

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION

3 In the Matter of the Petition of )  
4 U S WEST COMMUNICATIONS, INC., )  
5 for Depreciation Accounting ) Docket No. UT-940641  
6 ----- ) VOLUME II  
7 ) PAGES 39-71

8 A prehearing conference in the above matter  
9 was held on December 5, 1994 at 10:08 a.m. via  
10 telephone conference call before Administrative Law  
11 Judge ALICE L. HAENLE.

12 The parties were present via telephone as  
13 follows:

14 U S WEST COMMUNICATIONS by EDWARD T. SHAW,  
15 Attorney at Law, 1600 Bell Plaza, Room 3206, Seattle,  
16 Washington 98191.

17 GTE NORTHWEST by TIMOTHY L. WILLIAMSON,  
18 Attorney at Law, 1800 - 41st Street, Everett,  
19 Washington 98201.

20 TRACER by ARTHUR A. BUTLER, Attorney at Law,  
21 Two Union Square, Suite 5450, 601 Union Street,  
22 Seattle, Washington 98101.

23 MCI TELECOMMUNICATIONS CORPORATION by BROOKS  
24 E. HARLOW, Attorney at Law, 601 Union Street, Suite  
25 4440, Seattle, Washington 98006.

26 WASHINGTON UTILITIES AND TRANSPORTATION  
27 COMMISSION STAFF by STEVEN W. SMITH, Assistant  
28 Attorney General, 1400 South Evergreen Park Drive  
29 Southwest, Olympia, Washington 98504.

30 Lisa K. Nishikawa, CSR, RPR, Court Reporter

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1                   WITA by RICHARD FINNIGAN, Attorney at Law,  
2                   1201 Pacific Avenue, Suite 1900, Tacoma, Washington  
3                   98402.

4                   PUBLIC COUNSEL by ROBERT MANIFOLD, Assistant  
5                   Attorney General, 900 Fourth Avenue, Suite 2000, MS:  
6                   TB-14, Seattle, Washington 98164

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2 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

3 (No testimony taken.)

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

2 JUDGE HAENLE: Let's be on the record then  
3 and the prehearing conference will come to order.  
4 This prehearing conference is scheduled for today  
5 which is December 5, 1994. This is being held by  
6 telephone conference call. Would you give just your  
7 name and your client's name if you have previously  
8 appeared. Mr. Shaw.

9 MR. SHAW: Yes, Ed Shaw for US WEST  
10 Communications.

11 JUDGE HAENLE: Thank you. Mr. Smith.

12 MR. SMITH: Steven Smith, assistant  
13 attorney general for the Commission staff.

14 JUDGE HAENLE: Thank you. Mr. Manifold.

15 MR. MANIFOLD: Robert Manifold for public  
16 counsel.

17 JUDGE HAENLE: Have you previously entered  
18 an appearance, Mr. Manifold? I think you weren't  
19 present at the prehearing conference.

20 MR. MANIFOLD: Let me do the whole thing  
21 then.

22 JUDGE HAENLE: Thank you.

23 MR. MANIFOLD: Robert Manifold, assistant  
24 attorney general, representing public counsel.  
25 Address is 900 Fourth Avenue, Suite 2000, Seattle,

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1 Washington, 98164.

2 JUDGE HAENLE: Thank you. Mr. Butler.

3 MR. BUTLER: Arthur Butler for Tracer.

4 JUDGE HAENLE: Thank you. Mr. Harlow.

5 MR. HARLOW: Brooks Harlow for MCI

6 Telecommunications Corporation.

7 JUDGE HAENLE: Thank you. Mr. Finnigan, I  
8 think you also were not present at the prehearing  
9 conference.

10 MR. FINNIGAN: Okay. Richard Finnigan with  
11 the firm Vandenberg Johnson & Gandara, 1201 Pacific  
12 Avenue, Suite 1900, Tacoma, Washington, 98402, and  
13 I'm appearing on behalf of the Washington Independent  
14 Telephone Association.

15 JUDGE HAENLE: Thank you. Mr. Williamson.

16 MR. WILLIAMSON: Tim Williamson, GTE  
17 Northwest, Incorporated.

18 [JUDGE]: Thank you. As I indicated, this  
19 is being held by prehearing conference -- by  
20 conference call, and so I have reminded all of you I  
21 will be asking some questions first, and you don't  
22 need to say who you are where you're responding to a  
23 question where I've used your name, but if you're  
24 piping up on something, you need to indicate who you  
25 are so Lisa can get it down accurately.

