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BEFORE THE WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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VERIZON SELECT SERVICES, INC.,	)	Docket UT-081393
MCIMETRO ACCESS TRANSMISSION	)	Volume III
SERVICES, LLC; MCI COMMUNICATIONS	)	Pages 68-94
SERVICES, INC., TELECONNECT LONG	)	
DISTANCE SERVICES AND SYSTEMS CO.	)	
d/b/a TELECOM USA; AND TTI NATIONAL,	)	
INC.,	)	
Complainants,	)	
vs.	)	
UNITED TELEPHONE COMPANY OF THE	)	
NORTHWEST, d/b/a EMBARQ,	)	
Respondent.	)	

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A pre-hearing in the above-entitled matter was held at 9:30 a.m. on Wednesday, August 5, 2009, at 1300 South Evergreen Park Drive, S.W., Olympia, Washington, before Administrative Law Judge ADAM TOREM.

The parties present were as follows:

UNITED TELEPHONE COMPANY OF THE NORTHWEST, d/b/a EMBARQ, by William E. Hendricks, III, Attorney at Law, 902 Wasco Street, Hood River, Oregon 97031 (Appearing via conference bridge.)

COMMISSION STAFF, by Jonathan C. Thompson, Assistant Attorney General, 1400 S. 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 SELECT SERVICES, INC., AND ALL  
2 OTHER COMPLAINANTS, by Gregory M. Romano, General  
3 Counsel, 1800 41st Street, Everett, Washington 98201  
(Appearing via conference bridge.)

4 VERIZON SELECT SERVICES, INC., AND ALL  
5 OTHER COMPLAINANTS, by Christopher D. Oatway,  
6 Assistant General Counsel, 1515 North Courthouse  
7 Road, Suite 500, Arlington, Virginia 22201 (Appearing  
8 via conference bridge.)

9 AT&T SERVICES, INC., by Cindy Manheim,  
10 Attorney at Law, 8645 154th Avenue, N.E., Redmond,  
11 Washington 98052 (Appearing via conference bridge.)  
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1 P R O C E E D I N G S

2 JUDGE TOREM: We'll go on the record. It is  
3 now a little after 9:30 on Wednesday, August 5th,  
4 2009. This is Judge Torem in Docket UT-081393. This  
5 is the complaint filed by Verizon Access against  
6 Embarq. And we'll take appearances, starting with  
7 Verizon Access.

8 MR. ROMANO: Yes, Your Honor, thank you.  
9 This is Gregory M. Romano, on behalf of Verizon  
10 Access.

11 JUDGE TOREM: And for Embarq?

12 MR. HENDRICKS: Your Honor, Tre Hendricks,  
13 on behalf of United Telephone Company of the  
14 Northwest, d/b/a Embarq.

15 JUDGE TOREM: And for AT&T?

16 MS. MANHEIM: Cindy Manheim, on behalf of  
17 AT&T.

18 JUDGE TOREM: And for Commission Staff?

19 MR. THOMPSON: Jonathan Thompson, Assistant  
20 Attorney General.

21 JUDGE TOREM: Any other parties or counsel  
22 on the phone that need to make an appearance?

23 MR. ROMANO: Yes, Your Honor. I would ask  
24 that Mr. Oatway make an appearance, please.

25 MR. OATWAY: Yes, Your Honor. It's Chris

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1 Oatway, with Verizon.

2 JUDGE TOREM: Thank you. Any others? All  
3 right. Hearing none, then that closes appearances.

4 Let's move on to the reason we're having a  
5 pre-hearing conference today, as opposed to the three  
6 days of hearing we had originally scheduled. On  
7 Sunday evening, I heard from Mr. Hendricks that the  
8 case had come to a settlement in principle between  
9 Verizon and Embarq, and my understanding, Mr.  
10 Hendricks, was that you were still at that point  
11 confirming with Commission Staff, as you had already  
12 done with AT&T, that those two intervening and other  
13 participating parties would not be opposing the  
14 settlement and you weren't quite sure if they would  
15 be joining in it. But the main complaint against  
16 your company by Verizon had been settled.

17 So at this time I'd like you to share with  
18 me as much as you can the terms of the settlement  
19 between you and Mr. Romano and Mr. Oatway, and then I  
20 want to confirm from AT&T and confirm from Commission  
21 Staff their positions on the proposal.

