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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

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In the matter of the ) DOCKET NO. UT-053025

investigation concerning ) VOLUME: 1

4

the status of competition ) PAGES: 1-53

and impact of the FCC's )

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Triennial Review Remand )

order on the competitive )

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telecommunications )

environment in Washington )

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State )

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A workshop in the above matter was held on

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February 6, 2006 at 10:05 a.m. at 1300 South Evergreen

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Park Drive Southwest, Olympia, Washington, before

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Administrative Law Judge ANN RENDAHL.

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The parties were present as follows:

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THE WASHINGTON UTILITIES AND TRANSPORTATION

COMMISSION STAFF, by JING ROTH, Assistant Attorney

16

General, 1400 South Evergreen Park Drive Southwest,

Olympia, Washington 98504.

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18

PUBLIC COUNSEL, via bridge line by SIMON FFITCH,

Office of the Attorney General, 900 Fourth Avenue, Suite

2000, Seattle, Washington 98164.

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QWEST, via bridge line by LISA ANDERL, Attorney

at Law, 1600 7th Avenue, Suite 3206, Seattle, Washington

98191.

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QWEST, via bridge line by CAROLINE HAMMOCK,

Attorney at Law, Denver, Colorado.

23

VERIZON, via bridge line by TIM O'CONNELL,

Attorney at Law, 600 University Street, Suite 3600,

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Seattle, Washington 98101.

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COVAD, via bridge line by GREG DIAMOND, Attorney

at law.

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1                   WEBTEC, via bridge line by ART BUTLER, Attorney  
at Law, 600 union Street, Suite 5450, Seattle, Washington  
2                   98101.

3                   ESCHELON, via bridge line by KAREN CLAUSON,  
Attorney at Law.

4  
5                   TEL WEST, via bridge line, DAVID MITTLE, Attorney  
at law.

6                   XO, TIME WARNER, TELCOM, INTEGRA via bridge line  
By GREG KOPTA, Attorney at Law, 2600 Century Square, 1501  
7                   Fourth Avenue, Seattle, Washington 98101.

8                   ELI, via bridge line by DENNIS ROBINS, Attorney  
at Law.

9  
10                  TDS, via bridge line by PETER HEALY, Attorney at  
Law.

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

2 JUDGE RENDAHL: Let's go on the record. We're  
3 here before the Washington Utilities and Transportation  
4 Commission as a continuation of the workshop in Docket No.  
5 UT-053025 on February 6, 2006. We're starting about  
6 10:05, and aside from myself and the court reporter in the  
7 hearing room, everyone else is on the bridge line.

8 And so let's begin with Qwest, if you could just  
9 state your name and who you represent, that would be  
10 useful.

11 MS. ANDERL: Okay. Thank you, your Honor, Lisa  
12 Anderl, in house attorney representing Qwest Corporation.  
13 And also on the bridge line is Caroline Hammock in our  
14 Denver office.

15 JUDGE RENDAHL: Okay, thank you. And for public  
16 counsel?

17 MR. FFITCH: Your Honor, this is Simon ffitich  
18 with public counsel, and also Judy Krebs with our office.  
19 Judy Krebs will be the attorney on this case for us.

20 JUDGE RENDAHL: Okay, thank you. And for  
21 Verizon?

22 MR. O'CONNELL: Good morning, your Honor, Jim  
23 O'Connell with the Stoel Rives Law firm on behalf of  
24 Verizon Northwest Inc.

25 JUDGE RENDAHL: Thank you. For Covad?

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1 MR. DIAMOND: This is Greg Diamond, and I'm in  
2 house counsel for Covad Communications.

3 JUDGE RENDAHL: Thank you. For WebTec?

4 MR. BUTLER: Art Butler appearing for WebTec.

5 JUDGE RENDAHL: Thank you. For Integra.

6 MS. JOHNSON: Carol Johnson, corporate regulatory  
7 attorney in house. Carol Wirsbinski, Vice President of  
8 regulatory, and then we will be represented by Greg Kopta  
9 in this matter.

10 JUDGE RENDAHL: Okay, thank you.

11 MS. JOHNSON: Thank you.

12 JUDGE RENDAHL: For Eschelon?

13 MS. CLAUSON: Karen Clauson, in house attorney  
14 and senior attorney for interconnections, and Doug  
15 Denney.

16 JUDGE RENDAHL: Thank you. For Tel West?

17 MR. MITTLE: Good morning, my name is David  
18 Mittle, M-I-T-T-L-E.

19 JUDGE RENDAHL: Thank you, and for XO, Time  
20 Warner TelCom, and Integra?

21 MR. KOPTA: This is Greg Kopta of the Law firm  
22 Davis, Wright, Tremaine on behalf of XO, Time Warner  
23 TelCom, and Integra. And with me is Sarah Wallace.

24 JUDGE RENDAHL: All right, and Wallace,  
25 W-A-L-L-A-C-E?

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1 MR. KOPTA: That's correct.

2 JUDGE RENDAHL: And for ELI?

3 MR. ROBINS: Dennis Robins with Electric Light  
4 Wave.

5 JUDGE RENDAHL: Thank you. And for TDS?

6 MR. HEALY: Peter Healy for in house counsel.

7 JUDGE RENDAHL: Thank you. Considering that  
8 you're all on the bridge line, now we're done with the  
9 introductions, if you can identify yourself so the court  
10 reporter knows who is speaking when you speak next that  
11 would be useful.

12 For the record I'm Judge Rendahl, I'm an  
13 Administrative Law Judge with the Utilities Commission,  
14 and managing this continued workshop this morning. And  
15 the focus of this morning's workshop, based on a notice  
16 that I was able to get out on Friday, and sent out  
17 electronically to those folks who had listed their Email  
18 addresses on the workshop sign-in last Wednesday  
19 identified we're going to focus specifically on the wire  
20 center data for implementing triennial review remand  
21 order, or TRRO focusing on the need for a protective  
22 order, and the specific contents of the protective order,  
23 and then discussing the mechanics of getting data to the  
24 Commission through what sort of data the Staff should be  
25 requesting of Qwest and Verizon. And third, how best to

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1 set up a schedule for commenting on and resolving the  
2 issues.

3 So let's start with the first topic of the  
4 protective order. And during the workshop last Wednesday,  
5 the participants in the workshop indicated that working  
6 from the Verizon MCI merger protective order was probably  
7 a good place to start.

8 So I have a copy of it in front of me in that was  
9 in Docket No. UT-050814. Who's like to jump in first? Is  
10 this protective order a useful place to start?

11 MS. ANDERL: Well, your Honor, this is Lisa  
12 Anderl for Qwest. I think our concern is that we be  
13 protected with whatever disclosures that we make, and to  
14 that end, as I mentioned at the workshop, of course, we  
15 would like to see a Commission order requiring us to  
16 produce whatever information that is very specific as to  
17 what level of identity of CLex. In other words, whether  
18 there's any masking or no masking or whatever. And within  
19 that context, I think, beyond that is really as to other  
20 parties who have information that's going to be disclosed  
21 to find this order to meet their needs. And I will talk  
22 about that, of course.

23 MR. O'CONNELL: And Judge Rendahl, this is Tim  
24 O'Connell on behalf of Verizon. I share Ms. Anderl's  
25 concerns. We have an independent obligation under 222A to

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1 preserve the confidentiality of information that comes  
2 into our possession by virtue of other parties using our  
3 facility. So we need to ensure that we comply with those  
4 obligations.

5 I want to make it very clear that our concern is  
6 also motivated by the fact that the information that  
7 would, I presume, be revealed by such information requests  
8 involve carriers who are not participating in this  
9 proceeding, either at the workshop or on the phone. So I  
10 do want to make sure that we have paid attention to the  
11 confidential information of parties that are actively  
12 participating in this proceeding so far.