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1                   As way of general procedure, as you  
2 probably notice, this is Alice Haenle. The ALJ that  
3 held the prehearing conference is no longer with this  
4 subdivision, so I will be holding the rest of the  
5 hearing. The main issue we were going to cover this  
6 morning is whether the parties were willing to waive  
7 cross-examination of the witnesses, some or all of the  
8 witnesses. It was your suggestion. Mr. Shaw, are you  
9 willing to waive cross-examination of the intervenors,  
10 staff, and public counsel?

11                   MR. SHAW: Yes. I made that commitment at  
12 the beginning of the case and we're not going to  
13 change our commitment to do this on a paper record if  
14 at all possible.

15                   [JUDGE]: Thank you. Mr. Smith.

16                   MR. SMITH: Yes, we're prepared to waive  
17 cross-examination of all the witnesses.

18                   JUDGE HAENLE: All right. Mr. Manifold.

19                   MR. MANIFOLD: I have a qualified answer.  
20 We have some data requests responsive that we've  
21 received that we are going to want to put into the  
22 record.

23                   JUDGE HAENLE: Yes.

24                   MR. MANIFOLD: And on Friday we propounded  
25 several more data requests and we anticipate wanting

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1 to put in the responses to a number of those, if not  
2 perhaps all of those, data requests and so we would  
3 like to have the record held open to be able to put  
4 those in. Whether we can put those in without cross,  
5 we won't really know until we have seen them, the  
6 responses, that is.

7 JUDGE HAENLE: When are the responses due?

8 MR. MANIFOLD: The responses are due two  
9 weeks from last Friday. That would be Friday the --  
10 if the responses come in.

11 JUDGE HAENLE: I'm sorry. Friday the what?

12 MR. MANIFOLD: If the responses come in and  
13 are clean, I can easily imagine simply putting the  
14 responses in subject to other stipulation without the  
15 need for cross-examination.

16 JUDGE HAENLE: When are those responses  
17 due? Friday the what?

18 MR. MANIFOLD: 16th, I believe. They were  
19 served last Friday. And I think the ten days is ten  
20 working days, isn't it?

21 JUDGE HAENLE: To whom were those  
22 addressed?

23 MR. MANIFOLD: The company, US WEST.

24 JUDGE HAENLE: All right. Do you have any  
25 problem with getting those to them by the 16th, Mr.

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1 Shaw?

2 MR. SHAW: I'm reviewing them now for their  
3 objectionability and I'm not waiving objecting to  
4 them. In fact, I think we probably will be objecting  
5 to some of them as beyond the scope of the proceeding.

6 JUDGE HAENLE: Well, let's check with the  
7 others then and then we can come back and see if we  
8 can figure out what to do about that then. Mr.  
9 Butler, have you agreed to waive cross?

10 MR. BUTLER: My position is the same as  
11 public counsel's.

12 [JUDGE]: Mr. Harlow?

13 MR. HARLOW: Yes, however, as we indicated  
14 at the prehearing conference, we believe it would be  
15 appropriate for the witnesses to sign some kind of an  
16 oath or declaration under penalty of perjury adopting  
17 the testimony in a paper form but nevertheless under  
18 oath.

19 JUDGE HAENLE: I see. All right. Mr.  
20 Finnigan?

21 MR. FINNIGAN: We'll waive cross.

22 JUDGE HAENLE: Mr. Williamson?

23 MR. WILLIAMSON: We'll waive cross.

24 JUDGE HAENLE: Okay. One of my -- which of  
25 the witnesses do your responses that have not yet been



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1 received go to?

2 MR. MANIFOLD: They go to all three of the  
3 company's witnesses.

4 JUDGE HAENLE: You mean the company's --  
5 oh, yeah, I see, all three of US WEST's witnesses.

6 MR. MANIFOLD: Yes. I have a proposal or a  
7 suggestion.

8 JUDGE HAENLE: All right.

9 MR. MANIFOLD: We have at this point  
10 blocked out the week of the 19th for  
11 cross-examination?

12 JUDGE HAENLE: Yes.

13 MR. MANIFOLD: Assuming that we do get the  
14 responses by the 16th, or maybe even some before then,  
15 it's going to be very hard to, you know, cancel a  
16 previously set hearing on -- you know, it'll be very  
17 hard to review them in time to make an intelligent  
18 decision to cancel in time to do it for a hearing on  
19 the 19th. My suggestion is perhaps since the whole  
20 week is reserved, we might continue to hold the  
21 hearing open on -- for hearings on the latter part of  
22 that week, which would give us an opportunity to  
23 review the responses once we got them on Friday the  
24 16th and make a determination and maybe some  
25 agreements among counsel on the early part of the week

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1 of the 19th, 20th, and then hopefully cancel the  
2 hearings that would otherwise be scheduled for, say, the  
3 22nd, 23rd.

