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1 BEFORE THE WASHINGTON
2 UTILITIES AND TRANSPORTATION COMMISSION

3))
4 QWEST CORPORATION,)Docket UT-063038
 Complainant,)Volume II
)Pages 27-52
5 vs.)
))
6 LEVEL 3 COMMUNICATIONS, LLC;)
 PAC-WEST TELECOMM, INC.; NORTHWEST)
7 TELEPHONE, INC.; TCG SEATTLE;)
 ELECTRIC LIGHTWAVE, INC.; ADVANCED)
8 TELCOM, INC., d/b/a ESCHELON)
 TELECOM, INC.; FOCAL COMMUNICATIONS)
9 CORPORATION; GLOBAL CROSSING LOCAL)
 SERVICES, INC.; and MCI WORLDCOM)
10 COMMUNICATIONS, INC.,)
 Respondents.)
11 _____)

12 A pre-hearing conference in the
13 above-entitled matter was held at 9:31 a.m. on
14 Wednesday, April 4, 2007, at 1300 South Evergreen
 Park Drive, S.W., Olympia, Washington, before
15 Administrative Law Judge THEODORA MACE.

16 The parties present were as follows:

17 QWEST CORPORATION, by Lisa Anderl,
18 In-House Attorney, 1600 Seventh Avenue, Room 3206,
19 Seattle, Washington 98191 (via teleconference
20 bridge.)

21 ELECTRIC LIGHTWAVE, LLC, by Charles L.
22 Best, Associate General Counsel, Electric Lightwave,
23 LLC, 4400 N.E. 77th Ave., Vancouver, Washington 98662
24 (via teleconference bridge.)

25 COMMISSION STAFF, by Jonathan Thompson,
 Assistant Attorney General, 1400 South Evergreen Park
 Drive, S.W., P.O. Box 40128, Olympia, Washington
 98504-0128.

Barbara L. Nelson, CCR

Court Reporter

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1 VERIZON ACCESS, by Gregory M. Romano,
Attorney at Law, 1800 41st Street, WA 0105GC,
2 Everett, Washington 98201.

3 ADVANCED TELCOM, INC., d/b/a ESCHELON
TELECOM, INC., by Dennis D. Ahlers, Associate General
4 Counsel, 730 Second Avenue South, Suite 900,
Minneapolis, Minnesota 55402 (via teleconference
5 bridge.)

6 TCG SEATTLE, by Gregory L. Castle,
Senior Counsel, 525 Market Street, Room 2022, San
7 Francisco, California 94105 and David Wiley, Attorney
at Law, Williams Kastner & Gibbs, Two Union Square,
8 601 Union Street, Suite 4100, Seattle, Washington
98101 (via teleconference bridge.)

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10 LEVEL 3 COMMUNICATIONS, LLC, and
BROADWING, by Greg L. Rogers, Director of State
Regulatory Affairs, 1025 Eldorado Boulevard,
11 Broomfield, Colorado 80021 (via teleconference
bridge.)

12
13 LEVEL 3 COMMUNICATIONS, by Rogelio
Pena, Attorney at Law, Pena & Associates, LLC, 1375
Walnut Street, Suite 220, Boulder, Colorado 80302
14 (via teleconference bridge.)

15 PAC-WEST TELECOMM, INC.; NORTHWEST
TELEPHONE, INC.; BROADWING COMMUNICATIONS, LLC;
16 GLOBAL CROSSING LOCAL SERVICES, INC., by Gregory J.
Kopta, Attorney at Law, Davis Wright Tremaine, 1501
17 Fourth Avenue, Suite 2600, Seattle, Washington 98101
(via teleconference bridge.)

18
19 WASHINGTON INDEPENDENT TELEPHONE
ASSOCIATION, by Richard A. Finnigan, Attorney at Law,
2112 Black Lake Boulevard, S.W., Olympia, Washington
20 98512 (via teleconference bridge.)

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1 JUDGE MACE: I want to go on the record at
2 this point. We do have a reporter in the room. My
3 name is Theo Mace, and I'm the Administrative Law
4 Judge assigned to this case. The main purpose of our
5 time here today is to discuss scheduling regarding
6 the settlement agreement that was filed.

7 I'd like to take the oral appearances now of
8 those on the conference bridge and those who are in
9 the hearing room. I'll begin with those in the
10 hearing room and I'll begin with you, Mr. Romano.

