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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 AT&T COMMUNICATIONS OF THE)
 PACIFIC NORTHWEST, INC.,) Docket No. UT-020406
4)
 Complainant,) Volume II
5) Pages 17 to 38
 vs.)
6)
 VERIZON NORTHWEST, INC.,)
7)
 Respondent.)
8 _____)

9 A hearing in the above matter was held on
10 August 13, 2002, from 9:30 a.m to 10:50 a.m., at 1300
11 South Evergreen Park Drive Southwest, Room 206, Olympia,
12 Washington, before Administrative Law Judge MARJORIE R.
13 SCHAER.

14 The parties were present as follows:

15 THE COMMISSION, by GREGORY J. TRAUTMAN,
16 Assistant Attorney General, 1400 South Evergreen Park
17 Drive Southwest, Olympia, Washington 98504-0128,
 Telephone (360) 664-1187, Fax (360) 586-5522, E-mail
 gtrautma@wutc.wa.gov.

18 AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST,
19 INC., by GREGORY J. KOPTA, Attorney at Law, Davis,
20 Wright, Tremaine, LLP, 1501 Fourth Avenue, Suite 2600,
 Seattle, Washington 98101, Telephone (206) 628-7692, Fax
 (206) 628-7699, E-mail gregkopta@dwt.com.

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25 Joan E. Kinn, CCR, RPR
 Court Reporter

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1 VERIZON NORTHWEST, INC., by JUDITH A.
2 ENDEJAN, Attorney at Law, Graham & Dunn PC, 1420 Fifth
3 Avenue, 33rd Floor, Seattle, Washington 98101,
Telephone (206) 340-9694, Fax (206) 340-9599, E-Mail
jendejan@grahamdunn.com.

4 THE PUBLIC, by ROBERT W. CROMWELL, JR.,
5 Assistant Attorney General, 900 Fourth Avenue, Suite
2000, Seattle, Washington, 98164-1012, Telephone (206)
464-6595, Fax (206) 389-2058, E-Mail
6 robertcl@atg.wa.gov.

7 WORLDCOM, INC., via bridge line by MICHEL
8 SINGER NELSON, Attorney at Law, 707 - 17th Street, Suite
4200, Denver, Colorado 80202, Telephone (303) 390-6106,
9 Fax (303) 390-6333, E-mail
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P R O C E E D I N G S

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1 JUDGE SCHAER: We're here this morning for a
2 second pre-hearing conference in Docket Number
3 UT-020406, which is a complaint proceeding brought by
4 AT&T Communications of the Pacific Northwest against
5 Verizon Northwest Incorporated. The date today is
6 August 13th, 2002. We are meeting in the Commission's
7 hearing room 206 at the Commission's headquarter
8 building in Olympia. My name is Marjorie Schaer, and I
9 will be the Administrative Law Judge running this
10 hearing this morning.

11 I would like to start by taking appearances.
12 If you have already appeared in this matter, then go
13 ahead and give an abbreviated appearance of your name
14 and your client. But I see that we have been joined by
15 Mr. Cromwell, so I will ask him to make a complete
16 appearance.

17 So would you start, please, Mr. Kopta.

18 MR. KOPTA: Thank you, Your Honor. Gregory
19 J. Kopta of the law firm Davis, Wright, Tremaine, LLP,
20 on behalf of AT&T Communications of the Pacific
21 Northwest, Inc.

22 JUDGE SCHAER: Ms. Endejan.

23 MS. ENDEJAN: Yes, Judith A. Endejan from
24 Graham and Dunn representing Verizon Northwest, Inc. I
25 believe I fully appeared at the first pre-hearing

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1 conference.

2 JUDGE SCHAER: That's my understanding as
3 well.

4 Mr. Cromwell.

5 MR. CROMWELL: Robert W. Cromwell, Junior,
6 Assistant Attorney General on behalf of Public Counsel.
7 My full appearance, my address is 900 Fourth Avenue,
8 Suite 2000, Seattle, Washington 98164-1012. My direct
9 line is (206) 464-6595, my fax number is (206) 389-2058,
10 and my E-mail address is robertc1@atg.wa.gov.