4 JUDGE HAENLE: Well, if there is no  
5 agreement, however, we need to reserve enough time to  
6 cross-examine those witnesses.

7 MR. SHAW: This is Ed Shaw. Yes. I think  
8 that if Mr. Manifold is going to want to cross-examine  
9 my witnesses in regard to these late data requests or  
10 for any other reason, we would be inclined to just  
11 have cross of the whole case. We're not going to just  
12 agree to have our witnesses crossed and no other  
13 witnesses.

14 JUDGE HAENLE: Well, I guess we've got a  
15 couple of choices here. Generally the Commission's  
16 position has been that if all parties will not waive  
17 cross-examination, then there needs to be a hearing,  
18 but I don't think we're quite to that point yet. We  
19 can, I suppose, try for the last part of the week, but  
20 if we run over, we're going to have to reschedule the  
21 rest of the hearing for later on then. I mean, if we  
22 set it up for like the Thursday and Friday of that  
23 week and that doesn't give us enough time, then we  
24 would have to reschedule the rest of it for later on.

25 MR. MANIFOLD: Am I correct that -- and

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1 this is Rob Manifold. Am I correct that we have five  
2 witnesses, the three from the company -- oh, no.  
3 Three from the company, one from staff, one from  
4 public counsel, Tracer. And is there one witness from  
5 GTE?

6 JUDGE HAENLE: There are two witnesses from  
7 GTE.

8 MR. MANIFOLD: So seven total, hmm.

9 JUDGE HAENLE: The two witnesses from GTE  
10 are relatively short, but they do count certainly.

11 MR. MANIFOLD: Are other witnesses besides  
12 ours coming from out of town? I think one of the  
13 company's witnesses is.

14 MR. SHAW: That's correct.

15 MR. MANIFOLD: Are either of the GTE NW  
16 witnesses coming from outside Washington?

17 [JUDGE]: Mr. Williamson? (Pause.) Mr.  
18 Williamson, are you there?

19 MR. WILLIAMSON: I'm sorry, yes. One  
20 witness will be coming from out of state. However,  
21 since Christmas is on a Sunday the 25th, is the  
22 Commission having the Friday vacation or Monday  
23 vacation or neither one?

24 JUDGE HAENLE: Monday vacation. Friday the  
25 23rd is a working day, yes.

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1 MR. WILLIAMSON: Thank you.

2 [JUDGE]: Well, there's a possibility, it  
3 looks like, that we could do this without  
4 cross-examination. Is there any way that you, Mr.  
5 Manifold and Mr. Shaw, can talk later on today or  
6 possibly tomorrow after Mr. Shaw has had the chance to  
7 review those responses to data requests and has a  
8 better idea whether he would be able to provide those  
9 answers earlier than the 16th?

10 MR. MANIFOLD: This is Rob Manifold. I  
11 would certainly be happy to do that.

12 JUDGE HAENLE: Mr. Shaw?

13 MR. SHAW: Yes, I, of course, will discuss  
14 that with Mr. Manifold. The questions are quite  
15 extensive and I do have a problem cutting the period  
16 short in that Mr. Vanson is out of the country. He's  
17 abroad until the 13th. And some of the questions are  
18 addressed to him.

19 [JUDGE]: Have you gentlemen come to any  
20 agreed statement of facts, anything like that? Mr.  
21 Shaw?

22 MR. SHAW: I have not attempted that. I  
23 think we were all hoping against hope that we would  
24 not have cross-examination in this case. I don't  
25 think it's very factually driven at all. I don't know

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1 whether my fellow counsel would agree with that  
2 assertion, but it is primarily an issue of a law and  
3 regulatory principles.

4 JUDGE HAENLE: Well, if parties have  
5 indicated that they will not waive cross-examination  
6 without some responses, then apparently they feel that  
7 cross-examination is necessary potentially. I guess  
8 we've got a couple of ways we can go here. One  
9 possibility would be to continue the hearings for the  
10 19th through the 23rd, but if you gentlemen fail to  
11 come to an agreement about those responses to data  
12 requests, then we would need to reset it later on.  
13 Another possibility is to set for -- to set up, say,  
14 Thursday and Friday of that week, that would be the  
15 22nd and 23rd, deal with any objections there are to  
16 the responses to data requests, that kind of thing,  
17 kind of banking on that their responses would be  
18 sufficient that we would not need cross-examination  
19 once those had been considered. Any other thoughts?

20 MR. MANIFOLD: Rob Manifold. I think  
21 there's a fairly high probability that we'll be able  
22 to waive it. It's just until we've seen the answers,  
23 it's not wise to do that. A further comment, I think  
24 we're in a position to waive cross of the two GTE NW  
25 witnesses whether or not we go ahead with cross of

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1 other people. I'm not sure other parties would be,  
2 but we could do that and that would simplify things a  
3 little bit.

