

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION

3 WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, ) Docket No. UT-960126  
4 Complainant, ) Volume 2  
vs. ) Pages 25 - 50  
5 U S WEST COMMUNICATIONS, INC., )  
Respondent. )  
6 ----- )

7 A hearing in the above matter was held on  
8 October 1996, 1996 at 4:10 p.m. at the Washington  
9 State Energy Facility Evaluation Council, 925 Plum  
10 Street, Olympia, Washington, before Administrative Law  
11 Judge Judge C. Robert Wallis.

12  
13 The parties were present as follows:

14 U S WEST COMMUNICATIONS, INC. by Lisa  
15 Anderl, Attorney at Law, 1600 7th Avenue, Room 3206,  
Seattle, Washington 98191.

16 SHARED COMMUNICATIONS SERVICES by Beth-Karan  
17 Kaye, Attorney at Law, 3200 U.S. Bancorp Tower, 111 SW  
Fifth Avenue, Portland, Oregon 97204-3688.

18 AT&T COMMUNICATIONS OF THE PACIFIC  
19 NORTHWEST, INC. by Alan G. Waldbaum, Attorney, 1501  
Fourth Avenue, Suite 2600, Seattle, Washington  
20 98101-1688.

21 MCI, ACCESS TRANSMISSION SERVICES, and  
22 METRONET SERVICES CORPORATION (via telephone) by  
Brooks Harlow, Attorney at Law, 601 Union Street,  
Suite 4400, Seattle, Washington 98101-2352.

23 MFS INTELENET OF WASHINGTON, INC. (via  
24 telephone) by Douglas Bonner, Attorney at Law, 3000 K  
Street Northwest, Suite 300, Washington, D.C., 20007.

25 Cheryl Macdonald, Court Reporter

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APPEARANCES (Cont'd.)

FOR THE PUBLIC (via telephone) ROBERT  
MANIFOLD, Assistant Attorney General, 900 Fourth  
Avenue, Suite 2000, Seattle, Washington 98164.

THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION STAFF by Shannon Smith, Assistant Attorney  
General, 1400 South Evergreen Park Drive Southwest, PO  
Box 40128, Olympia, Washington 98504-0128.

FRONTIER TELEMAGEMENT, INC. by Sara  
Siegler Miller, Attorney, 2000 Northeast 42nd, Suite  
154, Portland, Oregon 97213.

DEPARTMENT OF INFORMATION SERVICES, (via  
telephone) by ROSELYN MARCUS, Special Assistant  
Attorney General, 811 Fairview Road, Carlisle,  
Pennsylvania 17013.

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

2 JUDGE WALLIS: Let's be on the record,  
3 please. This is a pre-hearing conference in the matter  
4 of the Washington Utilities and Transportation  
5 Commission, complainant, versus U S West  
6 Communications, Inc. respondent, docket No. UT-960126.

7 This pre-hearing conference is being held in  
8 Olympia, Washington on October 16, 1996 before Bob  
9 Wallis who has been assigned to be the administrative  
10 law judge for the proceeding. Our conference today  
11 includes attendees who are present via the bridge line,  
12 and I would like to begin the statement of appearances  
13 by identifying the people or parties who are on the  
14 bridge line and ask them to state their name and the  
15 name of the client that you represent. If you have not  
16 previously stated an appearance at a pre-hearing  
17 conference I would like you to state your business  
18 address as well. And for the benefit of the court  
19 reporter I would like to ask you to spell your name for  
20 the record. So beginning with the bridge line and Mr.  
21 Harlow.

22 MR. HARLOW: This is Brooks Harlow  
23 representing MCI Metro, Access Transmission Services  
24 and also representing Metronet Services Corporation.

25 JUDGE WALLIS: Ms. Marcus.

1 MS. MARCUS: Roselyn Marcus, R O S E L Y N  
2 Marcus, M A R C U S. Special assistant attorney  
3 general representing the Washington State Department of  
4 Information services. My business address is 811  
5 Fairview Road, Carlisle, Pennsylvania 17013.

6 JUDGE WALLIS: Ms. Marcus, it is difficult  
7 to hear you. I'm going to ask the next time you speak  
8 if you would bring the microphone of the telephone  
9 instrument that you're using very close to your mouth  
10 and try to keep your voice up. I think that would help  
11 us understand better what you're saying and hear it  
12 better.