13 JUDGE RENDAHL: Okay. Well, that brings up one  
14 technical question in terms of service. If the Commission  
15 were to enter an order requiring the production of the  
16 information, and then also issue a protective order, we  
17 would probably, barring other information from the  
18 participants in the workshop, serve that on our Telco  
19 attorney's list and our Telco telephone company list. So  
20 that, again, anyone who has any telephone company that is  
21 providing service or registered in Washington would get a  
22 copy of the order to Qwest and Verizon and the protective  
23 order.

24 MS. ANDERL: I'm sorry, your Honor, somebody just  
25 beeped in, could you just repeat what you said? Somebody

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1 would get a copy of the information request as well as a  
2 copy of the protective order?

3 JUDGE RENDAHL: Yes, and I wasn't talking during  
4 the beep so you didn't miss anything. Is there anyone  
5 who's joined us on the bridge line? All right. So at  
6 this point, I'm going to hold that thought in terms of who  
7 is appropriate to serve this to cover that issue you just  
8 addressed. So that those carriers who are not  
9 participating would at least receive notice.

10 Now, in the triennial review order proceeding, we  
11 dealt with a similar situation in terms of requesting  
12 information from the CLex themselves. Now, that's not the  
13 Commission's intent at this point, it's to get the data  
14 request from Qwest and Verizon. So in the TRO proceeding,  
15 we did send the notice out and the request for production  
16 of information, or an order requesting production of  
17 information to the individual CLex. So really it would be  
18 a matter of them being aware that this was happening and  
19 objecting to it.

20 So I'm wondering if it's more useful for Qwest  
21 and Verizon to provide the Commission with specific  
22 companies that would be affected, or is our Telco list  
23 enough?

24 MS. ANDERL: You know, if we provide you with  
25 that information it's tantamount to disclosure. And so we



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1 can probably find a way to do that, but I would be willing  
2 to commit for Qwest, if we could see a copy of your Telco  
3 list we would tell you if there's anyone whose information  
4 we're to disclose that's not on that list.

5 JUDGE RENDAHL: That might be useful. So what I  
6 can do is work with the records center to have those lists  
7 sent to you, Ms. Anderl, and you Mr. O'Connell. If you  
8 can verify that there's nobody else that we need to  
9 include on those lists, then we'll just serve the  
10 protective order and the order directing production of  
11 information to everyone on the Telco list.

12 MR. O'CONNELL: Yes, your Honor, this is Tim  
13 O'Connell, I would be happy to do that, but there's a  
14 limited number of participants on behalf of Verizon, so  
15 we'd be happy to do that promptly.

16 JUDGE RENDAHL: Okay. So going back to the other  
17 concerns, do you have specific language, either Ms. Anderl  
18 or Mr. O'Connell -- is there someone who's just joined us  
19 on the bridge line? Okay. Is there information that  
20 would satisfy your concerns concerning the section 222  
21 obligations in the protective order?

22 MS. ANDERL: You know, again, I don't think from  
23 my perspective there's language in the protective order  
24 necessarily, other than standard protective order  
25 language. My concern is that we have the initial

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1 obligation or requirement to disclose the information, and  
2 I believe the Commission order requiring us to do so would  
3 permit us to do so under Section 222.

4 MR. FFITCH: Your Honor, this is Simon ffitch  
5 with public counsel.

6 JUDGE RENDAHL: Yes.

7 MR. FFITCH: I would just note that the form of  
8 order in the Verizon merger docket, paragraph 3,  
9 specifically includes CPNI as a form of confidential  
10 information, so if there were any disclosed as a result of  
11 Commission order, then it could be disclosed as protective  
12 pursuant to the form of order that, you know, is  
13 apparently being considered for use here and is already in  
14 the order.

15 JUDGE RENDAHL: Thank you.

16 MR. FFITCH: So that should help I believe.

17 JUDGE RENDAHL: Thank you.

18 MR. O'CONNELL: And this is Tim O'Connell, I  
19 believe Ms. Anderl has its slightly correct that it's not  
20 necessarily any particular provision, just as long as it's  
21 clear we are being required by law to provide the  
22 information.

23 JUDGE RENDAHL: All right. So going to the  
24 specific text of the protective order in Docket No.  
25 050814, does anyone have specific language changes they

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1 want to make to that order for this docket?

2 MR. O'CONNELL: Judge, this is O'Connell again,  
3 can I ask a clarifying question?

4 JUDGE RENDAHL: Please.

5 MR. O'CONNELL: The protective order was order  
6 number 2, and then order 3 made a revision adding another  
7 paragraph. So when we talk about the protective order,  
8 can I assume we're talking about the one as modified by  
9 order number 3?

10 JUDGE RENDAHL: Yes, and I unfortunately didn't  
11 copy that off from our docket sheet this morning, but I'm  
12 sure I can find that easily.

13 MR. KOPTA: Your Honor, this is Greg Kopta, and I  
14 would note that the revision of that protective order was  
15 made for a very specific purpose to incorporate  
16 information that Verizon provided to the FTC in the  
17 context of the merger. So I don't know that that's going  
18 to be really something that we need to be concerned about  
19 at least at this point.

20 JUDGE RENDAHL: Mr. O'Connell?

21 MR. O'CONNELL: Judge, I would concur that's not  
22 something we need to be overly concerned about, that's why  
23 I just asked my clarifying question, I want to make sure  
24 we're all working from the same document, if you will.

25 JUDGE RENDAHL: Okay. If it's not relevant or

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1 important for this docket, then I don't know if that  
2 information is necessary. It doesn't sound like,  
3 Mr. O'Connell, that you're feeling it's necessary for the  
4 protective order for this purpose?

5 MR. O'CONNELL: Certainly not, I wouldn't think  
6 so given the information that I believe to be involved in  
7 what we're looking at right now.

8 JUDGE RENDAHL: All right. So if we just focus  
9 on the original version, Order No. 2, is that a sufficient  
10 starting point? Okay. I'm not hearing any problems with  
11 that.

12 MS. CLAUSON: This is Karen Clauson from  
13 Eschelon, I have a question about it.

14 JUDGE RENDAHL: Yes.

15 MS. CLAUSON: In paragraph 3, which someone  
16 referred to and in paragraph 20, it does, as they pointed  
17 out, refer to Section 222 and CPNI information as  
18 confidential information. And it is not listed as highly  
19 confidential information. And you know, as we discussed  
20 that at the workshop, Eschelon, for example, needs  
21 Mr. Denney here to review this data.

22 If it is confidential information, the list of  
23 persons who can access it in 23 covers a party employee.  
24 If however, either Verizon or Qwest intends to designate  
25 it as highly confidential, that under paragraph 32 doesn't

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1 have that same language, it refers to an outside expert,  
2 but we have no expert for this purpose. We have Denney.

3 So we would understand that the information we're  
4 talking about is confidential information under paragraph  
5 3 and 20 including CPNI, including CPNI, not highly  
6 confidential information, and then Mr. Denney could access  
7 it.

8 And we just want to know if there's anyone on the  
9 call who reads that differently or intends to designate it  
10 differently.

11 JUDGE RENDAHL: I guess I would turn to  
12 Mr. O'Connell and Ms. Anderl for this issue. What's your  
13 thinking on this?

14 MS. ANDERL: Specifically, your Honor, we would  
15 designate specific information as highly confidential. As  
16 to the question as to whether there's going to be any  
17 masking, I'm thinking there probably would not be any  
18 masking authorized or permitted. And so I feel like we  
19 can disclose that information with wire center specific  
20 information, with line count information, other CLex, we  
21 would probably originally in any other type of a document,  
22 for classification or anything else designate that as  
23 highly confidential.

24 However, I think people can move the information  
25 along jointly with Qwest, say it can only be designated

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1 only as confidential or, you know if the Commission orders  
2 it to be disclosed only as confidential, and not of the  
3 higher level of protection, again, I think we're okay. I  
4 think we still would have satisfied our obligations under  
5 Section 222 to protect the confidentiality of that  
6 information and disclose it only to the extent -- I mean  
7 having to disclose it only to the extent required by law,  
8 that being the Commission's order.