22 MR. HENDRICKS: Yeah, thank you, Your Honor.  
23 This is Tre Hendricks, for Embarq. First of all, we  
24 did share, include the other parties in e-mail  
25 distributions of the drafts of this sort of condensed

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1 version of settlement, whereby we reached an  
2 agreement in principle. So I do think that the  
3 parties should be aware of the terms.

4           The settlement -- in the settlement, and  
5 again, we just have an agreement with Verizon right  
6 now. It's unclear -- I'm not clear where AT&T stands  
7 on the settlement, and we have been having some --  
8 we're having continuing discussions with the Staff as  
9 to what position it will take and, you know, how they  
10 might fit into the settlement. And at this point, it  
11 doesn't appear -- I don't think we've concluded the  
12 discussions, so maybe Staff has formulated a formal  
13 sort of final position on it.

14           I am hoping that there will be some  
15 additional discussions with Staff in the week or so  
16 to come here before that final decision is reached,  
17 but that may not be the case.

18           The settlement itself would -- United would  
19 agree to eliminate its originating intrastate carrier  
20 common line charge effective January 1, 2010. It  
21 would involve United reducing its originating  
22 intrastate local switching rate to the current  
23 Verizon rate effective January 1, 2010.

24           United would agree to a 50 percent reduction  
25 to the interim terminating access charge, the ITAC,

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1   phased in in equal increments over two years.  So the  
2   first half of the reduction would occur on January 1,  
3   2011, and the second half would occur on January 1,  
4   2012.

5           The parties -- well, Verizon and United have  
6   agreed that no party would object to United seeking  
7   the ability to request the recovery of these  
8   reductions to access revenues through offset  
9   increases to local rates.  This provision is  
10  something that Staff has some concern about.  Staff,  
11  I assume, will express the concern.

12           JUDGE TOREM:  Mr. Hendricks, can you speak  
13  up just a little bit?  You're trailing off.

14           MR. HENDRICKS:  Yeah, yeah.  Sorry.  I'm not  
15  used to doing these by phone, actually.

16           So at any rate, the second -- the other  
17  provision I was just discussing is that Verizon has  
18  agreed, and the other parties have not so far agreed  
19  to this provision that no party will object to United  
20  seeking the ability to request recovery of reductions  
21  to access revenues through offsetting increases to  
22  local rates.

23           I should ask, by the way, do you have a  
24  reporter?

25           JUDGE TOREM:  We do.

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1           MR. HENDRICKS: Okay. I'm just curious  
2 about how fast I can talk. In addition, the  
3 settlement in principle provides that no party would  
4 seek further access reductions, including to the  
5 ITAC, except through a rule-making or generic  
6 proceeding, where a replacement USF mechanism can be  
7 determined.

8           Further, that no party to the proceeding  
9 would object to United being able to fully recover  
10 any of the reductions to access revenues in the  
11 context of such a proceeding.

12           And then the last provision is United  
13 reserves the right to seek on its own, in any forum,  
14 a state universal funding mechanism in Washington.  
15 That's it.

16           And I can -- I don't know how you want to  
17 proceed. I can address the other questions you've  
18 asked, or maybe you have some questions about the  
19 settlement.

20           JUDGE TOREM: Let me first ask Mr. Romano  
21 and Mr. Oatway if they felt that was an accurate  
22 reflection of what Verizon has agreed to?

23           MR. OATWAY: Yes, Your Honor, this is Chris  
24 Oatway. I think that that generally summarizes the  
25 terms. Certainly Mr. Hendricks summarized our

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1 understanding of the sort of rate issues, the -- how  
2 the rates will be adjusted.

3           You know, we've made clear that with respect  
4 to limitations on advocacy and, you know, the sort of  
5 non-rate issues. I don't think that he made any  
6 mistake in the way he described them, but we've made  
7 clear that, you know, the devil is in the details in  
8 terms of how that writes up, and we want to be  
9 thoughtful and careful about how that language will  
10 look.

11           In other words, there's still some  
12 additional discussion that needs to be had with  
13 Embarq in terms of, you know, exactly how broad the  
14 limitations on advocacy would be.

15           JUDGE TOREM: All right. I can imagine that  
16 the wordsmithing will be epic on those.

17           So if I understand correctly, there will be  
18 an elimination of intrastate common carrier line  
19 charge by the first of January of next year, there  
20 would be a reduction in the originating intrastate  
21 access charge in what United or Embarq currently has  
22 down to Verizon's rate by January 1 of 2010?