11 MR. ROMANO: Good morning. My name is
12 Gregory Romano, and I represent Verizon Access in
13 this case.

14 JUDGE MACE: Could you check to see if your
15 microphone is on? It should be up. No, the red
16 button should be up. Okay. Thank you. Mr.
17 Thompson.

18 MR. THOMPSON: Jonathan Thompson,
19 representing the Commission Staff.

20 JUDGE MACE: Thank you. Is there anyone on
21 the line on behalf of Qwest?

22 MS. ANDERL: Yes, Your Honor. This is Lisa
23 Anderl, representing Qwest.

24 JUDGE MACE: Thank you. Anyone from
25 Pac-West, Global Crossing?

0004

1 MR. KOPTA: Gregory Kopta, of the Law Firm
2 Davis Wright Tremaine.

3 JUDGE MACE: Thank you. ELI?

4 MR. BEST: Yes, Charles Best, representing
5 ELI.

6 JUDGE MACE: Broadwing? Anyone from
7 Broadwing?

8 MR. ROGERS: Greg Rogers is on with Level 3,
9 and I represent Broadwing.

10 JUDGE MACE: Greg Rogers?

11 MR. ROGERS: Yes.

12 JUDGE MACE: Thank you. CenturyTel? Anyone
13 from CenturyTel? ATG?

14 MR. AHLERS: Dennis Ahlers, for ATG.

15 JUDGE MACE: Thank you. And Mr. Finnigan,
16 are you on the line?

17 MR. FINNIGAN: Yes, I am.

18 JUDGE MACE: Mr. Finnigan, for WITA. All
19 right.

20 MR. ROGERS: Judge, if I could, this is Greg
21 Rogers again.

22 JUDGE MACE: Mr. Rogers, you're going to
23 have to speak up. It's really hard for me to hear
24 you in here.

25 MR. ROGERS: Okay. I apologize. I'm

0005

1 representing Level 3, as well.

2 JUDGE MACE: Level 3, thank you.

3 MR. PENA: And Your Honor, this is Rogelio
4 Pena, I'm also calling on behalf of Level 3.

5 JUDGE MACE: On behalf of Level 3, okay.

6 Thank you. All right. Is there anyone else on the
7 conference bridge that I missed?

8 MR. CASTLE: Yes, Your Honor. This is Greg
9 Castle, and I'm representing TCG Seattle.

10 JUDGE MACE: TCG, all right. Thank you.

11 MR. WILEY: Judge Mace, this is Dave Wiley,
12 and I'm also representing TCG Seattle.

13 JUDGE MACE: Thank you. Anyone yet from
14 CenturyTel? I didn't hear a beep, so I guess not.

15 All right. I think that's everyone, then. Anybody
16 else on the conference bridge who wants to enter an
17 appearance? All right. I hear no response.

18 Well, as I said at the outset, this is the
19 Qwest versus Level 3, et al, complaint regarding
20 VNXX, and although there was some confusion about it,
21 we've ended up here today to talk about scheduling
22 regarding the settlement agreement that was filed,
23 and so I don't know if you've done any talking
24 amongst yourselves, but if you have, let me ask, I
25 guess Ms. Anderl, maybe you know about this, what

0006

1 discussions you might have had about scheduling?

2 MS. ANDERL: Yes, Your Honor. We've spoken
3 at length with --

4 JUDGE MACE: Ms. Anderl, can I ask you to
5 try to speak up? I don't know what facility you're
6 using for a microphone. It's really hard to hear
7 you.

8 MS. ANDERL: Oh, that's bad, because I'm on
9 the handset.

10 JUDGE MACE: Well, that's better, whatever
11 you did now.

12 MS. ANDERL: Okay. We have spoken at length
13 with Verizon, I think more briefly with Staff, maybe
14 less so, if at all, with the other parties, but I
15 think that we have agreed with Verizon -- and Mr.
16 Romano, please jump in here if I misrepresent it, but
17 that it would be okay to consider the settlement
18 concurrently with the hearing on the merits.

19 In other words, we could just set aside some
20 time or carve out some time to the extent there were
21 specific questions or specific cross-examination
22 about the settlement agreement and resulting
23 interconnections agreement amendment, and we could do
24 that during the time allocated for hearings the week
25 of April 23rd.