11 JUDGE SCHAER: Thank you.

12 This is the second pre-hearing conference in
13 this matter, and some of the -- I'm sorry, Mr. Trautman,
14 excuse me.

15 MR. TRAUTMAN: Shannon Smith appeared in the
16 first conference, so I think I need to make a full
17 appearance, or did she appear for me?

18 JUDGE SCHAER: She appeared at your behalf,
19 but I'm not sure if she gave us her phone and fax
20 numbers or yours or how they differ, so why don't we get
21 them all on the record.

22 MR. TRAUTMAN: All right. Gregory J.
23 Trautman, Assistant Attorney General for Commission
24 Staff. My address is 1400 South Evergreen Park Drive
25 Southwest, Post Office Box 40128, Olympia, Washington

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1 98504. My telephone is (360) 664-1187, Fax is (360)
2 586-5522, and my E-mail is gtrautma@wutc.wa.gov.

3 JUDGE SCHAER: And is there anyone else who
4 wishes to appear this morning?

5 MS. SINGER NELSON: Judge, this is Michel
6 Singer Nelson, I would like to appear on behalf of
7 WorldCom, and I haven't appeared before in this docket,
8 so I would like to give my full appearance, my full
9 information.

10 JUDGE SCHAER: Thank you.

11 MS. SINGER NELSON: Michel Singer Nelson on
12 behalf of WorldCom. My address is 707 - 17th Street,
13 Suite 4200, Denver, Colorado 80202. My phone number is
14 (303) 390-6106, my fax number is (303) 390-6333, and my
15 E-mail address is michel.singer nelson@wcom.com.

16 JUDGE SCHAER: Thank you.

17 Is there anyone else on the bridge line today
18 who would like to make an appearance?

19 Because Ms. Singer Nelson is joining us on
20 the bridge line, I'm going to encourage the parties and
21 try to remember myself to speak directly into the
22 microphone when we're speaking so that she can be
23 included as well as we can do.

24 As I had mentioned earlier, this is a second
25 pre-hearing conference in this matter, and it was set by

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1 notice given on July 24th in a document that was titled
2 Pre-hearing Conference Order, Notice of Pre-hearing
3 Conference as a third supplemental order in this matter.

4 At this point, I would like to ask if there
5 are any matters that any of the parties wish to have us
6 cover today. My primary interest today is in trying to
7 put together a schedule to follow for the remainder of
8 the proceeding, but please let me know now if there are
9 other things that we should plan to look into this
10 morning starting again with you, Mr. Kopta.

11 MR. KOPTA: Thank you, Your Honor. I'm not
12 aware of any other issues that need to be addressed at
13 this point other than simply establishing a schedule. I
14 believe at the first pre-hearing conference we invoked
15 the discovery rule and protective order, so I think at
16 this point the only thing I am aware of is the schedule.

17 JUDGE SCHAER: Ms. Endejan.

18 MS. ENDEJAN: That's correct, and, Your
19 Honor, when we get to that, I guess I have taken the
20 liberty of just for planning purposes preparing a
21 proposed schedule, and I have distributed it to the
22 parties, and I would like to provide a copy to yourself.

23 JUDGE SCHAER: Please do.

24 MS. ENDEJAN: (Complies.)

25 JUDGE SCHAER: Thank you.

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1 And then, Ms. Singer Nelson?