9 JUDGE RENDAHL: So you're saying if the  
10 Commission -- let me parse this out. If the Commission  
11 orders the information to be provided, orders Qwest and  
12 Verizon to provide the information, and orders that  
13 information to be provided as confidential, and only to be  
14 shared by the CLex that it belongs to, and Qwest is that  
15 what you're proposing, or did I get the last part wrong?

16 MS. ANDERL: Last part's wrong.

17 JUDGE RENDAHL: All right. So if the Commission  
18 designates it as confidential regardless of who can see  
19 it, then you're okay with that?

20 MS. ANDERL: Yes

21 MR. O'CONNELL: And Judge, again, this is  
22 O'Connell. I think that's probably right. I suspect our  
23 ordinary first inclination would be to treat CLex specific  
24 information as highly confidential, but certainly I recall  
25 that at the workshop, all the CLex that were participants

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1 there were quite emphatic that they would not be concerned  
2 with that information being shared with the other CLex.

3 I just, again, raise the concern that I know we  
4 have fiber based colocators, some of our COs who were not  
5 participants in that workshop. And, you know, whether  
6 they would similarly waive their rights, I can't say.

7 But if the Commission were to designate the  
8 information as confidential and include that in the  
9 notice, and our expectation is it's their obligation to  
10 object. You know, we will, of course, comply with  
11 whatever order the Commission orders in that regard.

12 MR. KOPTA: Your Honor, this is Greg Kopta, and I  
13 would note a couple of things.

14 First, the other way to skin this particular cat  
15 would be to ensure there is an in house person that can be  
16 designated to receive highly confidential information, and  
17 go ahead and designate it as highly confidential.

18 I know that in the Verizon and MCI case the  
19 contemplation in the protective order was that because  
20 there is an opportunity for people to designate someone,  
21 other than those identified in the order to be able to  
22 receive highly confidential information, that would be  
23 something to be worked out with the parties to have people  
24 who have access to the information that is designated as  
25 highly confidential.

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1           And so in that circumstance, I think that based  
2 on your discussions that CLex has had, a fellow like  
3 Mr. Denney, would not be someone there would be any  
4 objection from, that he would have access to highly  
5 confidential information.

6           The other alternative would be to make it more  
7 specific in the protective order itself, that a person  
8 such as Mr. Denney would be able to have access to highly  
9 confidential information. I think that would be  
10 appropriate for a protective order.

11           The other thing that I would note is that Verizon  
12 has already provided the identity of the fiber based  
13 colocators in the Verizon MCI merger docket, I believe  
14 designated it as highly confidential.

15           It seems that Verizon, at least, believes that it  
16 can provide this information regardless of what PPI  
17 believes to be applicable. I'm not saying that we agree  
18 with that, or that I think that's appropriate, but I just  
19 observed that in that other docket that that other  
20 information has been provided as highly confidential  
21 information.

22           MS. CLAUSON: Again this is Ms. Clauson. We're  
23 fine with either approach. We just want to -- we were  
24 just looking at the language that seemed like  
25 Mr. O'Connell referred to it as CPNI in the last workshop,



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1 and it specifically covers it, because there has been a  
2 request if any language changes and if it is going to be  
3 designated as highly confidential, we're okay with that as  
4 long as the language then in the Paragraph 32, that  
5 addresses persons who have access to include however we  
6 phrase it, someone like Denney, we want to look at it. Or  
7 if they want to specifically identify him, and say there's  
8 no objection, we're not trying to push it toward  
9 confidential or highly confidential, we're trying to  
10 address what that means so we can have access to it, so  
11 it's not excluded by that designation.

12 So either approach, calling it confidential in  
13 this language, or calling it highly confidential and then  
14 clarifying paragraph 32 would work in our view.

15 JUDGE RENDAHL: Any comments on those two  
16 proposals?

17 MR. O'CONNELL: This is Jim O'Connell, frankly  
18 from our perspective either approach is acceptable. I'm  
19 glad that we're being recorded. And Mr. Kopta has  
20 indicated the Verizon contact was appropriate, and I  
21 enjoyed that, thank you, Counsel.

22 MR. KOPTA: Well, that's the appropriate  
23 response, and I'm happy to make it, Mr. O'Connell.

24 MR. O'CONNELL: Thank you, sir. And Judge, we  
25 have difficulty with either approach.

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1           JUDGE RENDAHL: All right. So looking  
2 specifically at paragraph 23, and this it seems to apply  
3 to confidential information, am I reading it incorrectly?  
4 Is this confidential --

5           MS. CLAUSON: Here, again, paragraph 23 is  
6 confidential, and then if you just reverse the numbers,  
7 Paragraph 32 is highly confidential.

8           JUDGE RENDAHL: All right. So if we look at  
9 Paragraph 32 -- I'm just looking it over.

10          MS. CLAUSON: Paragraph 23 has language -- this  
11 is Karen Clauson -- in subparagraph K as in Karen, the  
12 last one, referring to employees of parties who need to  
13 know. And I did not see that language in Paragraph 32,  
14 and that was what I raised the question from.

15          JUDGE RENDAHL: Okay. So in paragraph 23 it  
16 refers to employees of a party who have a need to know for  
17 the purpose of presenting that party's case in this  
18 proceeding, and are not engaged in developing, planning,  
19 marketing, or selling products or services, determining  
20 the cost thereof, or designating prices thereof to be  
21 charged or potentially charged to customers.

22          So the proposal is to either designate this  
23 information as confidential, strictly confidential, or  
24 make access to confidential and highly confidential  
25 information the same. Is that essentially what the

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1 request is?

2 MS. CLAUSON: This is Karen Clauson from  
3 Eschelon, you could narrow the scope a little more for  
4 highly confidential, for example by saying the number of  
5 people from each company who fall in that category could  
6 have the language and put them in there. And we could  
7 identify them by name and put them in there. I mean, we  
8 would be certainly willing to work on this, and work with  
9 them on that narrowing a little bit if they want something  
10 different. Or if there's no objection to being the same  
11 we could go that way too.

12 MR. O'CONNELL: Judge, this is Tim O'Connell.

13 JUDGE RENDAHL: Yes.

14 MR. O'CONNELL: Having reviewed the language, I  
15 mean, it is my take that the exclusion of employees is in  
16 fact one of the intended reasons to have information  
17 designated as highly confidential. And I guess having  
18 reviewed that language, I'm leaning more towards the  
19 suggestion that perhaps the notice that would be issued  
20 would indicate, again, that the type of information which  
21 we understand to be at issue here, the identity of fiber  
22 based colicators and aggregate CLex line accounts would be  
23 merely confidential, and not highly confidential for  
24 purposes of the docket.

25 MS. CLAUSON: This is Lisa Clauson. I would

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1 concur with that, I think it's a useful mixture between  
2 confidential and highly confidential and who gets to see  
3 it. And I think it would be better to say in this case  
4 that because the information is going to be more broadly  
5 disseminated, it just might be regular confidential, or  
6 else we wouldn't disclose it to those other people.

7 MR. O'CONNELL: I concur.

8 JUDGE RENDAHL: And that was Mr. O'Connell?

9 MR. O'CONNELL: It was, your Honor, and I  
10 apologize.

11 JUDGE RENDAHL: All right. So from the  
12 perspective now of Qwest and Verizon it appears that  
13 preferences to designate is confidential rather than  
14 highly confidential. And I guess I'm wondering if there's  
15 any other comments on this issue.

16 MS. CLAUSON: I'll wait, but I do have one other  
17 question.

18 MR. FFITCH: I have a question, Simon ffitich,  
19 public counsel, in the comment. This is a sports call in  
20 show, isn't it? The CPNI that's being referred to here,  
21 is there general understanding, we're talking about  
22 aggregate information, or other kinds of information?