13 MS. MARCUS: Okay. Is this better?

14 JUDGE WALLIS: It's much better, thank you.

15 Mr. Manifold.

16 MR. MANIFOLD: Robert Manifold, assistant  
17 attorney general appearing as public counsel.

18 JUDGE WALLIS: Mr. Bonner.

19 MR. BONNER: Douglas G. Bonner of the law  
20 firm of Swidler and Berlin, Washington D.C., and my  
21 name is spelled B O N N E R, representing MFS Intelenet  
22 of Washington, Inc.

23 JUDGE WALLIS: Those persons who are  
24 present in the hearing room today beginning with Mr.  
25 Waldbaum.

1                   MR. WALDBAUM: This is Alan Waldbaum from  
2 Davis Wright Tremaine representing AT&T of the Pacific  
3 Northwest.

4                   MS. SIEGLER MILLER: This is Sara Siegler  
5 Miller representing Frontier Telemanagement.

6                   MS. KAYE: This is Beth Kaye, B E T H K A  
7 Y E, of the firm Preston Gates and Ellis representing  
8 Shared Communications Services, Incorporated. My  
9 business address is 3200 U.S. Bancorp Tower, 111  
10 Southwest Fifth Avenue, Portland, 97204.

11                   MS. ANDERL: Lisa Anderl representing U S  
12 WEST Communications Inc. My business address is 1600  
13 Seventh Avenue, Room 3206, Seattle, Washington 98191.

14                   MS. SMITH: This is Shannon Smith,  
15 assistant attorney general representing Commission  
16 staff.

17                   JUDGE WALLIS: Thank you very much. In  
18 some pre-hearing discussions about order of procedure  
19 today, we decided that we would begin with Ms. Anderl  
20 summarizing the pending motions being offered by U S  
21 WEST so let's begin with that. Ms. Anderl.

22                   MS. ANDERL: Thank you, Your Honor. U S  
23 WEST has filed two motions to strike various portions  
24 of the testimony filed by the intervenors in this  
25 matter. The first motion was filed on October 4th

1 along with our prefiled testimony and it simply  
2 addresses testimony that is raised by witnesses for  
3 AT&T, MCI, Frontier Telemanagement and MFS which we  
4 believe is irrelevant and which will unduly burden the  
5 record if it is admitted, specifically that testimony  
6 is set forth by page and line number in our motion.  
7 Primarily that testimony deals with other state action  
8 which is not relevant to what action the Commission may  
9 take and what U S WEST may or may not do under  
10 Washington law and either feel that it has no bearing  
11 on the outcome or any facts which are going to be  
12 determinative in this proceeding.

13           To the extent that some of that testimony  
14 might also suggest that this is an appropriate  
15 proceeding in which to determine issues about  
16 unbundled or wholesale pricing, the motion is also  
17 directed to those pieces of testimony as irrelevant to  
18 this matter as those issues will be determined in the  
19 pending arbitrations that are ongoing with virtually  
20 all the parties to this proceeding. That's really the  
21 substance of our October 4 motion.

22           As regards the motion that we filed today,  
23 it's in the alternative we filed a number of discovery  
24 requests -- rather served on the intervenors a number  
25 of discovery requests on or about September 26 and most

1 of those we felt were very brief. I think that the  
2 longest set contained maybe 17 questions. The shortest  
3 set maybe contained nine questions. They were either  
4 general inquiries into the issues raised in the  
5 testimony filed by those parties or in some cases very  
6 specific questions which referenced page and line  
7 numbers and made an inquiry about the testimony offered  
8 by the witness at that portion of their testimony.

9           We got responses on or about the 10th of  
10 October which was timely and for the most part all of  
11 the parties objected to virtually all of the questions.  
12 To the extent that those objections are based on  
13 relevance and to the extent that those questions go to  
14 the testimony offered by those parties, I feel that by  
15 the parties' own admission the testimony should be  
16 excluded. If they feel that they can have an objection  
17 sustained on the basis that what we're asking them is  
18 irrelevant then in turn the testimony that they have  
19 offered that prompted those questions should be  
20 stricken as irrelevant.

21           And so that's kind of on the one hand and I  
22 think it's set out a little bit more clearly, hopefully  
23 more articulately in my motion.

24           JUDGE WALLIS: Certainly at greater length.

25           MS. ANDERL: Thank you. On the other hand,

1 it's simply these objections are for the most part  
2 completely without basis, not well founded and we  
3 believe that the parties should be sanctioned for  
4 objecting on the basis that they did.