0007

1 JUDGE MACE: All right.

2 MR. ROMANO: Your Honor.

3 JUDGE MACE: And you agree with that, Mr.
4 Romano?

5 MR. ROMANO: To some degree. I mean, I
6 think what we would propose is perhaps the Commission
7 could actually approve the settlement on a
8 conditional basis, without even having a hearing on
9 it, such that the Commission could approve the
10 settlement subject to possible changes in the
11 approval at the end of this proceeding in response to
12 Commission Staff's arguments that it may or may not
13 be in the public interest to approve the settlement.

14 That way, we avoid any sort of procedural
15 issues, the Commission could approve it
16 conditionally, and then, at the end of the
17 proceeding, look back at the settlement document.
18 That way, Verizon, we wouldn't need to have a special
19 hearing on the particular settlement right now. We
20 would show up at the evidentiary hearing, but not
21 likely participate, and that, to me, is the proposed
22 solution here.

23 JUDGE MACE: Well, let me just say about
24 that, before I hear from other parties, that the
25 problem I perceive from that is even if -- let me

0008

1 back up.

2 I would be the judge who would be holding a
3 hearing with -- or would make some type of
4 determination about the settlement, whether it met
5 the public interest, and whether I do that through a
6 hearing or through an initial order on whatever
7 documents you file, there would have to be an order
8 in order to approve it conditionally or otherwise.
9 The preparation of such an order is not a lightly
10 done task here at the Commission, and so the chance
11 that it would be completed prior to the hearing is
12 almost nothing.

13 So the only -- that's why I think the
14 proposal, if you want, to have cross-examination
15 allotted to the settlement agreement during the
16 hearing is -- I think would be fine. There won't be
17 any order on the settlement until after it's
18 considered in some fashion, you know, where a
19 considered judgment can be made of it.

20 I don't know if I'm clear on that. In other
21 words, I can't do this before the hearing takes
22 place. That just isn't going to happen.

23 MR. ROMANO: I understand.

24 JUDGE MACE: I can't make any kind of
25 conditional approval. I can't make any kind of

0009

1 conditional anything prior to the hearing. It just
2 -- it can't happen.

3 MR. ROMANO: Okay. I understand, Your
4 Honor.

5 JUDGE MACE: There's not enough time.

6 MS. ANDERL: Your Honor, this is Lisa
7 Anderl. May I jump in here --

8 JUDGE MACE: Surely.

9 MS. ANDERL: -- to discuss a related matter?
10 The settlement is actually, you know, a couple of
11 different documents, and included as a part of the
12 settlement agreement was an agreement by the parties
13 to enter into an interconnection agreement amendment.
14 Subsequent to the filing of the settlement, the
15 parties did that and have now filed that ICA
16 amendment in both this docket and in the ordinary
17 docket that governs the relationship between Verizon
18 Access and Qwest for approval.

19 Under the Commission's rules, the Commission
20 has to act on that within 90 days, and that's, you
21 know, not by initial order, but by Commission order,
22 and I think that's a rule that implements the
23 requirements of Section 252.

24 So I think what Mr. Romano raises, to some
25 extent, might be a workable solution, even if it

0010

1 doesn't comport with the timeline you were
2 discussing. There may be at some point a desire by
3 the Commission itself to enter an order either
4 approving or conditionally approving the ICA
5 amendment just so that there's no question there
6 about the Commission's compliance with Section 252.

7 And I just wanted to make sure that that's
8 an issue that's raised and out there and we go
9 forward with a full understanding of kind of all the
10 moving parts.

11 JUDGE MACE: Thank you. Is there a docket
12 number for that agreement case?

13 MS. ANDERL: I'm sorry.

14 JUDGE MACE: Agreement approval?

15 MS. ANDERL: Yeah, I don't have it, though,
16 right at my fingertips.

17 JUDGE MACE: If you e-mail that to me, I'd
18 appreciate it.

19 MS. ANDERL: I'll work on getting it before
20 we're off the record here.

21 JUDGE MACE: Thank you. Let me first ask
22 Staff to address this and then the other parties. Go
23 ahead, Mr. Thompson.

24 MR. THOMPSON: Well, I should say that the
25 -- as a matter of fact, the executive secretary has

0011

1 already issued an order -- well, an initial order, I
2 guess, approving the interconnection agreement, and
3 -- but that is still -- we're still within a 14-day
4 period within which I think Staff could request that
5 the Commission reconsider that and possibly, you
6 know, approve -- do this conditional approval subject
7 to, you know, the ICA being subject to whatever the
8 outcome of this complaint docket is. That might be
9 something that we could do there.