23 MS. ANDERL: No, this is a nice segue into --  
24 this is Lisa Anderl -- that was exactly the question where  
25 my focus is going to be, is I don't think what we're being

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1 asked to disclose is aggregate.

2 MR. FFITCH: Okay, that's actually not CPNI under  
3 the statute. Anyway, we'll I'll just stay tuned and  
4 listen to the discussion of that then. That was just kind  
5 of a clarifying question, and then the other comment,  
6 we're very comfortable, you know, as a prior signatory to  
7 this protective order from the Verizon merger case. We,  
8 you know, we would support its use in this docket.

9 JUDGE RENDAHL: Even without the highly  
10 confidential aspect of it?

11 MR. FFITCH: I'm not sure what you mean, you mean  
12 with all the treating CPNI as confidential? I understood  
13 there was going to be -- unless I lost track of the  
14 conversation, we were still going to have two levels of  
15 protection?

16 JUDGE RENDAHL: I'm just wondering if that is the  
17 case what information would be submitted as highly  
18 confidential.

19 MR. FFITCH: We're not advocating for a highly  
20 protective order, my comment was, if you're going to have  
21 a two level protective order, we're very comfortable with  
22 this form of order from the merger docket, but we  
23 generally support the very conservative approach of having  
24 two levels to try to keep as much as possible with just  
25 the confidential level.

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1           JUDGE RENDAHL: Okay. And I guess I would pitch  
2 this back to Ms. Anderl and Mr. O'Connell in terms of the  
3 type of information that would be provided, and whether  
4 there's a need for the highly confidential designation.

5           MS. ANDERL: Well, and let's see if I can keep up  
6 the streak of having O'Connell agree with me. I'm having  
7 to talk first, I guess.

8           It seems like the CLex fiber based promulgation  
9 information, the wire center specific it doesn't  
10 necessarily have to be, the business line information  
11 could be either aggregate or CLex specific. In other  
12 words, we could have wire centers tell you that there's  
13 30,000 business lines, and 24,000 of them belong to Qwest  
14 and 14,000 blowing to CLex in the aggregate, or we could  
15 tell you 7,000 belong to Integra, and 7,000 belong to XO,  
16 and so it depends on what level of aggregation is required  
17 or permitted. And I think even those the CLex has said --  
18 I've heard them say in the workshop after that information  
19 at the aggregate level based on the desire to detail  
20 information we've also been hearing concurrently with that  
21 was that I'm skeptical that ultimately that is aggregate,  
22 so they cannot verify otherwise -- I'm skeptical that  
23 that's going to be sufficient.

24           So my thinking is we'll ultimately get CLex  
25 information for everything.

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1           JUDGE RENDAHL: Okay. I guess I turn this back  
2 to the CLex then. If that's the case, if we're providing  
3 CLex specific fiber based colocation information, CLex  
4 specific wire center information, specific business line  
5 information, how comfortable are you with the confidential  
6 designation?

7           MS. CLAUSON: This is Karen Clauson from  
8 Eschelon, and we would suggest that the fiber based  
9 colocator, which is wire specific would be designated  
10 confidential information, and the party leader or the  
11 Staff act for wire center information to be by CLex to be  
12 aggregate then they could designate that as highly  
13 confidential.

14           We do note that in paragraph 33, it does say  
15 nothing to prevent a party from producing highly  
16 confidential information to additional persons, and we  
17 would like to know from Qwest and Verizon that if pursuant  
18 to that paragraph they will agree to any one of those  
19 people. In that case it trys to make a little less  
20 difference.

21           With respect to the business line information, at  
22 the workshop, Qwest had described the process that was  
23 used would be the fiber based colocator where they give  
24 CLex their own data so they could look at it and review  
25 it. My understanding of that process is that it did not

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1 include business lines. An intermediary approach that  
2 could happen with business line is Qwest could provide to  
3 CLex their own business line accounts to see if they're  
4 counting the same with CLex as they did with fiber based  
5 colicators, and that would not implicate other CLex, so it  
6 would not fall into the highly confidential. So there are  
7 things in the protective order that could address the  
8 concerns that Ms. Anderl has raised if we get to that  
9 point where that's one of the issues, the way it is now.

10 So I guess the third option that we were  
11 discussing before is to leave the two where they are, and  
12 then find out whether under paragraph 33 we could come to  
13 some agreement.

14 JUDGE RENDAHL: Okay. I did guess it appears  
15 that -- and I'm going to -- Ms. Roth from Staff has joined  
16 us, and it may be best -- I was hoping to talk about the  
17 protective order first, and the type of data second, but  
18 maybe we need to talk about the type of data and then type  
19 of protective order. But if we're going to be getting  
20 into disaggregate data, which it looks like we need to  
21 get, then it does seem appropriate to have the highly  
22 confidential designation, and then as you point out,  
23 Ms. Clauson, really the issue is who has access to that  
24 data.

25 So Ms. Roth, did you have any thoughts in terms



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1 of -- I guess I'm going to open the floor to Ms. Roth as  
2 well as to others as to what type of data, what should be  
3 included in the Commission's order requesting information  
4 from Qwest and Verizon.

5 MS. ROTH: Right, Judge Rendahl, this is Ms. Roth  
6 for Commission Staff, and because of the short time, turn  
7 around time, that I would expect the data request, that I  
8 haven't drafted, but will be down to wire center for  
9 county held business lines, and down to each CLex, and  
10 that information in my past experience tells me that that  
11 should be highly confidential.

12 And Staff definitely will be able to access that  
13 information, but I do not know if -- who out there would,  
14 you know, ask -- who out there, the parties, will receive  
15 that information.

16 So I think definitely that I in the first round  
17 of DRs, that I will ask for detailed information based on  
18 wire centers.

19 JUDGE RENDAHL: Okay. I think that you might  
20 have been out of the room, Ms. Roth, when we first started  
21 talking about this, but the companies Qwest and Verizon  
22 would prefer that the Commission enter an order requesting  
23 the information. So we wouldn't necessarily be issuing,  
24 you know, any data requests or bench requests, but it  
25 would be in the form of an order to require the

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1 requirements and obligations they have under Section 222  
2 for CPNI.

3           So if there's a Commission order and they're  
4 ordered to provide the information, then that satisfies  
5 their needs. So we would be doing it in the form of an  
6 order.

7           MS. ROTH: Okay. Fine, but that's still the same  
8 information I will ask.

9           JUDGE RENDAHL: Right. I just wanted you to be  
10 aware of the form that we're talking about here.

11           MS. ANDERL: And Judge, this is Lisa Anderl  
12 again, I didn't mean to open a can of worms by starting to  
13 get into the CLex specific business line account by wire  
14 center information. It may be that the CLex don't want  
15 that information disclosed at that aggregated level, and  
16 that their concern was, and has been all along, really was  
17 the account fiber based colocalizers. And maybe we need to  
18 start with that, and once that is validated, their  
19 concerns are addressed.

20           I just really don't know. I don't know what CLex  
21 believe about Qwest's representation, whether they're  
22 skeptical about the wire center, about the colocalizers, or  
23 both.

24           JUDGE RENDAHL: Any takers?

25           MR. DIAMOND: This is Greg Diamond for Covad,

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1 Judge, Covad is more interested in the accounts issue than  
2 the fiber based colocator issue.

3 MS. ROTH: Thank you.

4 JUDGE RENDAHL: Okay, anyone else?

5 MR. KOPTA: This is Greg Kopta, and. You know,  
6 not to be fractious, but I think we are interested in all  
7 of the aspects of how the calculations of the data have  
8 been made by both Qwest and Verizon in determining their  
9 wire fiber center designation, so I don't think that we  
10 can just end with the fiber based colocator issue. I do  
11 think that line counts is something that needs to be  
12 examined.