5           I believe that the objections as to  
6 confidentiality -- in other words, that information  
7 sought is confidential information, objections that the  
8 questions are vague or ambiguous -- are simply not well  
9 taken and not defensible, and in addition not in  
10 compliance with the Commission rule.

11           Furthermore, specifically with regard to  
12 MCI, the responses where they objected I believe to six  
13 of our questions without really any explanation and in  
14 another proceeding in another state had answered those  
15 questions without objection, I just can't see that  
16 those objections are interposed for any purpose other  
17 than to delay or frustrate discovery process in this  
18 proceeding, and I believe that sanctions are  
19 appropriate. And my request is similarly to the other  
20 parties, AT&T, MFS, Frontier and Shared Communications  
21 Services have raised objections which I don't think are  
22 defensible and which I believe will operate to  
23 frustrate the discovery process in this case and are  
24 sanctionable, and I believe that the appropriate  
25 sanctions would be obviously in Your Honor's

1 discretion, but we have asked that the testimony of  
2 these parties be stricken or that they be excluded from  
3 proceeding -- from participating in these proceedings.

4 JUDGE WALLIS: Thank you very much.  
5 Responses.

6 UNIDENTIFIED VOICE: Are we arguing this or  
7 are we simply discussing?

8 JUDGE WALLIS: When people pipe up on the  
9 bridge line the reporter needs to have you identify  
10 yourself first. What I am asking for, I asked Ms.  
11 Anderl initially to summarize her motions, which she  
12 has done. Now I am asking if parties have response and  
13 are prepared to respond and want to summarize their  
14 positions on the record I'm, inviting the parties to do  
15 that.

16 I would like to begin with those in the  
17 hearing room and then move to the bridge line if that's  
18 acceptable to folks.

19 MR. MANIFOLD: Certainly.

20 JUDGE WALLIS: Beginning with Mr. Alan  
21 Waldbaum.

22 MR. WALDBAUM: This is Alan Waldbaum for  
23 AT&T of the Pacific Northwest. First, as to the second  
24 motion we have not had an adequate amount of time to  
25 read and think about or respond to that motion and we

1 would like at least a reasonable amount of time to if  
2 we choose to to prepare a written response to that. It  
3 also seems like it would make sense to condense these  
4 two motions and file a response to both at the same  
5 time.

6 JUDGE WALLIS: What would you consider to  
7 be a sufficient time to prepare your response in light  
8 of the hearing schedule that we have?

9 MR. WALDBAUM: At least five business days.

10 JUDGE WALLIS: So you're suggesting that.

11 MR. WALDBAUM: By 5:00 Wednesday.

12 JUDGE WALLIS: 5:00 next Wednesday?

13 MR. WALDBAUM: Yes.

14 JUDGE WALLIS: Ms. Siegler Miller.

15 MS. SIEGLER MILLER: Thank you, Your Honor.  
16 I would agree with AT&T's counsel to the extent that I  
17 would also ask that intervenor parties be allowed to  
18 respond in writing. I would further request that Your  
19 Honor or the Commission make a decision as to the  
20 motion at least three to five days prior to the actual  
21 hearing date so that we can prepare for the trial  
22 accordingly. If Your Honor would like to discuss the  
23 merits I could certainly attempt to summarize our  
24 general position, but I think it would be advantageous  
25 for you to have the time to deliberate on the matter

1 and read at your own convenience and formulate an  
2 opinion based on all of our responses.

3 JUDGE WALLIS: Can you refresh my  
4 recollection as to when the hearing is scheduled to  
5 begin?

6 MS. SIEGLER MILLER: The 28th.

7 JUDGE WALLIS: Now, if responses aren't due  
8 for another week and you want a week before the  
9 hearing.

10 MS. SIEGLER MILLER: Did I say a week? I'm  
11 sorry.

12 JUDGE WALLIS: Three to five business days.

13 MS. SIEGLER MILLER: Yes.

14 JUDGE WALLIS: That does kind of --

15 MS. SIEGLER MILLER: On behalf of Frontier.

16 JUDGE WALLIS: That does kind of cut short.

17 MS. SIEGLER MILLER: Point well taken. I  
18 believe Frontier could respond earlier than next  
19 Wednesday the 23rd, but some parties have larger  
20 objections to handle than we do so I certainly can't  
21 speak for them, but I think we could be prepared to  
22 file something by the 21st so that if we heard from the  
23 Commission by the 24th or 25th then we would be  
24 prepared for trial.