10 JUDGE MACE: Do you have the docket number,
11 Mr. Thompson?

12 MR. THOMPSON: I think Jing Roth just went
13 out to track it down, so here she comes.

14 MS. ANDERL: I take it I'm going to be off
15 the hook on this one, then.

16 JUDGE MACE: If you'll just wait a moment
17 online.

18 MR. THOMPSON: It's UT-063055.

19 JUDGE MACE: Thank you. Do you have
20 anything else to say with regard to what Mr. Romano
21 is proposing here?

22 MR. THOMPSON: Well, I'm not sure -- I guess
23 my view is that I'm not sure it makes sense, really,
24 to dismiss Verizon from this case since we're at a
25 point where Verizon's agreeing that they would be

0012

1 bound by the outcome of the case with respect to
2 whether, you know, VNXX would be allowed with respect
3 to ordinary voice traffic. And I think that the
4 issues involved in settlement are necessarily going
5 to be involved in the hearing of this case, and it
6 sort of changed the backdrop of all the issues that
7 are going to be testified to.

8 So I think it -- maybe it doesn't make sense
9 to deal with this procedural matter of whether or not
10 to dismiss Verizon, but just to carry it with the
11 case and decide the policy issues with the case, if
12 that makes sense.

13 JUDGE MACE: Is there anybody on the
14 conference bridge that wants to address this issue?

15 MR. BEST: Yes, Your Honor, this is Chuck
16 Best for Electric Lightwave. This has kind of thrown
17 this whole proceeding into a cocked hat of sorts. I
18 mean, I think we need to take a step back and remind
19 ourselves that, first of all, Qwest filed a complaint
20 in this case making very specific allegations.

21 What's now happening is is that we're being
22 kind of drawn away from the original part of the
23 complaint by this proposed settlement, and I would
24 remind everyone that we've already filed testimony
25 and done discovery on the initial issues in the

0013

1 complaint.

2 If we're now going to be required to
3 cross-examine on the issues in the settlement,
4 there's really no benefit of any evidence, there's --
5 we're sort of at a disadvantage.

6 And I guess the point that I want to make is
7 that I think the complaint needs to proceed as it
8 sits, because those are the issues as framed in the
9 case and have been for a long time. And now, all of
10 a sudden, we have new issues, and I would really urge
11 the ALJ not to introduce new issues -- i.e., this
12 settlement -- into the hearing itself, because it's
13 really inappropriate.

14 JUDGE MACE: Well, how would you propose
15 that the settlement be handled, then?

16 MR. BEST: I think the settlement would be
17 handled like any other. I guess my personal opinion
18 is is that the settlement should be dealt with by the
19 Commission in its order, because, depending on how
20 the Commission rules, it may moot the whole thing,
21 the parties may have a different view of things, it
22 kind of depends on how the ruling comes out.

23 JUDGE MACE: I guess just a question I have
24 is if the settlement is to be dealt with in the
25 order, then we have to have a mechanism to review the

0014

1 settlement. And I guess I'm understanding that Qwest
2 is proposing that that review take place in
3 conjunction with the hearing, and yet you oppose it,
4 so I'm wondering where I'm going to consider the
5 settlement so that I can address it in the order?

6 MR. BEST: Well, I guess what I oppose is
7 that -- I don't mind that it's a separate proceeding,
8 I mean, that it's separated from the case itself,
9 because, you know, we may or may not care about that
10 settlement specifically, but what I am nervous about
11 is that these issues are getting blended and they
12 shouldn't be.

13 And I guess I don't care that there's a
14 separate proceeding, if you will, on the same day or
15 at the end of the hearing, but what I do care about
16 is that these cases really -- the approval of the
17 settlement and the actual VNXX complaint are really
18 two different issues, and I'm worried that they're
19 starting to get blended because, you know, Staff's
20 suggesting that this now be treated as Qwest's
21 position, and that really throws this into a
22 troubling situation because, you know, we've not had
23 any testimony on it.

24 MS. ANDERL: Well, Your Honor, may I respond
25 to that?

0015

1 JUDGE MACE: Ms. Anderl.

2 MS. ANDERL: I think that the pleading that
3 we filed, I hoped, made it clear that this is not our
4 revised litigation position. And the settlement very
5 explicitly states that this does not alter our
6 position with regard to the other eight or maybe it's
7 now seven respondents in the case.

