that
9 Wednesday, your Honor, two extra days.

10 MR. TROTTER: Is that a filing date, your
11 Honor?

12 JUDGE CANFIELD: This is a filing date I'm
13 talking about, yes, so that would be filed with the
14 Commission by this date, right.

15 MR. TROTTER: The 20th gives us a little
16 more time. Appreciate that.

17 JUDGE CANFIELD: Okay. Let's extend it to
18 the 20th then, and that is the filing date with the
19 Commission and copies to all other -- to be served on
20 all other parties as well, so that's April 20,
21 Wednesday, filing date for answers to the motion.

22 MR. TROTTER: To clarify that, your Honor,
23 we just need to have it physically filed here, but we
24 can serve the parties by mail on that date, is that
25 correct?

1 JUDGE CANFIELD: Yeah. That's my big
2 concern, that it get filed by that date. And you're
3 recognizing that it might be a day or so beyond that
4 that the parties actually receive their copy?

5 MR. TROTTER: (Nods head.)

6 JUDGE CANFIELD: That's acceptable to me.
7 Let me ask if that's acceptable and agreeable to
8 parties.

9 MR. KAHN: That's fine, your Honor.

10 JUDGE CANFIELD: Okay. I'm seeing nods of
11 heads in the affirmative, so that's acceptable then.
12 Thanks for pointing that out, Mr. Trotter. The filing
13 date with the Commission is Wednesday, April 20, and
14 copies mailed to the parties as well.

15 MR. SHAW: Your Honor, you're not
16 contemplating any reply by the company?

17 JUDGE CANFIELD: That hasn't been discussed
18 as of yet. Are you requesting that that be built in?

19 MR. SHAW: I believe that's normal to give
20 the movement the opportunity to reply. I wouldn't
21 need much time. I will reply in two days after that
22 if I could get the copies on the 20th.

23 JUDGE CANFIELD: Okay. Would the parties
24 be agreeable to making a copy available and served
25 upon Mr. Shaw by the 20th? I know it's been discussed

1 that other parties might slip a day or so, but in view
2 of the request of Mr. Shaw to file a reply, I would
3 request that the parties then file -- or serve a copy
4 on Mr. Shaw by the 20th. And he's indicating he's
5 requesting just two days, and you could file a reply
6 by that Friday, April 22?

7 MR. SHAW: Yes, your Honor. My fax number
8 is 434-4040 for anybody who does not know.

9 MR. BUTLER: 4040?

10 MR. SHAW: Yes.

11 MR. TROTTER: Could we go off the record?

12 JUDGE CANFIELD: Let's take a short recess
13 off the record to exchange fax numbers.

14 (Discussion off the record.)

15 JUDGE CANFIELD: We're back on the record
16 after a short recess, and copies of the answers are to
17 be filed with the Commission by April 20 and also
18 served upon Mr. Shaw by that same date, and then he's
19 got two days to file a reply with the Commission by
20 Friday, April 22, and likewise he'll serve copies of
21 that on all parties of record as well.

22 Are there any further matters that we may
23 not have wrapped up or addressed at this point that
24 anyone has to bring up at this juncture? Okay, let
25 the record reflect there are no points being brought

1 up and I will endeavor to issue a prehearing
2 conference order addressing the points that we've
3 discussed at today's prehearing conference.

4 And the parties have also agreed during the
5 last break -- I forgot to mention this -- to exchange
6 fax numbers, and they will be doing that before they
7 leave today so that that will expedite the matter for
8 all concerned, so I would request that you do that
9 just immediately upon breaking from the session today.
10 With that, there being nothing further, I'll adjourn
11 the prehearing conference. Thank you all. This
12 session is closed.

13 (Adjourned at 1:00 p.m.)

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