2 MS. SINGER NELSON: Judge, I don't have
3 anything to raise today.

4 JUDGE SCHAER: Have you seen a copy of the
5 proposed schedule prepared by Ms. Endejan?

6 MS. SINGER NELSON: I have not.

7 JUDGE SCHAER: Okay, then we will be sure we
8 read the information to you as we're discussing it.

9 MS. SINGER NELSON: Thank you.

10 JUDGE SCHAER: Mr. Cromwell, anything else?

11 MR. CROMWELL: No further issues, Your Honor.

12 JUDGE SCHAER: Mr. Trautman?

13 MR. TRAUTMAN: No, Your Honor.

14 JUDGE SCHAER: Okay, moving to the issue of a
15 schedule, I find that I was much more ambitious for you
16 than you may be for yourselves, because I was looking at
17 hearing dates in December and working backward from
18 that. Under this proposed schedule, AT&T and Intervenor
19 WorldCom would file direct on September 16th, slightly
20 over a month from today. Verizon, Staff, and Public
21 Counsel would respond on December 2nd. AT&T would
22 reply, Staff reply, Public Counsel reply on February
23 17th. Verizon would reply on March 31st, and AT&T,
24 Staff, and Public Counsel would reply on April 28th with
25 hearings scheduled in late May and early June of 2003.

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1 This is what Ms. Endejan has presented this morning.
2 Have the other parties had a chance to look at this
3 schedule?

4 MR. KOPTA: Ms. Endejan was kind enough to
5 put this together and distribute it this morning, and I
6 think we have all just briefly taken a look at it, but
7 what I might propose is that we go off the record and
8 have some discussions in terms of what parties
9 anticipate by way of filings and need for time between
10 filings, and perhaps we can work out a schedule.

11 JUDGE SCHAER: All right, Mr. Kopta.
12 Mr. Cromwell?

13 MR. CROMWELL: I think that sounds like a
14 good approach.

15 JUDGE SCHAER: Ms. Singer Nelson?

16 MS. SINGER NELSON: I agree.

17 JUDGE SCHAER: Okay, well, let's go off the
18 record for the purpose of discussing the schedule for
19 the remainder of this proceeding. We're off the record.

20 (Discussion off the record.)

21 JUDGE SCHAER: It's 5 minutes to 10:00, we
22 are having discussions off the record about how to build
23 a schedule for this case, and we are going to break
24 right now to take our morning recess. Please be back at
25 10 minutes after 10:00, and hopefully by then have some

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1 more organized proposal that everyone feels fair about.
2 Short of that, have identified the issues that the Bench
3 will need to decide.

4 We're off the record.

5 (Recess taken.)

6 JUDGE SCHAER: Let's be back on the record
7 after our morning recess. During the recess we took
8 some time, we being the parties actually, to work
9 together to come up with a proposed schedule for the
10 remainder of this proceeding, and I'm going to ask that
11 Mr. Kopta provide that information right now. And then
12 we will have a couple of other matters to discuss, and
13 then that should wrap us up for today.

14 So go ahead, please, Mr. Kopta.

15 MR. KOPTA: Thank you, Your Honor. What we
16 finally were able to agree to after discussing various
17 alternatives and people's schedules is that AT&T would
18 file direct testimony on October 16th, 2002. Verizon
19 would file its response, as would Staff and Public
20 Counsel, to AT&T's direct testimony on January 8, 2003.
21 Replies of those parties wishing to reply to the
22 responsive testimony would be due on March 21st 2003.
23 What I'm assuming would be primarily if not exclusively
24 Verizon's reply to those replies would be on April 15th,
25 2003. Then final sur replies would be filed on May 2nd,

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1 2003, with hearings beginning on May 14th, which we
2 understand is an open meeting date, so it would be
3 beginning at 1:30, and running through May 23rd. The
4 anticipation was that we would probably have a
5 pre-hearing conference for marking exhibits and taking
6 care of issues arising with respect to the hearing
7 probably on May 12th. Then simultaneous opening briefs
8 would be due on July 11th, and reply briefs, again
9 simultaneous briefs, would be July 31st. And all of
10 these dates would assume receipt of electronic copies of
11 the filings with paper copies to follow promptly
12 thereafter.

13 JUDGE SCHAER: And would that include filing
14 electronically with the Commission?

15 MR. KOPTA: If Your Honor would permit such
16 filing, that's what we would request.

17 JUDGE SCHAER: I'm not sure I would waive
18 filing of the paper copies, but I do hope to get as much
19 information or all information in electronic format that
20 you are able to do.

21 MR. KOPTA: Yes, our anticipation is that we
22 would file and serve electronically on the dates that I
23 just outlined here with a paper copy to be received by
24 the Commission at least the following business day.