8 I understand Mr. Best's concern, but I don't
9 think that that's what's happening, and I don't think
10 they have to cross-examine on the settlement if they
11 don't want to. There's still Qwest's direct and
12 rebuttal testimony that is its case in chief with
13 regard to how this Commission ought to handle VNXX.

14 JUDGE MACE: Ms. Anderl, are you -- when you
15 suggested that the settlement be considered in
16 conjunction with the hearing on the merits, were you
17 envisioning that there would be a day or a half-day
18 that would be allotted to cross-examination on the
19 settlement and then the rest of cross-examination
20 would take place with regard to the case in chief, or
21 were you thinking it would happen some other way?

22 MS. ANDERL: You know, what you described is
23 one option. The other option is that, you know, we
24 don't have any testimony on the settlement. We would
25 just propose that our witness, Larry Brotherson, is

0016

1 the witness who could testify on behalf of Qwest in
2 support of the settlement, and if people wanted to
3 cross-examine him, you know, whatever suits Your
4 Honor, they could do that in a separate part of the
5 transcript so that it's easy to find, or they could
6 just do it when he's on the stand.

7 JUDGE MACE: All right. Thank you. Mr.
8 Best, we've heard from you. I'm wondering if there's
9 anyone else on the conference bridge who wants to
10 address these issues? Let me go through the list
11 here. Let's see. We haven't heard from Mr. Kopta.
12 Did you have any input, Mr. Kopta?

13 MR. KOPTA: No, Your Honor. I think our
14 concern primarily was to make sure that whenever the
15 hearing was going to be held on the settlement, that
16 everyone would be able to be available, and if it's
17 conducted at some point during the hearings that are
18 currently scheduled, then that addresses the only
19 concern that we had expressed.

20 JUDGE MACE: Thank you. Let's see. Mr.
21 Rogers or Mr. Pena.

22 MR. ROGERS: Level 3 comes down basically in
23 the same position, I think, as Mr. Kopta just said,
24 that as long as there's an opportunity to address,
25 you know, what has been stated in the pleadings with

0017

1 regard to the settlement at some point in time, I
2 think that we would be satisfied that it could be
3 done in conjunction.

4 JUDGE MACE: All right. Let's see here. Go
5 back to my list. Mr. Castle or Mr. Wiley.

6 MR. CASTLE: Yes, thank you, Your Honor.
7 This is Greg Castle. TCG does not object to
8 considering the settlement during the week of the
9 evidentiary hearings.

10 JUDGE MACE: Thank you. Mr. Ahlers.

11 MR. AHLERS: Yes, Your Honor. We also would
12 agree with that. It can be done during the hearings.

13 JUDGE MACE: And Mr. Finnigan.

14 MR. FINNIGAN: Yes, WITA agrees that
15 considering the settlement during the hearing makes
16 the most sense.

17 JUDGE MACE: All right. Mr. Best, if I were
18 to propose that we schedule a hearing on the
19 settlement for -- well, we have five days scheduled
20 for this hearing. I know there's a number of
21 witnesses, but in any event, if we were to schedule
22 the hearing on the settlement on the morning of --
23 let's see, what are our days here -- on the morning
24 of the 27th of April, the last day, to run for as
25 long as it takes, and I would say that I would want

0018

1 to hear from Mr. Brotherson and I would like to have
2 Staff's opinion, Staff and -- Mr. Williamson, I
3 guess, is the sole Staff witness; is that correct?

4 MR. THOMPSON: That's right, yeah.

5 JUDGE MACE: Mr. Williamson, and I don't
6 know if there would be anyone else from Verizon-MCI
7 that would testify.

8 MR. ROMANO: If Your Honor was interested in
9 having somebody, I could arrange it.

10 JUDGE MACE: Yeah, I think I'd like to have
11 someone from your company, too --

12 MR. ROMANO: Yes, Your Honor.

13 JUDGE MACE: -- to answer questions. There
14 wouldn't be any pre-filed testimony, but the
15 settlement would be there and the narrative, and we
16 could have the parties have an opportunity to ask
17 questions. Would that serve your interests in having
18 this separate from the hearing?

19 MR. BEST: Yes, Your Honor. Like I say, and
20 I don't -- my only concern, like I say, was blending
21 this with the hearing, because it's just -- like I
22 say, from reading the comments of the parties, it's
23 like it's become now one of the issues in the case.
24 In my view, it is separate. So yes, that certainly
25 would meet my needs. In fact, should the hearing

0019

1 resolve earlier, it wouldn't trouble me at all to
2 have it immediately follow it. It's just that I want
3 to make sure there is a separation, because I was
4 getting concerned that, in reading all this, that
5 it's starting to get blended with the ultimate issues
6 in the case, which really shouldn't be changing this
7 late in the game.