13 JUDGE RENDAHL: Okay. Well, it sounds like what  
14 we're going to need to do then is to use the highly  
15 confidential, the dual confidential/highly confidential  
16 model, and then it will be under Paragraph 33 of the  
17 protective order as used in the merger, that CLex can  
18 request to have additional persons have access to the  
19 highly confidential data.

20 So they would have to make a request to Verizon  
21 and Qwest, but in a sense then that means that Verizon and  
22 Qwest would then need to notify the other carriers to see  
23 if they have an objection to this person seeing that  
24 data. I'm not sure how the mechanics of that would go.

25 MR. BUTLER: Your Honor, this is Art Butler. I

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1 might make a suggestion. If the CLex participants have  
2 specific individuals in mind that they think need to see  
3 this information perhaps that list could be distributed  
4 along with the protective order when the request for data  
5 goes out.

6 MS. CLAUSON: This is Karen Clauson from  
7 Eschelon. The protective order will not meet our needs if  
8 the end result is that this information is disaggregated,  
9 it's labeled for attorneys eyes only, because that's who's  
10 left on that list to look at it, this is highly  
11 confidential, and then Denney, who's been working on this  
12 issue, and made that, you know, handouts we had at the  
13 workshop camp look at.

14 So we would agree with what Art Butler said, if  
15 we can get an affirmative answer, that Denney could look  
16 at it, and we can add a subparagraph to 33 when you order  
17 it, and list the people who have been identified pursuant  
18 to that paragraph, and what their title is, and then  
19 people would have notice of who they were.

20 We don't mind that approach, but it will not work  
21 for us. It will not meet the needs we addressed at the  
22 workshop if the end result is that it has to be an  
23 agreement in writing, a mutual agreement, we find out  
24 after it's ordered that they won't agree to that.

25 JUDGE RENDAHL: So I guess my concern is that

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1 it's not just Qwest and Verizon, it's the other people  
2 whose information will be disclosed, Ms. Clauson.

3 MS. CLAUSON: And I agree with that, that's why I  
4 say if Qwest and Verizon tell us now they don't agree,  
5 they don't object to however the CLETS do it, we could  
6 insert that in Paragraph 33, their actual names and titles  
7 the way Art Butler was just suggesting.

8 So when the order goes out to the other CLETS, and  
9 they will see who is getting access to the data, and they  
10 can identify as to whether or not they object.

11 MS. ROTH: Yes, I just have a question. Is this  
12 being done in other states, does anyone know? Are other  
13 states requested such a disaggregated data for this type  
14 of information?

15 MR. ROBINS: This is Dennis Robins from Electric  
16 Light Wave. I know that there is some activity, I don't  
17 know if they're in conjunction with any kind of a  
18 Commission order or anything in California because we have  
19 had workers provide information to an outfit in  
20 California, a law firm. And was for the very same  
21 purpose, to validate the account.

22 I also would have a question here due to the  
23 importance of the other companies. So I can understand,  
24 it's important for me to know how -- what number of Qwest  
25 and Verizon put forth in my company's blind account, and

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1 to be able to verify that, but I don't understand the need  
2 for other companies like this, maybe you can help with  
3 that.

4 JUDGE RENDAHL: This is Judge Rendahl. I'm just  
5 thinking. Is it possible to mask what goes to the CLex as  
6 if you disaggregate it by Company, A, B, C, D, et cetera.  
7 And I only point that out, it wouldn't be disaggregate  
8 going to Staff, but I don't know --

9 MS. ROTH: No, it will be disaggregated going to  
10 Staff, it wouldn't be masked.

11 JUDGE RENDAHL: It wouldn't be masked going to  
12 staff, thank you, Ms. Roth. It wouldn't be masked going  
13 to Staff, but I don't know if -- I just throw it out, is  
14 that at all useful to the CLex to see it broken down with  
15 the masking, or does that defeat the purpose entirely, I  
16 don't know.

17 MS. CLAUSON: This is Karen Clauson from  
18 Eschelon, we would like the fiber based colocation  
19 information to be not masked, at least as initial staff.  
20 If you give out the business loan account you do two  
21 things, you do the A, B, C, D, E, F kind of masking that  
22 you just said, and you told CLex what their own line count  
23 was, which Mr. Butler had mentioned, I think that would be  
24 a good way to go into this and see at that point if with  
25 that level of information if we can't reach some agreement

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1 from this wire center.

2 If later somebody has a reason of particular wire  
3 centers to get that additional level of desegregating or  
4 mask then they could deal with that either to another  
5 order, or coming to you, or however you want to do that.  
6 But if the fiber base collocator is not masked, but the  
7 businesses line information has the A, B, C, D kind of  
8 masking you're talking about and CLex know how Qwest is  
9 counting --

10 JUDGE RENDAHL: Counting their own.

11 MS. CLAUSON: Then I think that would be a very  
12 good place to start, and may get us to where we need to be  
13 and we may not reach that other question of unmasking the  
14 rest of the business lines.

15 MR. O'CONNELL: Judge, this is Tim O'Connell.

16 JUDGE RENDAHL: Yes.

17 MR. O'CONNELL: The process you're describing is  
18 virtually the same as what Verizon has done throughout  
19 this process in entering into nondisclosure agreements  
20 with CLex who wanted backup data in our wire center  
21 designation we provided the information after the  
22 execution of a nondisclosure agreement on a mask basis,  
23 and gave CLex, if you will, code so it could verify the  
24 information pertaining to it, and, you know that process  
25 has worked reasonable well. And I don't think, again,

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1 pursuant to protective order, furnishing Staff so they  
2 could ascertain the masking would pose a problem with us.

3 JUDGE RENDAHL: So your proposal, Mr. O'Connell,  
4 is that you would -- that Verizon would provide the fiber  
5 based colocation unmasked, or is everything that you  
6 provide masked?

7 MR. O'CONNELL: I guess at a starting place we  
8 would prefer to do everything masked, again, just because  
9 we have these obligations pertaining to parties that are  
10 not here to say whether they waive those protections or  
11 not. Again, we will comply with whatever order the  
12 Commission issues in this regard.

13 JUDGE RENDAHL: Okay. Okay. If we were to do,  
14 as Ms. Clauson suggested, and Verizon, and Qwest were to  
15 provide the fiber based colocation by wire center unmasked  
16 and then the disaggregated business line count masked with  
17 Staff getting the code, and then the individual CLex  
18 calling up, or somehow -- I don't know how Staff would  
19 verify that this person is with the particular CLex, and  
20 then give their codes so they can identify the data.  
21 Ms. Roth?

22 MS. ROTH: I think that I just heard what Verizon  
23 said that they would give the CLex the code for that  
24 CLex. If the Light Wave, say they will give them a D, and  
25 Eschelon you'll say you're then they will unmask that when



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1 they say send out the DR.

2 JUDGE RENDAHL: And Mr. O'Connell, what would you  
3 propose?

4 MR. O'CONNELL: Well, again, I'm not making a  
5 proposal here, I'm just responding that that's similar to  
6 what we have done in the past, and I think we would be  
7 happy to supply each CLex with its code identifier, and  
8 rather than to use A, B, C, D, we tended to use random  
9 three digit numbers, so we'd be happy to do that.

10 JUDGE RENDAHL: Okay. Ms. Anderl, any thoughts  
11 on this proposal?

12 MS. ANDERL: It sounds a lot like proposals that  
13 have worked. In the competitive office we would mask  
14 data, and disclose it to certain parties. I think  
15 something like this is workable.

16 JUDGE RENDAHL: And then you still maintain the  
17 dual confidential highly confidential order, and the  
18 masking would address the highly confidential data?

19 MS. ANDERL: Well, I don't -- of course, the  
20 question is maybe specific masking if it's highly  
21 confidential.

22 JUDGE RENDAHL: Well, that's true.

23 MS. ROTH: Well, but the fiber colicators, that  
24 part, should be highly confidential, right?

25 MS. ANDERL: No.

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1 JUDGE RENDAHL: No, I think the agreement is that  
2 it would just be purely confidential.