25 JUDGE WALLIS: Ms. Kaye.

1                   MS. KAYE: This is Beth Kaye for Shared  
2 Communications Services. Shared Communication Services  
3 was not named in the first motion to strike and so we  
4 have no response to make to that at this time. We  
5 were -- except to note that it is usual, I believe, for  
6 the Commission to take official notice of decisions in  
7 other jurisdictions and assign what weight the  
8 Commission feels appropriate to those, not to strike  
9 them as though they did not exist and no one else had  
10 ever passed on the issues before. So apart from that  
11 nothing on the first motion to strike.

12                   On the second motion to strike, I was served  
13 with that this morning, as I grabbed it as I left to  
14 drive to this pre-hearing conference, and I noted as I  
15 read the motion that some various authorities were  
16 cited, which I could not access on the car radio, and  
17 so I would require time to review the motion and  
18 prepare an answer and I am comfortable with the five  
19 business day window that Ms. Siegler Miller suggested.

20                   However, I did not understand what some of  
21 the objections were and intend to consult with counsel  
22 for U S WEST because the specific questions about which  
23 U S WEST has concerns are not identified in the portion  
24 of the motion relating to Shared Communication  
25 Services.

1 I also am concerned because this is -- what  
2 U S WEST has prepared is a motion to strike rather than  
3 a motion to compel, which I think is more typical when  
4 there is a discovery dispute, and I wonder if it is  
5 appropriate to bring a motion to strike in this  
6 circumstance.

7 JUDGE WALLIS: Does that conclude your  
8 comments?

9 MS. KAYE: It does.

10 JUDGE WALLIS: Ms. Anderl, would you like  
11 to respond to the last observation regarding the motion  
12 to strike versus a motion to compel.

13 MS. ANDERL: Yes, absolutely, and I can  
14 wait until after the conference bridge people have all  
15 had their say and consolidate my remarks or just say at  
16 this point that the reason why I didn't file a motion  
17 to compel is there simply wasn't time and I think that  
18 the objections that were taken to these discovery  
19 requests are really, if you read them and you read the  
20 questions and you read the testimony, they're so  
21 outrageous that a motion to compel really would be for  
22 naught, and that U S WEST simply shouldn't be required  
23 to jump through these kinds of hoops that the other  
24 parties might require of us, which causes further  
25 delay, further expense and essentially results in a

1 motion to compel discovery being be granted when it's  
2 too late to do any good.

3 I think that when it is this obvious that  
4 responses should have been provided that a motion to  
5 compel is just simply futile and we should not be  
6 required to do that.

7 The reason why U S WEST's motion does not  
8 specifically address the questions to Shared  
9 Communications that we have a problem with is because  
10 we got their discovery responses only this morning.  
11 Now we had agreed to an extension of time so I'm not  
12 complaining they were late but I simply wanted to  
13 include them in the motion and in trying to get the  
14 motion out didn't have time to go through and list them  
15 with as much specificity or detail as I had with the  
16 other parties. And I agree with Ms. Kaye that it may  
17 be she and I talk about some of these things, we can  
18 come up with a list of maybe three identified questions  
19 that we have an issue with.

20 JUDGE WALLIS: Very well.

21 MS. ANDERL: But, again, as I said, I  
22 simply don't think that a motion to compel is something  
23 we should be required to do or would give us the remedy  
24 that's appropriate under the circumstances.

25 JUDGE WALLIS: Ms. Smith.

1 MS. SMITH: No comment. Staff was not  
2 named in either motion by U S WEST.

3 JUDGE WALLIS: Mr. Harlow.

4 MR. HARLOW: Thank you. Generally I agree  
5 with AT&T. The earlier motion to strike under the  
6 Commission's rule the answer would be due in 20 days  
7 which would fall on the 24th if you count from the date  
8 of mailing or the 28th if you count from the date of  
9 receipt. I've been assuming that that would be due the  
10 24th. The other motion is also subject ordinarily to a  
11 20-day rule with the recognition in the rule that  
12 motion to strike like this has to be decided before the  
13 testimony is offered for inclusion in the record.