23           MR. HENDRICKS: That would actually be the  
24 -- did you say the originating local switching?

25           JUDGE TOREM: Probably what I meant to say.



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1 MR. HENDRICKS: Okay.

2 JUDGE TOREM: And then you're talking about  
3 reducing the ITAC phased in over two years in equal  
4 increments, but that wouldn't begin until January 1  
5 of 2011, with the second increment in 2012.

6 MR. HENDRICKS: Correct.

7 JUDGE TOREM: Okay. You didn't say what the  
8 reduction was to. At least I didn't catch that.

9 MR. HENDRICKS: The interim terminating  
10 access charge, the ITAC.

11 JUDGE TOREM: What would be the reduction in  
12 it?

13 MR. HENDRICKS: Fifty percent in total, so  
14 one-half of that in January 2011, and the second half  
15 in January 2012.

16 JUDGE TOREM: Okay. And then we're talking  
17 about any reductions that are caused to revenue could  
18 be offset by raising local rates. That's the issue  
19 you're working with Staff on, and you haven't yet  
20 confirmed from AT&T --

21 MR. HENDRICKS: What its position is or not,  
22 yeah.

23 JUDGE TOREM: Okay. But that's the general  
24 idea, and then some limitations on objections that  
25 you're negotiating with the individual parties and

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1 reserving your rights to come back before this  
2 Commission or the legislature in either rule-makings  
3 or any other generic proceedings about the ITAC and  
4 also about universal service here in the state of  
5 Washington?

6 MR. HENDRICKS: Correct.

7 JUDGE TOREM: Okay. Ms. Manheim, what's  
8 AT&T's position, then, on the general terms you've  
9 just heard?

10 MS. MANHEIM: AT&T does not oppose the  
11 settlement, but we will not be signing on to the  
12 settlement.

13 JUDGE TOREM: All right. And Mr. Thompson,  
14 Commission Staff?

15 MR. THOMPSON: Well, I guess I'll start by  
16 saying that as to the rate reductions that are -- the  
17 access charge rate reductions that are called for in  
18 the settlement, the elimination of the CCL rate, the  
19 reduction in the originating switching rate, and the  
20 reduction of the ITAC, we think those are a step in  
21 the right direction and that those elements would be  
22 consistent with the public interest.

23 It's not as rapid a reduction in the ITAC as  
24 we had advocated for in our testimony, but we think  
25 it's -- well, I guess, as I said, it's a step in the

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1 right direction and probably a good solution until  
2 such time as the company is in for a AFOR or a  
3 general rate case, hopefully within the next few  
4 years.

5           So the provisions, I guess I'll call them  
6 the procedural provisions, which would I guess bind  
7 the parties to positions in future proceedings, are  
8 of concern to Staff and probably not something that  
9 we're willing to agree to, so there's -- the first  
10 one that Mr. Hendricks talked about was -- had to do  
11 with no party objecting to United's ability to  
12 request recovery of the reductions in the ITAC -- or  
13 the access charges in local rate increases.

14           And certainly we don't -- it's not our  
15 position that the company is precluded from coming in  
16 for a rate case or an AFOR if that's permitted by the  
17 terms of the settlement of the merger case. But we  
18 don't -- we're not ready to agree that they should  
19 have a revenue neutral increase in their local rates.  
20 We would want to advocate for a full earnings review  
21 before any local rate increase was authorized.

22           So -- and other terms concern -- I guess the  
23 duration of how long this access charge would -  
24 provided for in the settlement would last into the  
25 future and whether it would necessarily, I guess,

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1 survive through an AFOR, you know, whether it would  
2 be part of an AFOR that would be filed in the future  
3 or whether it would be open game for adjustment in a  
4 rate case, and we think that it should be and we'd  
5 like to advocate for -- or we'd like to be able to  
6 advocate for what we think the correct access charges  
7 are in that future case and not bind ourselves to a  
8 particular level of rate case, or excuse me, level of  
9 access charges in our rate case or AFOR advocacy in  
10 the future. So that's where we stand.

11 JUDGE TOREM: All right. And I trust that,  
12 given the next few days have been freed up off your  
13 calendar and Mr. Hendricks', that there will be some  
14 intense negotiations spent on what otherwise would  
15 have been here in Olympia in the hearing room.