4 JUDGE HAENLE: I think everyone else has  
5 indicated that they are willing to waive  
6 cross-examination other than Mr. Butler who indicated  
7 his position was the same as you. Mr. Butler, do you  
8 need the GTE witnesses?

9 MR. BUTLER: No.

10 MR. MANIFOLD: We also don't at this point  
11 have any cross for Mr. Spinks. I understand that if  
12 we cross the company, maybe the company will want to  
13 cross Mr. Spinks, I don't know.

14 JUDGE HAENLE: Okay. Mr. Butler, do you  
15 have any cross-examination for Mr. Spinks?

16 MR. BUTLER: No.

17 JUDGE HAENLE: Okay. If the  
18 cross-examination -- if we are not able to agree to  
19 waive cross-examination after looking at these  
20 documents and determining what will be entered, then  
21 it seems to me people should have the full  
22 opportunity, if they want to, to cross-examine all of  
23 the witnesses. If you can at that point then agree  
24 that some witnesses don't need to be examined, then I  
25 guess we take it at that point, but the Commission

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1 would not, without agreement of everyone, waive --  
2 cancel the hearings and do it all on a paper record.  
3 So how shall we set this out then? Do you want to  
4 block out just the 22nd and 23rd of that week, banking  
5 on the hope that the responses to record requisitions  
6 can be provided -- or I'm sorry -- the responses to  
7 data requests can be provided and will be sufficient  
8 to allow full waiver of examination, Mr. Manifold?

9 MR. MANIFOLD: Yes, I think that would be  
10 fine and if we wanted to be a little more safe we  
11 could say 21st through 23rd and then we can always --  
12 it's a lot easier to cancel later on than to add.

13 JUDGE HAENLE: Oh, I agree with that. My  
14 concern is that you've indicated that you don't know  
15 if you'll have enough time to evaluate those on the  
16 16th. If you think that the 21st will give you enough  
17 time, that's fine to me.

18 MR. MANIFOLD: Rob Manifold again. I think  
19 that's possible if we could schedule it at this point  
20 for 21st, 22nd, and 23rd of December and then if we  
21 need more time and it looks like we may be able to get  
22 it, that we, A, need cross-examination but, B, it  
23 looks like it would be sufficiently brief to  
24 accomplish in two days, maybe we can then bump it to  
25 the 22nd, 23rd.

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1                   JUDGE HAENLE: Okay. Mr. Butler, you  
2 indicated your position was the same as that of Mr.  
3 Manifold. How does that sound to you?

4                   MR. BUTLER: That's fine with me.

5                   JUDGE HAENLE: Okay. Mr. Shaw, how does  
6 that sound to you?

7                   MR. SHAW: Yeah. It strikes me -- this is  
8 Ed Shaw -- that it wouldn't take more than a day, a  
9 working day, to decide what Mr. Manifold wants to do.  
10 It seems like we could start on the 20th if we're  
11 going to have to have a hearing so we're not right up  
12 against Christmas, and then we have a good chance of  
13 getting it all done.

14                   Further, I need to ask a question of Mr.  
15 Manifold. Is he intending to propose earlier data  
16 requests as late-filed exhibits or are you only  
17 looking to offer and to discuss offering answers to  
18 your latest round of data requests?

19                   MR. MANIFOLD: No. We would expect to  
20 offer as exhibits responses to some of the first set  
21 of data requests.

22                   JUDGE HAENLE: My thought there would be  
23 that we can take a look at those data requests and  
24 their entry on the -- during the hearings that we  
25 scheduled for that day. I would be more comfortable I



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1 think setting that for the 21st, 22nd, and 23rd to  
2 give a full chance for the parties to not only look  
3 over those data requests, but hopefully once they've  
4 been looked over, then to conference with everybody  
5 else and come to some agreements on them. The idea is  
6 not just to -- not just to evaluate them and say yes  
7 or no do we need cross-examination, but also further  
8 than that, a possible agreement among the parties  
9 about their admissibility, that would save us an awful  
10 lot of time.

11 MR. SHAW: And perhaps we could get a  
12 little jump on it if parties are going to be  
13 attempting to offer as exhibits data requests from  
14 earlier sets. There's been a huge amount of discovery  
15 in this case and if you could tell me earlier rather  
16 than later which ones that you want to offer, we might  
17 find that we're going to have to go to cross before we  
18 even get the answers to the latest rounds.

19 MR. MANIFOLD: Rob Manifold. Certainly be  
20 happy to do that.

21 JUDGE HAENLE: Okay. Well, it seems to me  
22 that that might be the best way. Mr. Smith, is that  
23 acceptable to you?