8 JUDGE MACE: Is there anyone who has an
9 objection to that procedure?

10 MR. ROGERS: This is Greg Rogers. My
11 question becomes whether parties would then be
12 precluded from conducting cross-examination of the
13 witnesses with respect to positions stated regarding
14 the settlement agreement during the rest of the
15 hearing?

16 JUDGE MACE: Without knowing what those
17 questions are, I think it would be hard for me just
18 to say automatically that you would be precluded, but
19 of course we wouldn't want to have a duplication.

20 MR. ROGERS: I mean, to me, I don't know
21 that I --

22 JUDGE MACE: Is this Mr. Rogers?

23 MR. ROGERS: -- see a clear separation of
24 the issues, and so I anticipated that perhaps, you
25 know, cross-examination may, in fact, get into some

0020

1 of the positions set forth in the settlement
2 pleadings, and whether that's then objectionable is
3 my question.

4 JUDGE MACE: I can't tell you that right
5 now. Does anybody else want to address that issue?

6 MR. BEST: Well, this is Chuck Best again.
7 I guess now this really does kind of bring up what
8 the problem really is. I don't think the settlement
9 is pleadings. I mean, the pleadings are what they
10 are. The settlement's sort of a new issue that's
11 been raised late in the game, and now we're going to
12 be taking evidence or at least cross-examination on
13 it, and there is no direct filed testimony on any of
14 this stuff or rebuttal. So I guess, you know,
15 procedurally, I'm not quite sure how that would work.

16 MS. ANDERL: Well, Your Honor --

17 JUDGE MACE: Ms. Anderl.

18 MS. ANDERL: This is Lisa Anderl. I think
19 the way this is working is exactly in accordance with
20 the Commission's rules, but I don't think the
21 Commission's rules require us to have pre-filed
22 testimony. They certainly contemplate partial
23 settlement between one or more parties to be
24 addressed through a hearing where parties present
25 witnesses who may not have testimony in support of.

0021

1 I understand, again, Mr. Best's concern, but
2 I also understand Mr. Rogers certainly, you know, is
3 rubbing his hands with glee in anticipation of asking
4 Mr. Brotherson, Well, now you've got this testimony
5 here, Mr. Brotherson, and yet in the settlement
6 you've agreed to allow the exchange of VNXX traffic
7 on whatever, you know, compensation mechanism you may
8 have determined is appropriate, but still, you know,
9 isn't that inconsistent with your position that it's
10 unlawful. I can see how he wants to do that type of
11 cross-examination.

12 I don't know if I would object and say, Hey,
13 you can't do that until the settlement part of the
14 hearing. I don't know if that makes any sense or
15 not. But I certainly recognize the issue. I think
16 we maybe just have to wait and see how it presents
17 itself in real life.

18 JUDGE MACE: Mr. Thompson, do you have
19 anything to lend to this discussion?

20 MR. THOMPSON: Well, I would note that
21 Staff's witness, Mr. Williamson, actually had the --
22 before we filed our rebuttal testimony, the
23 settlement had been made public, and so he comments
24 on it in his rebuttal testimony, so --

25 JUDGE MACE: Right. I think we're faced

0022

1 with a kind of blurry situation, and I think we're
2 just going to have to work our way through it as best
3 we can. I wish I could be more definitive, but I
4 don't think I can at this point.

5 Let's see here. So it sounds like no one
6 objects to, at least in principle, to having the
7 hearing regarding the settlement on April 27th, or
8 whatever is the last day of hearing. In other words,
9 if we finish all of the witnesses in the case in
10 chief first, we can go ahead with the settlement
11 hearing right away. Is that all right? Anybody
12 object to that?

13 Okay. One thing I want to ask in addition
14 is whether or not the parties anticipate having
15 cross-examination exhibits that need to be marked for
16 purposes of the hearing itself, the case in chief?
17 Anyone have cross exhibits?

18 MR. KOPTA: Your Honor, this is Greg Kopta.
19 We will have some cross exhibits, yes.

20 MS. ANDERL: Yes, and Your Honor, for Qwest,
21 I believe we'll have some, as well, although probably
22 not very many.