16 Mr. Hendricks, how long do you think it's  
17 going to take you to wrap up these negotiations with  
18 the concerns stated by Commission Staff and the  
19 wordsmithing required between Mr. Romano, Mr. Oatway,  
20 and yourself?

21 MR. HENDRICKS: Your Honor, I mean, it's  
22 hard for me to know. I mean, it depends to a great  
23 extent on the cooperation that we get from the other  
24 parties. I wouldn't think it would take any more  
25 than to the end of next week to do that.

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1           JUDGE TOREM: Well, I would like to see if  
2 we can get this -- the agreement itself in by the  
3 12th. That would be a week from today.

4           MR. HENDRICKS: And we'll do our level best  
5 to do that.

6           JUDGE TOREM: Mr. Romano, Mr. Oatway, is  
7 there any other pressing business that would keep you  
8 from getting it in by the 12th and keeping the flame  
9 under the negotiations between now and then?

10          MR. OATWAY: No, Your Honor. I think we can  
11 certainly work with Tre as intensively as other  
12 times.

13          MR. HENDRICKS: Your Honor, I do think that  
14 that will be certainly a goal that we could meet with  
15 Verizon, just from hearing Mr. Thompson's discussion  
16 on the issues. And by the way, Mr. Thompson and I  
17 have been discussing this issue for the last several  
18 days, so our talks with the Staff are continuing.

19                 And understanding what their issues are, I'm  
20 still a bit confounded about how they would be  
21 resolved in the context of this settlement. So  
22 that's, I would say, a fairly large hurdle to  
23 overcome, but I anticipate that -- at least I hope  
24 that the discussions with Verizon will be somewhat  
25 more simple.

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1           JUDGE TOREM: All right. What I'm going to  
2 do is set in the pre-hearing conference order, then,  
3 Wednesday, August 12th, as a deadline for filing the  
4 settlement and the required supporting narrative. If  
5 there is any reason you don't think you can meet that  
6 for either the settlement or the supporting  
7 narrative, which I would prefer come in together, if  
8 there's something that's going to keep them from  
9 coming in in the quality that the Commissioners are  
10 going to need to review this case on the 12th, please  
11 let me know by close of business on the 11th.

12           As I think as I've discussed with the  
13 parties individually, I'll make it known now, I'll be  
14 in Ohio next week on military reserve duty, so I will  
15 be able to check my e-mail or get a phone call on my  
16 cell phone. And Mr. Hendricks, I know, has that from  
17 our discussion Sunday.

18           If necessary, call me, Mr. Hendricks, and  
19 let me know, and we'll see about an extra couple  
20 days, but I would hope that that won't be necessary  
21 and Wednesday, the 12th, will be sufficient for all  
22 parties to have their negotiations complete and  
23 everything reduced to writing.

24           Now, our procedural rules, and any of you  
25 that were at the bench bar earlier this year know

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1 that the Commissioners are very focused on getting a  
2 quality settlement with sufficient documentation for  
3 them to review and not have too much of a black box  
4 or just pro-forma statements saying we support it and  
5 it's in the public interest. We're going to need a  
6 little bit more detail than that for the  
7 Commissioners to want to approve such a settlement.

8           So I encourage you both or all of you to  
9 review WAC 480-07-730, 740, and 750, particularly WAC  
10 480-07-740, sub 2(A), which describes the four  
11 requirements that a narrative has to have. So it has  
12 to outline the scope of the underlying dispute, so  
13 we'll have to have a summary as to why the complaint  
14 was filed. We'll need the scope of the settlement  
15 and its principal aspects. And I think that's  
16 already been stated today, so that should be pretty  
17 well easy to do.

18           The third one typically is what gets glossed  
19 over, and I'd like more detail from each of the  
20 parties that are signing on, so Ms. Manheim, you're  
21 off the hook here, a statement about the parties'  
22 views about why the proposal satisfies both their  
23 interest and the public interest. And finally, the  
24 fourth requirement is a summary of any legal points  
25 that bear on the proposed settlement.

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1                   And that leads me to the merger order in  
2 Docket UT-082119, particularly I think it's  
3 paragraphs 33, 34, and 50.