3 MS. ROTH: Okay. So then nobody would have  
4 objection to Staff looking at everything unmasked, then we  
5 don't need to have a --

6 MR. ROBINS: And it wouldn't be masked either,  
7 correct?

8 JUDGE RENDAHL: And is this Mr. Robins?

9 MR. ROBINS: Yes, I'm sorry.

10 JUDGE RENDAHL: So the suggestion from  
11 Ms. Clauson is that the fiber based colocation information  
12 would not be masked, and then the issue is whether it's  
13 simply confidential or whether it's highly confidential.  
14 And I think one of the proposals is that it would be  
15 highly confidential because at the workshop the various  
16 CLex who were here did not seem to oppose having, at  
17 least, their identity as being a wire base colocator and  
18 wire be disclosed.

19 MR. O'CONNELL: And Judge, this is Tim  
20 O'Connell. I think that would be workable so long as  
21 whatever notice is going to be issued to the TelCom list,  
22 just spell that out, the parties are on notice of it.

23 JUDGE RENDAHL: Right.

24 MR. O'CONNELL: And so long as that's the case  
25 the parties are choosing not to participate in this

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1 docket, and others have some responsibility to speak up.

2 JUDGE RENDAHL: Well, I think we have to include  
3 some opportunity to -- will there be a notice at the end  
4 that they can interject to this within a certain time  
5 period of time.

6 MR. O'CONNELL: That makes a lot of sense.

7 JUDGE RENDAHL: So it seems like in terms of --  
8 I'm going to leave it to Ms. Roth to develop the  
9 information that the Commission is requesting that Verizon  
10 and Qwest produce. And I know she has a copy of what  
11 Eschelon's submitted to the group at the workshop last  
12 week, as a starting point.

13 Are there any other suggestions for the type of  
14 data other than there is simply the collocator wire base  
15 list wire center, and the business line account by wire  
16 center information.

17 MR. BUTLER: Your Honor, this is Art Butler, I  
18 have a question whether the Commission is going to look at  
19 whether there are any instances where any of the other  
20 thresholds have been met. As to the number of -- upon  
21 order of DS3 to a particular building or location?

22 MS. ROTH: Are you talking about the DS1s as the  
23 per hour?

24 MR. BUTLER: Yes, yes.

25 MS. ROTH: Well, Greg, Mr. Kopta what was your

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1 response in the workshop on that? That was the issue  
2 raised by you, but I thought if we can verify all the data  
3 that would be secondary concerns you have?

4 MR. KOPTA: Oh, that's slightly different, this  
5 is Greg Kopta. The issue that I was talking about in the  
6 workshop was whether we would still be seeking to have the  
7 Commission require a waiver of those limits. So that's a  
8 different issue than what Mr. butler is raising which is  
9 instances in which those thresholds have been met, whether  
10 they pertain to a building. And one of the issues is the  
11 demolition of a building, and how that has come up in the  
12 past is how that plays into the availability of muni.  
13 Even where they are, otherwise are they unavailable.

14 MS. ROTH: Well, any concerns out there today?

15 MS. ANDERL: This Lisa Anderl, I'm not aware that  
16 Qwest is skirting for any particular location or any  
17 particular CLex, that they're over. I don't know of any  
18 CLex field so they're over, I can confess that, that would  
19 be fine, or feel that they've got a wire center where  
20 they've got a potential dispute, and want to bring it up  
21 before in the docket while we're here, I just don't know.

22 MR. KOPTA: This is Greg Kopta, I would like to  
23 say I'm similarly unaware of any instance of which there  
24 is a specific dispute at this point, and certainly the  
25 focus of my clients at this point in this docket is to

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1 deal with the wire center designation.

2 MS. ROTH: Okay.

3 MR. FFITCH: This is Simon ffitch for public  
4 counsel, and I was not at the workshop, so this may have  
5 been addressed. I'm wondering whether the data that is  
6 being gathered can be used to develop some other  
7 information about the status of the marketplace right now,  
8 for example, market shares in business services, or in the  
9 business class, numbers of CLex that are operating in  
10 different areas of the state, other kinds of information  
11 that would allow the Commission in addition to the  
12 specific non impairment matters here, you know, get a  
13 picture of the status of competition.

14 Now that can either be done through the data  
15 that's going to be produced anyway, or I guess part two is  
16 an opportunity when Staff is crafting some of the  
17 production orders of adding a request for information that  
18 would, without being unduly burdensome, get some  
19 additional pieces that would give us that kind of general  
20 picture, you know, to the Commission.

21 JUDGE RENDAHL: Okay. This is Judge Rendahl. At  
22 this point the focus of this very narrow and time  
23 sensitive issue is to get the data on the wire centers and  
24 then with the protective order in place, and there most  
25 likely will be next steps in this docket, we can maybe

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1 build upon the data that we have. But for our purpose  
2 today, and to get the information from Qwest and Verizon  
3 quickly, and to have the data and review it, and clarify  
4 that there's no issues as close to March 11 as we can,  
5 that's our focus for today. Does that answer your  
6 question?

7 MR. KOPTA: Yes, thank you. I wasn't aware that  
8 there were these deadlines, we're creating some time  
9 pressure here. So it sounds to me like that issue can be  
10 raised in the docket.

11 JUDGE RENDAHL: I think that would be best.

12 MR. KOPTA: Okay.

13 JUDGE RENDAHL: But I appreciate your raising  
14 it. So at this point, what I would propose for the  
15 parties, or the parties, those folks that are  
16 participating is I will rework the protective order with  
17 the appropriate docket number, and the information we've  
18 discussed today with this proposal to provide to identify  
19 to everyone, that the fiber based collocator by wire center  
20 will not be masked, and will be designated as  
21 confidential.

22 Is there a need to include this list of  
23 particular people with excess to highly confidential under  
24 paragraph 33?

25 MR. O'CONNELL: Judge, this is Tim O'Connell.

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1 JUDGE RENDAHL: Yes.

2 MR. O'CONNELL: I guess my suggestion is that if  
3 we do not go that route we can avoid it, just because if  
4 we're going to be providing the CLex specific line counts  
5 in a masked basis, I think we'll be able to side step that  
6 issue.

7 And my concern is, you know, earlier Ms. Clauson  
8 prepping for she wants Mr. Denney to review the  
9 information, and my concern is my client I know is going  
10 to want to have a little information, particularly  
11 Mr. Denney, before they would agree he could review highly  
12 confidential information.

13 We have certain ethical obligations that pertain  
14 to the attorneys just because they are an attorney. We  
15 have certain assurances, but the whole reason the highly  
16 confidential information is not generally given to  
17 employees or parties is to insure that it's not used for  
18 marketing type purposes, et cetera. And so before we  
19 could agree up front that Mr. Denney would be entitled to  
20 see that information, we would need to know more about it,  
21 and consequently going that route in the notice to the  
22 Warner TelCom list, we have lots more information in it  
23 than we have at this juncture.

24 JUDGE RENDAHL: Okay. Well, Ms. Clauson with the  
25 proposal to have the specific line count data masked, is

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1 that -- and just provide you your individual line count  
2 data, is there a need to have the list of people in  
3 Paragraph 33?

4 MS. CLAUSON: I wanted to clarify a point. This  
5 is Karen Clauson. Because it's masked will it be  
6 designated then as confidential not highly confidential?

7 MS. ANDERL: This is Lisa Anderl that's what we  
8 would do.

9 MR. O'CONNELL: Yes, and this is Tim O'Connell,  
10 that's exactly right.

11 MS. CLAUSON: Yes, because, you know, they would  
12 get in the confidential designation, and so he would get  
13 all of that data. We will meet the question under  
14 paragraph 33 as well. And then later if there is a level  
15 of highly confidential then we will deal with that  
16 separately.