24 MR. SMITH: Yes, it is.

25 JUDGE HAENLE: Mr. Manifold and Mr. Shaw

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1 we've got. Mr. Butler, is that acceptable to you?

2 MR. BUTLER: Yes.

3 JUDGE HAENLE: Mr. Harlow?

4 MR. HARLOW: Yes.

5 JUDGE HAENLE: Mr. Finnigan?

6 MR. FINNIGAN: Yes.

7 JUDGE HAENLE: Mr. Williamson?

8 MR. WILLIAMSON: Yes.

9 JUDGE HAENLE: All right. Well, let's --  
10 we'll cancel the 19th and 20th then. I would like --  
11 once you've had a chance to look over those documents,  
12 I would like you all to notify each other what you  
13 intend, if any to -- let me try that again. Of the  
14 discovery requests you've made and responses you've  
15 gotten, if you can notify the others which ones you  
16 feel are necessary to put into the record, maybe we  
17 can save a lot of time on this. If you could do this  
18 ahead of time, since we had the 19th and 20th blocked  
19 out, maybe you can use part of that time to do that.

20 MR. MANIFOLD: This is Rob Manifold. And  
21 maybe I could make an inquiry and a suggestion or  
22 request. We can identify which data requests from the  
23 earlier set and I can do that perhaps by a letter to  
24 all counsel this week.

25 JUDGE HAENLE: Good.

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1                   MR. MANIFOLD: I'm not certain whether or  
2 not all of the parties have requested of US WEST to  
3 receive copies from US WEST of data responses made by  
4 all other parties, and so I would be interested to  
5 know that. If people have or even if they haven't, if  
6 we're going to need among counsel to come to an  
7 agreement upon admissibility of this most recent set  
8 of data requests, it might be useful or even necessary  
9 for the company to send a copy of those responses to  
10 all of the other parties at the same time they send  
11 them to us so that that discussion can be facilitated.

12                   [JUDGE]: Mr. Shaw, have the other parties  
13 requested that?

14                   MR. SHAW: I don't recall. There's so many  
15 cases going on.

16                   JUDGE HAENLE: All right. Mr. Smith, did  
17 you request that?

18                   MR. SMITH: Your Honor, typically the  
19 company does send us responses, but I haven't checked  
20 the discovery file prior to this conference call so I  
21 can't say for certain.

22                   JUDGE HAENLE: Mr. Butler, did you make  
23 that request?

24                   MR. BUTLER: I believe so, but I'm not  
25 positive.

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1 JUDGE HAENLE: Mr. Harlow?

2 MR. HARLOW: I believe that we did, but I

3 -- I'm getting it confused now with the PTI case.

4 JUDGE HAENLE: I can understand that.

5 MR. HARLOW: I think we did but I don't

6 recall for sure either.

7 JUDGE HAENLE: Mr. Finnigan.

8 MR. FINNIGAN: Yes, we did.

9 JUDGE HAENLE: Mr. Williamson?

10 MR. WILLIAMSON: I'm as bemused as others.

11 I think we did but I'm not sure.

12 JUDGE HAENLE: If you have not, let's  
13 assume that the parties are going to need to take a  
14 look at these in order to make some kind of agreement.  
15 Will you please send copies to the other parties, Mr.  
16 Shaw?

17 MR. SHAW: If they request them, they are  
18 entitled to.

19 JUDGE HAENLE: Let's assume everyone is  
20 making that request at this point, if they haven't  
21 already. I guess if we're going to meet anyway on the  
22 19th, I had several other things that I wanted to talk  
23 about. I'm sorry, not the 19th, on the 21st. We  
24 have not numbered the exhibits, for instance. We can  
25 do that at that time. If there is not going to be any

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1 cross-examination, I don't know if you want to meet  
2 anyway on the 21st to get the numbering taken care of,  
3 to get the things like the briefing schedule set,  
4 things like that. Thoughts on that, Mr. Shaw?

5 MR. SHAW: Well, if we go to hearings,  
6 we're going to have a lot more transcript and it's  
7 kind of hard to decide on a briefing schedule, I  
8 guess, until we know where we're going to be.

9 JUDGE HAENLE: I'm trying to figure out  
10 whether we need to meet anyway just to take care of  
11 that kind of thing, exhibit numbering, briefing  
12 schedule.

13 MR. SHAW: I don't think so. If we're  
14 worried about the time, I'm quite willing to start at  
15 9:00 on the 21st.

16 JUDGE HAENLE: I don't think that's  
17 probably necessary. Let's keep it at 9:30. But  
18 I'm just wondering if you do all waive  
19 cross-examination, do we need to get together briefly  
20 anyway or do we need to maybe do another phone  
21 conference call to take care of these other details?