4                   MR. HENDRICKS: I'm sorry, Your Honor. What  
5 was that docket number?

6                   JUDGE TOREM: You'll be intimately familiar  
7 with it, Mr. Hendricks. UT-082119.

8                   MR. HENDRICKS: Ah, yes, we know that one.

9                   JUDGE TOREM: You and your friends at  
10 CenturyTel have obligations that you were committed  
11 to by the Commission's order. And I want to make  
12 sure that those are addressed in detail so that the  
13 Commissioners don't have too many questions or  
14 wonders ahead of time and that they can focus their  
15 issues and be assured that anything they might  
16 approve, whether as presented or with conditions,  
17 preserve any synergies that they had projected five  
18 years down the road, so that, no offense to Mr.  
19 Romano or Mr. Oatway on what you may have  
20 successfully negotiated, but there were some  
21 synergies that are going to have financial impact on  
22 Embarq and CenturyTel customers here in Washington  
23 that I don't think the Commission wants to see walk  
24 over to Verizon and not be available in five years,  
25 as they had considered in that case.



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1                   So that will be an aspect of the settlement  
2 they'll be reviewing and want to be reassured on so  
3 that they can approve this and that, with all of the  
4 obligations that are set out in the merger order can  
5 be found to be in the public interest. So be  
6 prepared for those questions when we have the  
7 hearing.

8                   MR. HENDRICKS: Your Honor, is there any  
9 more detail about what exactly the Commission is  
10 looking for in that discussion? I mean, I think I  
11 generally understand the subject. I guess if there  
12 was something more pointed that we might be able to  
13 address, it might be helpful.

14                   JUDGE TOREM: Well, I think only, Mr.  
15 Hendricks, to go back and review the discussion in  
16 the merger order in those paragraphs. At least the  
17 ones that jumped out at me were 33, 34, and 50, and  
18 then whatever's in the actual order portion itself.  
19 If there are any other paragraphs, I can try to make  
20 those known to the parties, but the Commissioners, as  
21 of this morning, this is the first time I've seen  
22 anything as to the details of the proposed  
23 settlement, so they certainly know less than I do at  
24 the moment, scary as that may be, and they don't know  
25 what basis to have their concerns. They just know

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1 that the order that they worked hard on to get in the  
2 merger order out a couple months ago is something  
3 that they want to still have meaning and not be  
4 undercut by any settlement that your company may be  
5 making now on its access rates.

6 So other than that, I can't give you any  
7 more concerns specifically. But if you address those  
8 and you're prepared, I know that they will have  
9 specific questions when we have the hearing. We'll  
10 send out bench requests, if at all possible, so that  
11 there's no surprises on September the 9th, which was  
12 the date we had agreed.

13 And I think what we'll be doing is setting  
14 Wednesday, September 9th, at 9:30 in the morning, to  
15 have both Verizon and Embarq, at the very least,  
16 present their panel of witnesses. It may just be two  
17 witnesses, from what I understand, but perhaps three.  
18 I'm not sure if AT&T and Commission Staff intend to  
19 present any witnesses, depending on whether they're  
20 signing on as parties or just to explain Commission  
21 policy objectives as to why they're perhaps not  
22 signing on, but why they believe it's in the public  
23 interest.

24 I think the Commissioners would appreciate  
25 an active involvement from Staff, even if they're not

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1 going to particularly sign on, and the rules may not  
2 actually require a witness, but to have one available  
3 would be helpful.

4 Let's turn back, then, if there are no other  
5 questions on what I'm expecting to come in with  
6 supporting documentation, to the witnesses that might  
7 be available on the 9th of September.

8 Mr. Oatway, you had indicated that Mr.  
9 Vasington may not be available in person due to a  
10 commitment on Monday of that week in Maryland. Is  
11 that correct?

12 MR. OATWAY: That's correct. It's a hearing  
13 in Maryland that starts on Monday, so to the extent  
14 he can finish testifying Monday, he can be there in  
15 person, and we hope that would be the case. But to  
16 the extent that he needs to testify during the  
17 additional days of the hearing, he may not be able to  
18 make it out to Olympia in person.

19 JUDGE TOREM: But he would certainly make  
20 himself available by phone if that was -- he was not  
21 able to travel?

22 MR. OATWAY: Yes, we could make sure that  
23 he's available by phone.

24 JUDGE TOREM: Mr. Hendricks, any objection  
25 to a phone witness, if that becomes necessary?

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1 MR. HENDRICKS: No, Your Honor.