17 JUDGE RENDAHL: All right. Well, I will leave  
18 you to bring that up with Qwest and Verizon and bring it  
19 to my attention if there's a dispute.

20 All right. So I will redraft the protective  
21 order including this discussion about the fact that the  
22 fiber collocator information by wire center will not be  
23 masked and will be considered confidential and that the  
24 information will be -- individual business line  
25 information will be masked and each CLex will receive



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1 their own code, and then the paragraph having to do with  
2 the fact that a specific time period for individual  
3 companies to object to this protective order, and the  
4 request for information, as to Staff, there'll be a note  
5 that the information will either not be masked or that the  
6 companies will provide all of the codes to Staff.

7 So is that going to work from Qwest's  
8 perspective? From the way you speak that sounds like it  
9 will be.

10 MR. O'CONNELL: Your Honor, I think that will  
11 work just fine.

12 JUDGE RENDAHL: Okay. Is there any objection  
13 from CLex to this proposal? All right. With that are  
14 there some issues you'd like to discuss today? I'm sure  
15 there are and I'm not ready to stop, but I do want to talk  
16 about other things. So if there's anything we don't need  
17 to put on the record right now we can talk about  
18 scheduling, and how the mechanics are going to work. I'd  
19 like to give the court reporter here a bit of a break at  
20 the moment.

21 MS. ANDERL: Okay some of the issues, hopefully  
22 not take too long, my issue has nothing to do with  
23 scheduling.

24 JUDGE RENDAHL: Okay. I'm sorry, why don't you  
25 identify them.

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1 MS. ANDERL: One issue that does not impact  
2 scheduling, but one that we questioned the Commission  
3 about at the workshop is a clarity that everyone whose --  
4 procedure remains not an adjudicatory case. It is  
5 nevertheless pending on CLex even though CLex chose not to  
6 specific validating the wire centers. If we then have  
7 nonparticipants with using the amended pages on its facts  
8 that they were parties to the docket, and I think the  
9 Commission can do that if it was done in the past dockets  
10 making them generic proceeding, and if you tell the  
11 Commission and the providers there's not a real issue with  
12 notice, but it's something that's important to Qwest.

13 JUDGE RENDAHL: Well, I guess one concern I have  
14 then if through this process if the Commission Staff  
15 identifies a particular wire center, or that there is a  
16 dispute about and does not agree with Qwest, and the  
17 Commission requests, the Commission can make that decision  
18 because I don't know that we can bend the CLex to a  
19 decision unless Qwest and Verizon are able to agree to  
20 make that decision. Do you see what I'm saying?

21 MS. CLAUSON: Yes, and I don't think I'm going  
22 out on much of a limb here on that the Commission choosing  
23 to. I don't think the Commission has to because last  
24 Wednesday we asked CLex to fix this, or she was assured  
25 they could, but that said if this Commission was for the

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1 docket, I think that the parties at least to the docket  
2 are bound, and we're asking that nonparties be bound as  
3 well.

4 JUDGE RENDAHL: Okay. Well, I think it will be  
5 the participants, I don't think there are parties to this  
6 docket. I wanted to clarify that.

7 And Mr. O'Connell, does Verizon -- can you speak  
8 for Verizon on this?

9 MR. O'CONNELL: Judge, you know, I am convinced  
10 that Ms. Anderl is correct that the Commission has the  
11 authority to make this determination, and we just haven't  
12 really given any -- you know, I think any determination by  
13 the Commission would be binding on Verizon to the degree  
14 that it would be binding on the parties is something we  
15 have to go with those CLex when the issue arose.

16 JUDGE RENDAHL: Okay. Well, with that assurance  
17 with Qwest and Verizon I don't have an issue with putting  
18 something in the order and protective order that any  
19 decisions made in this docket would be binding on all the  
20 participants with the CLex and Verizon and Qwest.

21 MR. O'CONNELL: And that and my concern was  
22 nonparties.

23 JUDGE RENDAHL: I understand that. So I will  
24 craft some language and hopefully that will work. Did you  
25 have another issue?

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1 MS. ANDERL: There is an issue that doesn't  
2 impact scheduling, and I know, your Honor, you said a  
3 number of times, I respect this is a fairly focused narrow  
4 docket in order to meet certain deadlines, but my concern  
5 is that the other issue with connection with the TRRO that  
6 may not be incumbent with the wire center validation, and  
7 we're concerned that we will go through the whole docket,  
8 and let's assume Qwest is right, and they all get related,  
9 and then CLex will raise a number of issues at that time.  
10 well, that's all fine and good now that we have the signed  
11 TRRO impending because we have all these other issues such  
12 as the issue raised by Eschelon about whether we changed  
13 the accounts for example, and it occurred that the  
14 Commission has made to be available, but from this  
15 standpoint of imputation there are a whole lot of  
16 imputation issues waiting to be raised.

17 JUDGE RENDAHL: I understand that from your  
18 perspective, and I think as we made clear in the workshop  
19 last week, the Commissioners want to continue that wire  
20 center issue as the first issue, and the Commissioners  
21 will meet with Staff at the workshop to try to figure out  
22 the next steps, and if there are next steps, the issue of  
23 whether the individual CLex are going to sign onto your  
24 agreements, I can't speak to that. And I think the  
25 counsel for CLex can speak to this, but I think as a

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1 matter of making sure that validated information is out  
2 there for all parties in this process is to not address  
3 that issue right now that we're focusing on. And I don't  
4 know if the Commission -- they want to get involved in  
5 other issues, but they're also saying at this point they  
6 don't know.

7 MR. O'CONNELL: What questions should we be  
8 asking to initiate a separate proceeding?

9 JUDGE RENDAHL: In terms of timing, the  
10 Commissioners are heading off next week so it's not likely  
11 we'll be able to get anything out to the participants in  
12 the workshop until at least the following week. So in  
13 terms of timing, that's all I can tell you at this point  
14 on those other issues. Ms. Roth.

15 MS. ROTH: What kind of proceeding do you want to  
16 request?

17 MS. ANDERL: I don't know. My question was  
18 really focused on what the this docket was, and this  
19 docket was not going to be anything more than wire center  
20 validation and CLex have raised another issue that they  
21 contend they are going to be delayed or absolutely  
22 impeded, then we need to decide what to do next and so  
23 forth, and whether we need to ask for a proceeding or take  
24 some other action, that's what we're trying to figure  
25 out.

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1           MS. ROTH: I'm sure that Judge Rendahl will have  
2 a meeting with the Commissioner in issuing the order  
3 request. The information, we can talk about that,  
4 hopefully we can say something about it by then. I'm not  
5 sure, and I know that TRRO related issues the Commissioner  
6 likes to address in this docket to the extent the  
7 transition issues come by March 11th. I know the  
8 Commissioner wants to address it in this docket. I just  
9 don't know when we'll go to the next step to say that, you  
10 know, how the transition and what's the recurring cost,  
11 and how much they should charge the rates should be, and  
12 things like that. But that will be under consideration in  
13 this docket.

14           MS. ANDERL: Thank you for that clarification.  
15 And, your Honor, I guess at some point Qwest may consider  
16 it appropriate to take some time to complete a more  
17 disputed list.

18           JUDGE RENDAHL: And that's possible, but I think  
19 we need to time line together to get the wire collocator  
20 subject resolved. So at this point let's go off the  
21 record, and talk about scheduling. Is there anything that  
22 we need to talk about before scheduling? All right, let's  
23 be off the record.

24           (A short break was taken.)

25           JUDGE RENDAHL: Let's go on the record. While we

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1 were off the record we had some substantial discussions  
2 about scheduling, but I'm going to summarize our  
3 discussions and if anyone has any disagreements, please  
4 chime in.