23 MR. BEST: This is Chuck Best, for Electric
24 Lightwave. We likely will have some, but I don't
25 even know what they are quite yet.

0023

1 MS. ANDERL: That's the truth.

2 JUDGE MACE: What I need to have from you is
3 our typical -- I would like to avoid holding a
4 pre-hearing conference for marking exhibits and for
5 getting from you cross times and order of cross.
6 We're scheduled to begin the hearing on April 23rd,
7 and I am wondering if you would be able to have a
8 list of your cross-examination exhibits and the cross
9 exhibits to me on April 19th, along with a list of --
10 well, along with the amount of time you think you're
11 going to spend cross-examining each witness. Is that
12 doable?

13 MS. ANDERL: So Your Honor, let me just
14 clarify. This is Lisa Anderl. A list of cross
15 exhibits, copies of the actual exhibits, cross
16 estimates, and then I would assume just a proposed
17 order of witnesses, as well.

18 JUDGE MACE: Correct. That way I can
19 organize myself and I can prepare a master list of
20 exhibits that I can e-mail to you prior to the
21 hearing. Is that sufficient time or is it too early?
22 Anybody have a problem with it? All right. If not,
23 then I would appreciate it if you could get those to
24 me by noon on April 19th, so that I have enough time
25 to manipulate them.

0024

1 MS. ANDERL: Okay.

2 MR. BEST: Your Honor, this is Chuck Best
3 again. Do you know -- I'm sorry I'm not that
4 familiar with the hearing room there. Will there be
5 either a white board or some sort of a large tablet
6 that we could draw on?

7 JUDGE MACE: I believe that I can request
8 one for you, and what I would appreciate your doing
9 is e-mailing me to make that request so that I don't
10 forget about it.

11 MR. BEST: Okay.

12 JUDGE MACE: If you would, or else include
13 it along with your filings on the 19th, so that I can
14 make sure we have one available. Anything else we
15 need to address at this point?

16 MS. ANDERL: Your Honor, is the start time
17 on the 23rd 9:30?

18 JUDGE MACE: 9:30; correct. And it's in
19 Room 206. The order of witnesses will be an
20 important thing, too, in addition to the -- well,
21 that's the order that you're going to file on the
22 19th, order of witnesses.

23 MS. ANDERL: Right, but, well, Your Honor, I
24 guess most of the parties don't have a whole lot of
25 witnesses. I guess it would be --

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1 JUDGE MACE: Right. It seems like most of
2 the CLECs have one witness, from what I could tell,
3 or two.

4 MS. ANDERL: Right, we only have three, so
5 -- and for travel purposes, I guess we're going to
6 assume that Qwest is going to go first, as the
7 Complainant, so I'm not going to ask for dates
8 certain for any of my witnesses. I'll just put them
9 up in the order I need to to get whoever needs to be
10 off on Monday off on Monday.

11 JUDGE MACE: Very well. That seems
12 reasonable.

13 MS. ANDERL: If anybody else wants a
14 specific order or a date certain for their witness,
15 maybe it would be good if they asked for that before
16 the 19th.

17 JUDGE MACE: Right. I'm expecting that
18 you'll be conferring amongst yourselves to some
19 extent about how this is going to go forward.

20 MR. ROGERS: Level 3 has a number of
21 witnesses combined with Broadwing, and so it's
22 anticipated then that we would need to just work it
23 out among the parties if we're looking to try to fit
24 those witnesses in in a particular slot.

25 JUDGE MACE: Yes, that's usually what

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1 happens, the parties work those issues out. And if
2 there's an objection, just let me know and we can
3 iron it out.

4 MR. ROGERS: Okay.

5 JUDGE MACE: What I'll do is prepare a
6 notice today that will hopefully correctly indicate
7 what we've agreed to and -- with regard to the
8 hearing and the hearing on the settlement, and if
9 there's any problem with the notice whatsoever,
10 please let me know. I apologize for that earlier
11 confusion.

12 And I think that that's all we need to do at
13 this point. Anything from anyone else? Anyone on
14 the conference bridge have anything else to add? All
15 right. Thank you very much. I appreciate it,
16 appreciate your indulgence with that prior error
17 about setting the settlement conference or settlement
18 hearing. Thank you.

19 MR. ROMANO: Thank you, Your Honor.

20 MR. KOPTA: Thank you.

21 MS. ANDERL: Thank you.

22 (Proceedings adjourned at 10:00 a.m.)

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