25 JUDGE SCHAER: Okay. I didn't get the date

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1 for the sur replies, Mr. Kopta.

2 MR. KOPTA: May 2nd.

3 JUDGE SCHAER: Thank you.

4 MR. KOPTA: 2003.

5 JUDGE SCHAER: Okay. One question for you,
6 Mr. Kopta, your client is the Complainant in this
7 matter, and there are certain time lines for complaints
8 in the Commission's complaint statute. This proposed
9 schedule would end far beyond those dates. Is that of
10 any concern to your client?

11 MR. KOPTA: It is of concern, but I think
12 under the circumstances this is the best that we can do.
13 I mean obviously there was some time that the Commission
14 needed to deal with Verizon's motion to dismiss, and so
15 since we are just now getting the opportunity to
16 establish a schedule and there are going to be
17 additional issues in the proceeding, we would love to
18 have this done by the end of this year, but
19 unfortunately I think given the circumstances that's not
20 a reasonable expectation. So at this point, we would be
21 willing to live with what the current schedule is as
22 proposed.

23 JUDGE SCHAER: So if I were to ask you if you
24 had any concerns about the length of this schedule, you
25 would indicate what you have just said, that you think

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1 it's the best alternative available; am I correctly
2 understanding you?

3 MR. KOPTA: You are correctly understanding
4 me.

5 JUDGE SCHAER: Okay.

6 Ms. Singer Nelson.

7 MS. SINGER NELSON: Yes.

8 JUDGE SCHAER: Did you hear all of the
9 schedule as read by Mr. Kopta?

10 MS. SINGER NELSON: I did, thank you, Your
11 Honor.

12 JUDGE SCHAER: And I think I would like you
13 to go through those dates and tell me when you think
14 WorldCom would be filing. For example, would you be
15 filing direct testimony on October 16th with AT&T, or
16 would you be filing replies with other parties other
17 than Verizon, or how do you see your participation
18 going?

19 MS. SINGER NELSON: I envision that our
20 participation would be simultaneous with AT&T's filings,
21 so I am comfortable with, if we are going to file direct
22 testimony, filing it on October 16th and then following
23 the schedule after that as read by Mr. Kopta.

24 JUDGE SCHAER: Okay. And do you have any
25 concerns about the length of time that is proposed in

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1 this schedule?

2 MS. SINGER NELSON: No, I don't.

3 JUDGE SCHAER: Ms. Endejan, are you
4 comfortable with the schedule that's been proposed?

5 MS. ENDEJAN: Your Honor, I think it's a
6 reasonable compromise on all parties' parts. We have
7 tried to craft something that will work, and I think
8 this will work.

9 JUDGE SCHAER: Okay. And do you have any
10 concern about the length of time that this is set for
11 right now?

12 MS. ENDEJAN: No.

13 JUDGE SCHAER: And, Mr. Cromwell, I would ask
14 you the same two questions.

15 MR. CROMWELL: Thank you, Your Honor. I
16 think this is a reasonable schedule given the scope of
17 issues that are likely to be before the Commission in
18 this docket.

19 JUDGE SCHAER: Do you see any prejudice to
20 your clients by having it take this long?

21 MR. CROMWELL: No.

22 JUDGE SCHAER: Mr. Trautman?

23 MR. TRAUTMAN: Yes, Your Honor, I would
24 concur with the comments of Public Counsel.

25 JUDGE SCHAER: Okay. And then I would like

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1 to ask, and again I'm probably primarily addressing this
2 to AT&T and Verizon but I would like to hear from all
3 parties, what would the consequences be to your client
4 if the Commission were to determine that there should be
5 a faster schedule for completing this matter?

6 MR. KOPTA: Your Honor, we will work with
7 whatever guidelines the Commission wants to establish.
8 This is certainly our complaint, and we would like to
9 get it done as expeditiously as possible, and whatever
10 time lines the Commission wants to establish, we will
11 make them work.