22 MR. MANIFOLD: This is Rob Manifold.

23 JUDGE HAENLE: Yes.

24 MR. MANIFOLD: My suggestion or preference  
25 would be that we don't need to get together simply to

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1 handle these other details, and we might be able to  
2 accomplish the numbering in between now and then if  
3 not on this call. I wonder if the bench feels  
4 comfortable with taking the existing prefiled exhibits  
5 and assigning tentative numbers and circulating that  
6 in a letter and seeing if anybody feels their exhibits  
7 were missed or anything.

8 JUDGE HAENLE: One of my suggestions was  
9 going to be that I could include numbering as an  
10 attachment to the prehearing conference order. If you  
11 want me to do that, that sounds fine.

12 MR. SHAW: That's certainly agreeable to  
13 the company.

14 JUDGE HAENLE: All right. Mr. Smith?

15 MR. SMITH: Yeah, I agree. I don't think  
16 there's a need to get together for those two purposes  
17 if cross isn't otherwise going to occur.

18 JUDGE HAENLE: Okay. Mr. Butler?

19 MR. BUTLER: That's fine.

20 JUDGE HAENLE: Mr. Harlow?

21 MR. HARLOW: Acceptable to MCI.

22 JUDGE HAENLE: Mr. Finnigan?

23 MR. FINNIGAN: Yes.

24 JUDGE HAENLE: Mr. Williamson?

25 MR. WILLIAMSON: Yes.

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1                   JUDGE HAENLE: All right. I won't take  
2 them in any particular order then. The only ones that  
3 have to worry about order are GTE and the company  
4 rebuttal. Are there any -- let's see. If you do not  
5 waive cross-examination, gentlemen, if we need to go  
6 to hearing, again, it will be an ALJ-only case. The  
7 commissioners will not be sitting on the case. So you  
8 need to remember that. All of you I believe have  
9 waived an initial order.

10                   I noted earlier the change of ALJ. I  
11 assume there's no objection to my holding the hearings  
12 even though I did not hold the first of the initial  
13 sessions. If anybody has an objection, would you  
14 state it, please. Okay. I appreciate it. Hearing no  
15 objection, I'll go ahead and do that.

16                   I had a number of other kinds of loose-end  
17 things that don't need to be done in person, but I  
18 would like to make you aware of. For instance, Mr.  
19 Manifold, are there public letters on this case?

20                   MR. MANIFOLD: I think earlier everybody  
21 pled befuddlement and I'll have to join in on that on  
22 this issue, I guess. I'm not aware of there being any  
23 public letters, but if there are, I will so advise.  
24 If you wish, I will advise you by letter in the short  
25 future.

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1                   [JUDGE]: Okay. That sounds fine to me.  
2 If there are letters, we need to set a cutoff date, we  
3 need to -- if no party has an objection, I could enter  
4 them when they are received. I assume that the cutoff  
5 date should be relatively soon. What's your thought  
6 on that, Mr. Manifold?

7                   MR. MANIFOLD: I think that -- I'm pretty  
8 certain that there are no such letters but I would be  
9 happy with a cutoff date of any time along in here,  
10 and we could establish a cutoff date, for instance, as  
11 of the end of this week, and I would then, if this is  
12 acceptable to you and the parties, I would then either  
13 advise everyone by letter that there are no such  
14 letters or I would send copies of them as a proposed  
15 exhibit to the bench and to US WEST and staff and to  
16 any other parties which so request it.

17                   [JUDGE]: Why don't we do it in that way  
18 then. We'll make the cutoff date for public letters  
19 December 9. You notify everybody by letter if there  
20 are or aren't, and if there are, you send them along.  
21 If you notify us that there are public letters, I will  
22 give the public letters an exhibit number in my  
23 numbering system. If there are no public letters,  
24 then just your cover letter saying there are none  
25 would be the exhibit. If anybody has an objection to



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1 that procedure, please let me know.

2 MR. SHAW: Ed Shaw again. I have no  
3 objection to procedure but that doesn't mean I'm  
4 waiving any objection to the admissibility of these  
5 unsworn, uncross-examined letters.

6 JUDGE HAENLE: That's true. What I was  
7 going to suggest is that we make them, as we have done  
8 in the past, that we give you five days after receipt  
9 of the document to make an objection in writing to the  
10 Commission, otherwise they will be entered. Is that  
11 acceptable to everyone? I'm assuming that no response  
12 means that it's okay for everybody. We'll set the  
13 briefing schedule later, I guess then, depending on  
14 whether or not there is cross-examination.