2 JUDGE TOREM: Ms. Manheim?

3 MS. MANHEIM: No objection, Your Honor.

4 JUDGE TOREM: Mr. Thompson?

5 MR. THOMPSON: No objection.

6 JUDGE TOREM: And I conferred with our  
7 Chairman and other Commissioners that were available  
8 yesterday. They'd like to have him here in person if  
9 at all possible, but given the scheduling concerns,  
10 they understand that Wednesday, the 9th, was picked  
11 to satisfy their needs and the needs of the  
12 Commission, so they're willing to entertain a phone  
13 witness on that particular witness. So hopefully  
14 he'll be here in person.

15 Mr. Oatway, if you'll let me know by an  
16 e-mail Monday, Tuesday, whatever that week of  
17 testimony ends for Mr. Vasington if we're to expect  
18 him in person, that would be helpful.

19 MR. OATWAY: Very good. We'll do that.

20 JUDGE TOREM: Now, as to the supporting  
21 evidence, I know you'll be crafting it into the  
22 narrative. There's already such a record that's been  
23 filed. Now, none of it's been admitted into  
24 evidence, and much of it is adversarial testimony  
25 going back and forth and we now have an agreement.

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1 Having read all the testimony, it's hard to know  
2 which pieces would support the agreement that's going  
3 to be filed next week.

4 I'm sure there's sufficient items and pages  
5 within that record that the parties could agree do  
6 support whatever's coming in without the need to  
7 create a whole lot of new pre-filed testimony, but if  
8 you could call out page numbers and otherwise as to  
9 what the various witnesses wish to adopt in support  
10 of the settlement, that might be helpful and guide  
11 the reading of the Commissioners, who have not yet  
12 had reason to touch this case.

13 This would have been an ALJ-alone case this  
14 week, but in speaking to the Commissioners about the  
15 proposed settlement, there's unanimous agreement that  
16 the policy issues involved in this case should  
17 require us to go ahead and have the Commissioners  
18 step in. They've elected to do so, so you'll see not  
19 just my friendly face up here on the 9th, but three  
20 Commissioners who, as I've hinted already, that will  
21 have plenty of questions.

22 So please, when you file next week, make  
23 sure you vector the reading accordingly, so that I  
24 can refamiliarize myself and make sure the  
25 Commissioners are dialed in on exactly what pages of

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1 testimony are relevant. If there's anything new that  
2 needs to be filed, I guess you'll have to create that  
3 and you'll let us know. Any questions about that?

4 MR. HENDRICKS: One question, Your Honor.  
5 This is Tre Hendricks, for Embarq. So do you  
6 anticipate that the Commission will enter into the  
7 record all the testimony, then we will call out  
8 specific provisions, or will we only enter into the  
9 record those portions of the testimony that are  
10 relevant to the settlement?

11 JUDGE TOREM: I'm not sure that we have a  
12 real preference, but it's certainly having them know  
13 what's relevant in the record. If there's a reason  
14 that you want to have the entire bulk of the  
15 testimony put in so that you have a little bit more  
16 latitude to answer questions from it and the rest,  
17 that's fine, but I certainly wouldn't want you to  
18 expect the Commissioners to read that entire set of  
19 submissions.

20 I don't know that they would not grant a  
21 motion that has all the pre-filed testimony come in,  
22 but you may agree that some of it need not. I'll  
23 leave that to a discussion between the parties, but  
24 certainly as long as you can call out those pages  
25 that are specific and support the testimony, that

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1 might be helpful, and it may even be helpful to have  
2 sort of a -- if not part of the testimony, but an  
3 appendix page that says, you know, Embarq's position  
4 is supported by Witness A, B and C, and these pages  
5 or portions of their testimony and the other  
6 supporting exhibits, and each other party wishing to  
7 have testimony considered supporting the settlement  
8 do the same.

9 MR. HENDRICKS: Thank you, Your Honor.

10 JUDGE TOREM: Any other questions or  
11 concerns about how we present the evidentiary record  
12 to the Commissioners?

13 Let me review quickly, then, the dates that  
14 we've set out this morning are next Wednesday, August  
15 the 12th, for filing of the settlement and the  
16 narrative and the listing of witnesses and supporting  
17 evidence.