12 JUDGE SCHAER: Ms. Endejan?

13 MS. ENDEJAN: Obviously, you know, Verizon
14 will do the best that it can to cooperate and meet
15 whatever schedule the Commission would establish, but I
16 have been advised by our subject matter experts in
17 Irving, Texas that they really could not be prepared to
18 file anything in terms of a Verizon direct case until
19 early December, so we would have some real operational
20 constraints and issues if the schedule were advanced
21 much beyond what we have worked out among the parties.

22 JUDGE SCHAER: Mr. Cromwell?

23 MR. CROMWELL: Similar concern, Your Honor,
24 given the disclosures Verizon has made about the scope
25 of the filing they're likely to make including cost

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1 studies and rate rebalancing, the roughly ten weeks that
2 we have worked in here for our response currently
3 proposed to be March 21st would in our view be the
4 minimum time that we would need in order to properly
5 conduct discovery and have an equitable opportunity to
6 develop a full and complete response to the filing we
7 anticipate we will receive from Verizon. I would for
8 purposes of the record preserve the right to object to
9 any shorter time period for review of Verizon's a
10 proposed filing.

11 JUDGE SCHAER: Mr. Trautman.

12 MR. TRAUTMAN: I concur with the comments of
13 Public Counsel. I agree that given what I understand to
14 be the possible scope of Verizon's case, I believe the
15 extra -- the time that's been incorporated into the
16 schedule is necessary. Of course, Staff will work
17 through whatever the Commission decides, but I do think
18 for those reasons that the current schedule is
19 reasonable.

20 JUDGE SCHAER: Ms. Singer Nelson?

21 MS. SINGER NELSON: I have no -- I don't see
22 that there's any significant impairment to WorldCom if
23 the Commission were to schedule something quicker than
24 what's been outlined by Mr. Kopta. But again, because
25 WorldCom's participation is not going to be as

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1 substantial as the other parties', I would defer the
2 Commission to the issues raised by the other parties and
3 not really give a lot of weight to the effect of a
4 faster schedule on WorldCom.

5 JUDGE SCHAER: One thought that's occurred to
6 me since hearing the schedule is that it might make
7 sense for the pre-hearing conference order to put in
8 dates that are one day later than the ones that are
9 provided for filing things, because I would like the
10 paper filings to be made on the date that we set for
11 filing, and then also to include a requirement that
12 electronic copies be distributed the day previously.
13 Does anyone see a problem with that?

14 MR. KOPTA: No, Your Honor, that's certainly
15 consistent with what our anticipation was, that we would
16 make the electronic filings on the date that we
17 proposed. So if you want to do it in terms of
18 establishing the date after for the official filing and
19 then requiring or stipulating that the parties have
20 agreed to provide each other with electronic copies on
21 the day before, then that would be, at least my
22 understanding of our discussion, consistent with what we
23 are proposing to the Commission.

24 MR. CROMWELL: Your Honor.

25 JUDGE SCHAER: Yes.

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1 MR. CROMWELL: If I could suggest, I think
2 what we had discussed was that because the likelihood of
3 a geographical disparity of witnesses providing
4 testimony that the electronic filing would facilitate
5 everyone's participation in the docket. And what I
6 would request is that perhaps the order require that the
7 paper copies be posted on the deadline with the
8 electronic copies being served that day. And I say that
9 rather than sort of a strict get there the next day
10 because of the risk of mail from Maine or Texas taking
11 longer than the day, and I don't want to have sort of a
12 technical violation, and I think also if there's -- if
13 we have Friday due dates, then it's unlikely to work.

14 JUDGE SCHAEER: I would need to look through
15 this and see what the due dates are. My concern is that
16 when things are filed officially with the Commission
17 records center, it really helps our internal processing
18 of cases like this one if there are sufficient paper
19 copies filed so that our records center staff doesn't
20 have to make the 19 copies that are required of the
21 parties to make. And if we just have something, you
22 know, electronically filed or posted, then we do have
23 that concern, and I would prefer not to have that work
24 shifted to the staff here, who are somewhat overloaded
25 as it is, and that's why I'm trying to figure, you know,

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1 continue as our rules set out that filing dates are
2 dates for receipt of the original and the 19 copies.