15 MR. MANIFOLD: This is Rob Manifold. May I  
16 ask a question about that?

17 [JUDGE]: Certainly.

18 MR. MANIFOLD: I thought I saw on the  
19 prehearing transcript that -- the previous prehearing  
20 conference transcript that the date of January 17 had  
21 been established for briefs, or maybe I should say  
22 tentatively established.

23 [JUDGE]: Yes, well, it seems to me that  
24 because there was a continuance and the hearings that  
25 were originally scheduled for November are actually

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1 being held in December, that the briefing date would  
2 also be continued by some amount of time. It seems to  
3 me that the briefs -- that that briefing schedule is  
4 also off as well as the November dates. I've assumed  
5 that that was the parties' intention. Mr. Shaw?

6 MR. SHAW: Yes, Ed Shaw. I think what Mr.  
7 Manifold is expressing is that when we agreed to  
8 continuance, we also agreed to a continued date  
9 certain for the briefs. That's my recollection. I  
10 don't have my file here in front of me.

11 MR. SMITH: This is Steve Smith. That's  
12 accurate, Mr. Shaw.

13 [JUDGE]: What was the date?

14 MR. SHAW: I believe, as Mr. Manifold said,  
15 it was January 17.

16 [JUDGE]: Okay. Well, I'm sorry then. I  
17 made a mistake. So we don't need to discuss a  
18 briefing schedule at all?

19 MR. SHAW: Right now we have one unless it  
20 become objectionable.

21 JUDGE HAENLE: About the briefs, it's fine  
22 with me if you want to include proposed findings and  
23 conclusions with your brief. And remember that the  
24 briefs need to be double spaced. Let's see.

25 We also have -- I had some questions about

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1 the documents. Maybe I could tell you what they are  
2 and you could deal with them between now and the dates  
3 of hearing. I note that -- let's see. Oh, Mr.  
4 Manifold and Mr. Finnigan did send letters confirming  
5 that they waived the initial order. Will the  
6 company's 1994 depreciation rate study be made an  
7 exhibit, Mr. Shaw? I note that it is mentioned at Mr.  
8 Easton's direct at page 17.

9 MR. SHAW: I haven't really thought about  
10 it. If you request it, I'll certainly seriously  
11 consider it. I wasn't planning to do that, assuming  
12 we weren't going to have hearings.

13 [JUDGE]: Anyone else have a thought on  
14 that? Okay. It was attached to the petition  
15 apparently, Mr. Shaw. I didn't know if anyone was  
16 going to want -- I will not require it, no, but if  
17 anybody wants to have it be made an exhibit, you need  
18 to let us know.

19 MR. SHAW: I'm going on the assumption that  
20 because it is part of the petition, it is part of the  
21 record.

22 [JUDGE]: Okay. I meant as an exhibit in  
23 particular. All right. Is the 1993 USTA study  
24 available yet, Mr. Shaw?

25 MR. SHAW: Yes, I believe so.

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1 JUDGE HAENLE: When is that going to be  
2 distributed, if it is?

3 MR. SHAW: I'll distribute that  
4 immediately. That was a loose end that I'd lost track  
5 of. I apologize. I believe it is, subject to check,  
6 and I will send that out to everybody immediately.

7 JUDGE HAENLE: Okay. Do you intend that  
8 that be added to WRE-1 or substituted for WRE-1 that  
9 has been predistributed?

10 MR. SHAW: Perhaps it can just be added. I  
11 don't know whether there's going to be any issue about  
12 a difference between the two.

13 JUDGE HAENLE: I don't know either so -- I  
14 haven't seen it. Anyone else -- is it all right with  
15 everyone else if it is added? Gentlemen? Anyone  
16 object to that? All right.

17 In the GTE petition, there was a petition  
18 attached to I think it was Mr. Armstrong's testimony.  
19 That was the petition in Docket Number UT-940926. Was  
20 that supposed to be an exhibit, Mr. Williamson?

21 MR. WILLIAMSON: Yes, we would like it to  
22 be an exhibit.

23 [JUDGE]: Okay, I'll give it an exhibit  
24 number then when I mark.

25 Any other loose ends that we need to take

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1 care of then? Anybody else? Okay. What we will do  
2 is we'll cancel the first two days of the days that we  
3 had blocked out for hearing then. We will meet at  
4 9:30 on the 21st. We will keep in place for now  
5 the 21st, 22nd, and 23rd in case we need them.

6           Between now and then the parties will talk  
7 among themselves about what responses to discovery  
8 requests, if any, should be included in the record,  
9 and you will let everyone know as soon as possible if  
10 we don't need to have those hearings then.

11           The briefs are due on January 17. I will  
12 make a -- I will do a brief prehearing conference  
13 order. I will give the numbers in a -- the exhibit  
14 numbers and include that as an attachment to the  
15 prehearing conference order.