14 Scheduling-wise I can't get the responses  
15 done by the 23rd because I'm basically every day  
16 between now and the 24th is booked on my schedule and  
17 the other people in the office who might be able to  
18 help me with this are similarly either out of town or  
19 booked, so I would request that responses to bench  
20 motions be served and filed by close of business on the  
21 24th which would enable the Commission to have all the  
22 responses and issue a ruling the morning of the first  
23 day of hearing. Since this is not a motion to compel  
24 there is no need to get a ruling earlier so that  
25 parties can provide supplemental responses. We simply

1 need to have a ruling before the hearing starts.

2 MS. SIEGLER MILLER: Your Honor, if I may  
3 respond to that.

4 JUDGE WALLIS: Ms. Siegler Miller.

5 MS. SIEGLER MILLER: I agree with counsel  
6 for MCI, Metro and Metronet that supplemental responses  
7 would just, you know, cause further delay and a concern  
8 for that additional cycle is realistic, but maybe we  
9 could all agree that we just go through two cycles,  
10 that is, U S WEST's motion and the parties' response  
11 and then just go forward to a decision. Would that go  
12 to solving some of your concerns, Brooks?

13 MR. HARLOW: Maybe I am not hearing very  
14 well on the bridge line, but I didn't hear any  
15 discussion of two cycles and I am not suggesting two  
16 cycles. U S WEST has moved and I am simply suggesting  
17 that all the answers to those two motions be filed by  
18 close of business on the 24th.

19 MS. SIEGLER MILLER: I'm sorry, I thought  
20 you referred to supplemental responses.

21 MR. HARLOW: No. I'm talking about U S  
22 WEST isn't seeking to compel supplemental data requests  
23 responses.

24 MS. SIEGLER MILLER: I'm sorry. I  
25 apologize. I misunderstood.

1 JUDGE WALLIS: Mr. Harlow, does that  
2 conclude your response?

3 MR. HARLOW: Yes.

4 JUDGE WALLIS: Ms. Marcus.

5 MS. MARCUS: (Inaudible) testimony it is  
6 not directed toward DIS, we have no comment.

7 JUDGE WALLIS: Mr. Manifold.

8 MR. MANIFOLD: No comment.

9 JUDGE WALLIS: And Mr. Bonner.

10 MR. BONNER: Thank you, Douglas Bonner for  
11 MFS Intelenet of Washington. I know I indicated  
12 earlier that with regard to the second motion we prefer  
13 to have a ruling in advance of the hearing and my  
14 preference would still be that. However, as the second  
15 motion I've taken further stock of the fact that there  
16 is limited time, limited time for you as the presiding  
17 officer, Judge Wallis, to decide that motion would have  
18 ample opportunity to brief them because we would like  
19 to brief it. I think that the time suggested  
20 (inaudible).

21 JUDGE WALLIS: Mr. Bonner, you faded away  
22 from us there at the end of your last sentence. Could  
23 you repeat that, please, and move the instrument  
24 microphone as close to your mouth as you can get it.

25 MR. BONNER: Sure. Can you hear me now?

1 JUDGE WALLIS: Much better, thank you.

2 MR. BONNER: Yes. I would like at least  
3 the time that Mr. Waldbaum has now requested to brief  
4 the second motion motion to strike that was served upon  
5 us today by U S WEST which would be (inaudible) and  
6 (inaudible) which is directed to MFS I believe we have  
7 a response due by October 24 under the rule -- I don't  
8 have my calendar in front of me but I understand that's  
9 the 24th I guess Wednesday the 23rd. We could file  
10 response to both by the 23rd by close of business.

11 I would just like to make the general  
12 observation as to the second motion that we also feel  
13 that a motion to compel would have been appropriate.  
14 This is a first set of data requests that U S WEST has  
15 filed in this proceeding and it's rather curious that  
16 they have chosen at this late stage to file a motion to  
17 strike and seeking the ultimate sanction of striking  
18 opposing parties' entire testimony at this late date in  
19 the proceeding. It's true that the testimony provided  
20 by MFS and other intervening parties (inaudible).