18 I'm not sure I need to know the witnesses  
19 today, but I certainly expect, Mr. Hendricks,  
20 particularly Embarq will have sufficient witnesses  
21 here in the room to answer the concerns I've already  
22 raised as to how the settlement will fit in with the  
23 overall Commission's regulatory scheme.

24 Hopefully we'll have a witness or two from  
25 Commission Staff as, Mr. Thompson, you and your

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1 client decide exactly what the Commissioners need to  
2 hear on the policy issues.

3 MR. HENDRICKS: Your Honor? Tre Hendricks.  
4 I was anticipating that Mr. Felz would support the  
5 settlement. Mr. Roth sponsored primarily evidence  
6 testimony with respect to costs, and I'm not sure  
7 that that's entirely relevant to the settlement  
8 terms. So that was the company's plan.

9 If you think that that might -- it's not  
10 enough or will not fully address the Commission's  
11 questions, we can change that plan, but that's our  
12 plan right now.

13 JUDGE TOREM: All right. Well, as for Mr.  
14 Roth, I'll leave that for you and Mr. Thompson to  
15 determine whether any of those cost issues, as  
16 particularly the revenue neutrality that you're  
17 seeking, might be something that the Commissioners,  
18 if that becomes part of the settlement, that Mr. Roth  
19 needs to answer questions on. So work with Mr.  
20 Thompson to see if he agrees on that.

21 As to Mr. Felz, so long as he's able to  
22 represent on behalf of the corporation the  
23 commitments that were previously made that he can  
24 reaffirm those and can make any commitments to the  
25 Commissioners that are necessary to assuage any



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1 concerns they have, then he'd be a good witness to  
2 have.

3           If you need to have an Embargo corporate  
4 officer at a different level available by phone  
5 available for those questions, if there are  
6 commitments that you think the Commissioners may be  
7 asking for that Mr. Felz can't make, let's make sure  
8 that those people are at least on telephone standby,  
9 so that if Mr. Felz says, I can't do that, it's over  
10 my head, somebody is available -- I think it's back  
11 in Kansas; is that right?

12           MR. HENDRICKS: Well, Monroe or Kansas,  
13 depending on --

14           JUDGE TOREM: All right. Given the  
15 machinations of the merger, you figure out what phone  
16 lines someone has to be near in case the  
17 Commissioners have a question that Mr. Felz can't  
18 answer.

19           MR. HENDRICKS: Sure. Will do.

20           JUDGE TOREM: Okay. I appreciate that. Any  
21 other procedural questions before we get back to  
22 confirming the dates? All right. Hearing none, then  
23 the settlement comes in next Wednesday. If anybody  
24 has concerns as to how to reach me next week while  
25 I'm on reserve duty, if Wednesday becomes a problem,

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1 let me know offline, shoot me an e-mail later today.

2 We will schedule the hearing itself for  
3 Wednesday, September the 9th, probably a morning  
4 session. I'll have to confirm that with the  
5 Commissioners today, and we'll have as many people  
6 here in person as possible. It's only Mr. Vasington  
7 at this point that might be a concern for travel, and  
8 we've okayed him to appear by telephone as part of  
9 the witness panel as needed.

10 I don't think there's anything else that I  
11 need today. Was there anything else that the parties  
12 wanted to put on the record? All right. Hearing  
13 none, then, it's just after 10:00. Thank you all for  
14 your efforts to get this to a settlement. I'll look  
15 forward to seeing how it comes out in the writing and  
16 look forward to hearing from all of you thereafter.

17 Again, if there are going to be bench  
18 requests, I would think around the 20th or the 21st,  
19 you can expect to start seeing those, once we've had  
20 a chance to digest what you submit next week.

21 MR. HENDRICKS: Your Honor?

22 JUDGE TOREM: Go ahead.

23 MR. HENDRICKS: One final question. Will a  
24 transcript of this pre-hearing conference be made  
25 available? And if so, how do we go about getting

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1 that, given that we're all on the phone?

2 JUDGE TOREM: Well, I will let you talk to  
3 Ms. Nelson, our court reporter, once we close the  
4 hearing, and place the appropriate order and get that  
5 taken care of for you here. So stay on the line. I  
6 won't turn off the conference bridge, but we'll  
7 adjourn the hearing at 10:05. Thank you. We're  
8 adjourned.

9 (Hearing adjourned at 10:05 a.m.)

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