16           If you gentlemen are not able to agree to  
17 waive cross-examination of all of the witnesses, if  
18 you waive cross of some of the witnesses, you need to  
19 let us know that too, because some of you indicated  
20 that you would, but -- Mr. Shaw in particular, that  
21 you would waive cross, but if others were being  
22 crossed you wanted another opportunity or something of  
23 that nature.

24           MR. SHAW: Yes. My position is, is that if  
25 my witnesses are going to be extensively or otherwise

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1 crossed, I will likely not waive cross-examination of  
2 Mr. Spinks and Mr. King.

3 JUDGE HAENLE: All right. Well, try -- you  
4 will distribute the responses to this last set of data  
5 requests to everyone, Mr. Shaw, and try to work out as  
6 soon as you can, all of you, whether or not we're  
7 going to need that cross-examination and whether or  
8 not these documents -- let everyone know what you're  
9 going to offer and see if you can come to an agreement  
10 regarding the admissibility of those documents. I'm  
11 hoping that if you can all come to agreements and let  
12 me know, then we will not have to have  
13 cross-examination on those three days, but we will  
14 leave those days open in case we need it.

15 MR. MANIFOLD: This is Rob Manifold.

16 [JUDGE]: Yes.

17 MR. MANIFOLD: It sounds to me like that  
18 with Mr. Shaw's most recent statement, we have all  
19 agreed to waive cross-examination of the two witnesses  
20 from General Telephone of the Northwest, whether or  
21 not there is cross-examination of other witnesses.

22 JUDGE HAENLE: Is that right everybody?  
23 Does anyone need to waive -- does anyone need to  
24 cross-examine the GTE NW witnesses no matter what?  
25 Okay. Well, it sounds like everyone has waived cross

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1 of those two witnesses then. Mr. Williamson, you will  
2 not need to present those.

3           There was a request by Mr. Harlow, though,  
4 that if we are going to do this on a paper record,  
5 that the witnesses make some oath or declaration that  
6 their statements are true and correct and et cetera.  
7 Do you want to repeat that, Mr. Harlow?

8           MR. HARLOW: Yes. I don't think it's  
9 necessary to resubmit the testimony, but simply  
10 incorporate the previously filed testimony and  
11 indicate that those -- the testimony's adopted under  
12 oath. It's a very simple form that can be done.

13           MR. SHAW: Your Honor, Ed Shaw. Maybe I  
14 can suggest -- we do this in other jurisdictions -- is  
15 you could all submit affidavits essentially that the  
16 testimony is -- was prepared by the witness and is  
17 true and correct to the best of their belief.

18           JUDGE HAENLE: An affidavit by the witness?

19           MR. SHAW: Yes.

20           [JUDGE]: That sounds fine to me. Are  
21 those generally just put together then with the  
22 prefiled testimony, Mr. Shaw?

23           MR. SHAW: Yes.

24           [JUDGE]: In some way marked separately?

25           MR. SHAW: Just appended to the testimony.

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1                   [JUDGE]: Okay. That sounds very good to  
2 me. Is there anyone that objects to that procedure?  
3 All right. Each of you, then, will be responsible for  
4 providing for your witness a written statement  
5 indicating that that witness adopts the testimony  
6 under oath. Send those one copy to the file, copies  
7 to everyone. Those will be put with the prefiled  
8 testimony then. I assume that that would include that  
9 the witness had prepared the exhibits as well and they  
10 were true and correct and et cetera, so don't forget  
11 that part of it.

12                   Okay. Anything else that we need to cover?  
13 All right. I think that completes the prehearing  
14 conference then, gentlemen. Get started on those  
15 immediately. If there's any way -- the earlier we can  
16 find out whether we're going to need those other days,  
17 the better for all of us.

18                   MR. MANIFOLD: Your Honor, this is Rob  
19 Manifold. I would just like to say that I'm  
20 personally very grateful for your office being willing  
21 to do this by telephone call. It's a great  
22 convenience for us and I think it saves a lot of time  
23 and I appreciate it.

24                   JUDGE HAENLE: Yeah, well, I think we'll be  
25 doing more like this if we can. My concern, as



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1 always, is for an accurate transcript and as long as  
2 -- with a prehearing conference of this size, as  
3 long as everyone has identified themselves so that  
4 we get an accurate transcript, then it's certainly  
5 fine from my point of view.

6           Anything else that we need to deal with  
7 today? I will adjourn the prehearing conference then,  
8 and I will issue a prehearing conference order trying  
9 to incorporate the elements that we just talked about.

10           (Hearing adjourned at 10:45 a.m.)

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