21 JUDGE WALLIS: Mr. Bonner, we cannot hear  
22 you.

23 MR. BONNER: Cordless phone, I think that's  
24 the problem.

25 JUDGE WALLIS: Much better.

1                   MR. BONNER: My point being is that U S  
2 WEST is litigating the Centrex cases throughout  
3 its entire region in at least six or seven other states  
4 before now, and this proceeding has been pending for  
5 several months in the state of Washington alone, so if  
6 U S WEST's argument that it has not -- it would not  
7 have had time to file a motion to compel I don't think  
8 that's particularly well-founded because it could have  
9 proceeded with its discovery in a much more timely  
10 manner and not found itself in a position now where it  
11 feels obliged to circumvent the standard practice of  
12 filing a motion to compel. But we would of course like  
13 to -- I have not had a chance to evaluate their motion  
14 in its entirety, and I would of course like to present  
15 a more thorough response in due course.

16                   MR. WALDBAUM: Your Honor.

17                   JUDGE WALLIS: Mr. Waldbaum.

18                   MR. WALDBAUM: On this point, because I  
19 wasn't around when you started I just want to comment  
20 that we also agree that a motion to compel would have  
21 been appropriate and that seems to us to be the whole  
22 purpose of a motion to compel is if you feel the answer  
23 hasn't been provided, that it's in enough time to get  
24 the answer requested.

25                   MS. ANDERL: Your Honor, may I?

1 JUDGE WALLIS: Ms. Anderl.

2 MS. ANDERL: Just with regard to this  
3 motion to compel issue, it seems clear from the  
4 parties' comments that this is exactly what they  
5 expected was a motion to compel and that that is  
6 unfortunately what maybe the standard practice of  
7 discovery has degenerated to, Well, just don't answer  
8 the first time and make them file a motion to compel  
9 and that's exactly why we didn't. Any suggestion that  
10 -- well, the timeliness issue that I mentioned -- any  
11 suggestion that our discovery was late is simply not  
12 well taken. Their testimony was filed on September 6.  
13 We read it, digested it, put together some discovery  
14 requests and served those discovery questions on  
15 September 26, which was 20 days later. It was  
16 certainly well in advance of the hearing date if  
17 adequate and timely responses were provided, and I  
18 don't think that it's fair to expect us to build into  
19 our discovery schedule an assumption that we won't get  
20 answers and serve our discovery in enough time to file  
21 a motion to compel and go through all those procedural  
22 requirements.

23 JUDGE WALLIS: Very well. Ms. Kaye.

24 MS. KAYE: Thank you, Your Honor. Ms.  
25 Anderl's comments assume a point which has not I

1 believe been demonstrated which is that the objections  
2 were bad faith objections, frivolous objections and not  
3 supported.

4                   JUDGE WALLIS: Ms. Kaye, I'm going to  
5 interject right now and try to steer the discussion  
6 away from personal or motive-type arguments, and I want  
7 to assure the parties that the Commission will be  
8 looking at what is an appropriate resolution legally,  
9 and I would like the parties to confine their arguments  
10 to not the underlying motives but the choices that the  
11 Commission has to make to be reasonable under the  
12 circumstances and to deal with the matters that are  
13 presented. So thank you for your comment, but I would  
14 like to kind of shift the focus away from personal  
15 challenge or challenge on tactics and motives into the  
16 legal realm so that the Commission has a clear  
17 understanding of what it has to do and what its options  
18 are and what its alternatives are.

19                   MS. KAYE: Very well, Your Honor.

20                   JUDGE WALLIS: Mr. Harlow, I'm cognizant of  
21 the apparent problem that you have in terms of  
22 scheduling, but I am very concerned that the Commission  
23 have the opportunity to make a ruling on this matter  
24 prior to the beginning of the hearing, and if we wait  
25 until the 24th for a response I don't believe that that

1 would be sufficient time for the Commission to consider  
2 and respond to the motions and for the parties to react  
3 to whatever the result of the motion will be.

4 I want to advise the parties that I will be  
5 presenting this to the commissioners for Commission  
6 decision, and I would expect the decision to be made by  
7 them unless there is some practical reason why they are  
8 unavailable to make a decision. I am going to ask that  
9 responses be submitted to the Commission no later than  
10 the close of business on next Tuesday, which I believe  
11 is the 23rd, and that response may --

12 MS. SIEGLER MILLER: 22nd.

13 JUDGE WALLIS: 22nd, thank you. And that  
14 response may include an answer directed to both of the  
15 U S WEST motions.

16 MS. ANDERL: Might there be any opportunity  
17 to file a reply?

18 JUDGE WALLIS: I don't see that our  
19 calendar would permit it. However, if you feel that  
20 there is a matter presented to you or presented to the  
21 Commission in the answers that it is necessary for you  
22 to reply to you may request leave to submit a reply at  
23 the earliest possible time and send your reply along  
24 with that request so the Commission will consider both  
25 the reply and the request for leave to reply.