5           The Commission will enter a protective order in  
6 Docket UT-053025 similar to the protective No. 2 in docket  
7 No. UT-02050814 clarifying that certain information, such  
8 as the fiber based collocator information by wire center  
9 will not -- that Qwest and Verizon will not be submitting  
10 that information in a masked form, and that will be  
11 confidential, and that individual business line  
12 information from wire center data will be masked and that  
13 the individual CLex will -- that the ILex will provide to  
14 the individual CLex will provide their own code so they  
15 can identify their own business line data. And that Staff  
16 will be receiving either an unmasked copy or a masked copy  
17 with a set of all the codes.

18           Now the specific data other than that Ms. Roth  
19 will endeavor to get an Email out to everyone on the Email  
20 list, including Mr. Robins who we've gotten his Email  
21 address now. She will send an Email by this Friday to let  
22 the parties know -- the participants know what the  
23 preliminary information will be. And parties,  
24 participants, should notify Ms. Roth by Email by the 13th  
25 of any concerns, and she will in turn Email, send an Email

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1 if there are any changes.

2 We will get an order out with the official  
3 requested information by February the 21st, the ILEX  
4 should respond to the request for information by February  
5 the 28th, understanding if there is a significant change  
6 between the informal request that goes out on the 13th and  
7 the formal order on the 21st, that we'll entertain  
8 discussion of extensions of time for that specific data.

9 Anyone wishing to respond to the ILEX data must  
10 do so by March 7th, and that would include any exceptions  
11 to the data, disagreements with it, requests for more  
12 data, and also hopefully any agreement with any wire  
13 center data that's provided.

14 Qwest and Verizon will have until March the 14th  
15 to provide responses to the exceptions for the requests  
16 for more data. Again, given the extent of the data  
17 requested, we'll entertain for additional time to respond  
18 if necessary.

19 And that CLEX would have until March the 21st to  
20 respond to those requests on Verizon's comments from the  
21 14th indicating their agreement or their final  
22 disagreement of their data, at which point the Commission  
23 would enter decision on any disagreements by March 31st,  
24 or if there is no disagreement at that point, meaning  
25 everyone is in agreement as to what the -- as to the non



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1 impaired wire centers for the Ilex, then the Commission  
2 will issue a notice in this docket to all Telco and all  
3 TelCo attorneys as to what the non impaired wire centers  
4 are, and we'll post that on the website.

5           So that's what I have for now. Again, as we  
6 stated before we went off the record that the Commission  
7 is going to continue to look at the other issues that were  
8 raised during the workshop. We're focusing right now just  
9 on specifically validating the wire center data, and the  
10 Commission may address other issues that were raised in  
11 the workshop, and the Commission has yet to decide what  
12 its next step will be.

13           While we were off the record, Ms. Roth raised a  
14 question. If you can just summarize your question?

15           MS. ROTH: Oh, sorry. This is Jean Roth,  
16 Commission Staff. I thought I wouldn't ask that  
17 information anymore because it seems like CLex and Qwest  
18 are kind of in agreement saying March 11th is not really  
19 the magic date for, you know, service out or not out.  
20 it's a magic date for, you know, recalculation of the  
21 rates. So that information would not be, but I would like  
22 to have CLex and the Qwest and Verizon repeat that on the  
23 record, so we can have something.

24           JUDGE RENDAHL: Okay. I think the question  
25 Ms. Roth had asked while we were off the record,

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1 specifically to Eschelon, is whether it would be  
2 appropriate to ask CLex if they could give a sense of what  
3 customers would be affected as of March 11th, and my  
4 understanding, and if you state it on the record,  
5 Ms. Clauson, that Qwest and Eschelon have reached a bridge  
6 agreement to those issues.

7 MS. CLAUSON: Yes, that's correct.

8 JUDGE RENDAHL: And can you summarize what you  
9 said off the record?

10 MS. CLAUSON: Yes, this is Karen Clauson from  
11 Eschelon. Qwest and Eschelon have reached and filed a  
12 bridge agreement that provides that there will be a true  
13 op branch -- to March 11th, but the terms of the agreement  
14 will not be implemented until after the approval of the  
15 agreement. In terms of the implementation of the things  
16 that Ms. Roth is addressing, that will happen as a later  
17 date, that's not as of March 11.

18 JUDGE RENDAHL: And Ms. Anderl, you had added to  
19 that discussion if you could repeat it too.

20 MS. ANDERL: Your Honor, in connection with --  
21 I'm not sure exactly what you're referencing, but we did  
22 confirm that we would not be taking any action with CLex  
23 unless there was an agreement, an amendment, and we  
24 thought the March 11th date did have a legal significance,  
25 but not necessarily an operational significance unless

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1 there was an affected agreement between us and the CLex.

2 We also stated that we believe that the parties  
3 or participants in this docket, and any subsequent phases  
4 to this docket, ought to be bound by and required to  
5 implement the outcome of this docket and not waive the  
6 separate 251 arbitration to implement the outcome.

7 JUDGE RENDAHL: Okay. I think that captures  
8 everything we discussed both off the record and on. Is  
9 there anything else we need to put on the record before we  
10 close our discussion this morning? Ms. Roth?

11 MS. CLAUSON: Ms. Clauson from Eschelon.

12 JUDGE RENDAHL: Go ahead.

13 MS. CLAUSON: I don't necessarily understand what  
14 Ms. Anderl said, but I sense that we disagree with that,  
15 but I just don't know that it's something we need to  
16 address here, but in silence I don't want to be taken as  
17 agreeing with that last piece Ms. Anderl added.

18 JUDGE RENDAHL: Well, I'll let you all try to  
19 work out your issues as best as you can. Ms. Roth, I  
20 think you had something?

21 MS. ROTH: Right. I just want to remind the  
22 parties, the Commission continues to receive comments or  
23 requests for issue in this docket, so to the extent that  
24 CLex has the issue list regarding implementation issues  
25 besides the validation wire centers, please submit it in

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1 writing to the Commission, that will be the next phase of  
2 this docket, or if Qwest wants to do that also, that will  
3 be good and Verizon. So it will something that the  
4 Commission continues receiving comments and issues so we  
5 can address that in a timely manner.

6 MS. CLAUSON: One thing, your Honor, I think that  
7 was kind of what we were asking about earlier when you  
8 said earlier when you said it may be appropriate at some  
9 later point to develop a further disputed issue, which  
10 usually would be interested to hear from CLex what other  
11 implementing, if any, they believe exist to afford in  
12 implementing once the wire centers are validated, and then  
13 we'll have to respond to that.

14 JUDGE RENDAHL: All right. Well, do we need to  
15 set a date for when comments should come in? Maybe March  
16 1st is a good date so that we can focus your efforts right  
17 now on -- is March 1st workable for those kinds of  
18 comments? I know it's coinciding at least for Qwest and  
19 Verizon with getting their data together.

20 MR. O'CONNELL: Yes, Judge, it's Tim O'Connell,  
21 for just that reason, and because of my personal schedule  
22 I'd ask that it be kicked out at least a couple of weeks  
23 beyond that.

24 MS. ANDERL: This is Lisa Anderl. What I have to  
25 say is hopeful with CLex will be providing that

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1 information, I didn't necessarily see a conflict for us,  
2 but I don't have an objection for the schedule being set  
3 out a couple of weeks.

4 JUDGE RENDAHL: Well, why don't we set a date for  
5 March 13th for comments, additional comments, on next  
6 steps be taken in this docket, and issues, essentially  
7 developing an issues list based on the discussions from  
8 the workshop.

9 MS. ROTH: Right.

10 JUDGE RENDAHL: Well, with that if there's  
11 nothing else, thank you very much for calling in for this  
12 additional workshop session, conference this morning, and  
13 we have a schedule. I will probably not -- well, I may  
14 issue a notice of the schedule for comments so that  
15 everyone has it in writing.

16 And thank you all for calling in, and, you know  
17 how to reach Ms. Roth and myself if you have issues. And  
18 thanks very much.

19 (Workshop adjourned at 12:30)

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