1                   MS. ANDERL: Thank you, Your Honor. I  
2 don't anticipate there being anything in these  
3 responses that I would be compelled to file a reply to,  
4 but if there is I wanted to know what the process would  
5 be. If I could ask the parties to serve me by fax with  
6 their responses that would insure that we were able to  
7 do this on an expedited basis.

8                   JUDGE WALLIS: And I will also ask parties  
9 or advise the parties that you may serve the Commission  
10 by telefacsimile provided your answer is received in  
11 the Commission offices before the bell tolls 5 in the  
12 office of the records center.

13                   MS. SIEGLER MILLER: Your Honor.

14                   JUDGE WALLIS: Ms. Siegler Miller.

15                   MS. SIEGLER MILLER: Do you have an idea as  
16 to whether the commissioners would be able to respond  
17 prior to the onset of the hearing?

18                   JUDGE WALLIS: It's my expectation that we  
19 will move heaven and earth to try to get a response  
20 Thursday or Friday. I have to share my experience,  
21 however, that sometimes heaven and earth are immovable,  
22 and we can't always meet our objectives, but we'll  
23 certainly do everything we can to see that that  
24 information is available to the parties in advance.

25                   MS. SIEGLER MILLER: Thank you.

1                   JUDGE WALLIS:  Let's move on, please.  
2  Parties wanted to discuss the order of witnesses and  
3  schedule for cross-examination.  I would like us to go  
4  off the record for a moment so we can discuss that  
5  unless someone has something they would like to state  
6  for the record at this time.

7                   MS. SIEGLER MILLER:  Just that if it makes  
8  sense to you, Your Honor, we might want to discuss the  
9  October 1st order concerns at the same time because it  
10 may impact witness order and scheduling.

11                   JUDGE WALLIS:  Very well.  Thank you.  
12 Let's be off the record for a discussion.

13                   (Discussion off the record.)

14                   JUDGE WALLIS:  Let's be back on the record,  
15 please.  During an off record discussion we discussed  
16 both the matters raised in the letter of October 1  
17 regarding the coordination of intervenors'  
18 presentations and the order and timing for the hearing  
19 that is scheduled soon to begin.  The parties made it  
20 clear that they have engaged in considerable  
21 coordination and that the volume of material that's  
22 been presented is reduced in volume and limited in  
23 scope as to each of the witnesses with a view toward  
24 presenting an overall picture and avoiding unnecessary  
25 duplication, and I want to commend the parties for the

1 efforts that they made in that regard.

2                   Parties have also shared that they are  
3 intending to coordinate the examination of the company  
4 witness and that no more than two will be lead counsel  
5 although others may have questions as to relatively  
6 small areas. That too will satisfy the Commission's  
7 concern at least in concept that there not be  
8 repetitive examination, and again, I want to commend  
9 counsel for cooperating.

10                   As far as scheduling is concerned, the  
11 parties are asked to remain on the line at the  
12 conclusion of this pre-hearing conference and determine  
13 the order of witnesses it being understood that the  
14 company's witnesses would appear first, and in  
15 establishing the order of witnesses considered the  
16 estimate of time on cross-examination and the schedules  
17 of the witnesses we've indicated to the parties that it  
18 is not necessary to have all of the witnesses here at  
19 the start of the first session as long as there is a  
20 reasonable progression, and if cross-examination  
21 finishes more speedily than anticipated but no more  
22 witnesses are available until the following morning,  
23 that that would not unduly disturb us so long as we do  
24 fall within the parties' estimate that two days should  
25 be sufficient to wrap this up.

1                   Is there anything that we discussed that  
2 any participants today would like to state for the  
3 record that I have not stated or to which I have given  
4 short shrift? Let the record show that there is no  
5 response.

6                   Is there anything that anyone would like to  
7 bring up before we conclude this session? Let the  
8 record show that there is no response. I want to thank  
9 you all for attending, particularly those of you in the  
10 eastern time zone for whom it is well into the evening  
11 and presumably I guess your NFL football doesn't start  
12 any earlier than ours does now, so I want to thank you  
13 again for attending, and we will conclude this session.

14                   MR. HARLOW: Thank you.

15                   MR. BONNER: Thank you.

16                   (Hearing adjourned at 5:07 p.m.)

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