3 So any others have ideas about how to do
4 that?

5 MS. ENDEJAN: I just have a question, Your
6 Honor, is it 19; are we sticking with the 19 copies for
7 this?

8 JUDGE SCHAER: One of the things I will
9 include in the order that comes out after this
10 conference is confirmation of what number of copies need
11 to be filed, Ms. Endejan. And if we can get that number
12 smaller than 19, I will strive to do so.

13 MS. ENDEJAN: Great.

14 We'll live with whatever, you know, works for
15 the Commission. I think that if you build in a schedule
16 that allows you to electronically file on one date and
17 then follow it overnight mail with a paper copy, I think
18 that's sort of the normal protocol these days. Because
19 the intent of having the electronic filing is to advise
20 the other parties as soon as possible of, you know, what
21 your case will be and your testimony is. And when it
22 comes into the records center, I'm not quite certain,
23 you know, who all these -- who all gets copies and how
24 time sensitive that is, but my perception was that the,
25 you know, attorneys of record tended to be more

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1 interested in getting it as soon as possible.

2 JUDGE SCHAER: Yeah, and I understand that,
3 and that's often true for the Bench as well. But, you
4 know, to my mind, if I made these dates receipt dates,
5 then everyone would have due in their heads, move their
6 electronic filing date back a day, which wouldn't
7 concern me greatly, because I think it's just a matter
8 of knowing when you have to get it done to get it done.
9 So I don't see an additional burdon to the parties by
10 having a date set where they have to have the paper
11 copies here. I would contemplate that you would do what
12 you just said, distribute electronically the day before
13 and then overnight the necessary copies to the
14 Commission.

15 In terms of how many copies are needed, the
16 Commission maintains an internal list called a
17 distribution list, which consists of the people in the
18 agency that it has been determined should receive copies
19 of things that are filed. And my practice is to see how
20 many people are on that list. And at times I will -- if
21 it's an embarrassing number, I will try to get people to
22 take their names off the list and take electronic copies
23 only, but that's the number of copies that the records
24 center needs to have in hand in order to do their job.
25 So we try and make sure that what comes in the door will

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1 allow them to distribute without having to do a lot of
2 extra work.

3 I am going to encourage the parties to file
4 everything possible electronically, not just testimony,
5 not just exhibits, but correspondence, motions, briefing
6 materials, because it makes it very convenient then to
7 find materials to work through the on line library in
8 our MS 2 to be able to work a case, and so I would
9 appreciate that courtesy to the extent that parties are
10 able to provide it.

11 MR. CROMWELL: Your Honor, along those lines.

12 JUDGE SCHAEER: Yes.

13 MR. CROMWELL: If the Commission establishes
14 an E-mail distribution list for the docket like we had
15 in 271, that worked really well in terms of making sure
16 that everybody got everything they were supposed to when
17 it came out. And there was I think it was like the
18 docket number and then -int for internal and -ext for
19 external. And I think eventually by the end of that
20 case, it got to the point where we were using it
21 regularly, and it worked pretty well.

22 JUDGE SCHAEER: I will make some inquiry about
23 that. I wasn't involved in that proceeding, but I will
24 check and see how that was done and how it worked.

25 MR. CROMWELL: Thank you.

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1 JUDGE SCHAER: What I'm planning to do right
2 now is to take this proposed schedule under advisement
3 and work through the administrative processes that I
4 need to do to make sure that this schedule will work for
5 the Commission. And I will be sending out a pre-hearing
6 conference order that will set the schedule, or if there
7 are matters that come up that make this really off what
8 we can do, then I will probably try to schedule some
9 kind of a telephone hearing or some other conversation
10 to be had again. And I'm expecting because of other
11 matters going on here that it will be about two weeks
12 before I send you that order. That order will include
13 information on how to raise issues with the Commission
14 if there are things in the order that you do not like or
15 would like to see differently.

16 Is there anything else to come before us this
17 morning?

18 MR. KOPTA: Not at this time, Your Honor.

19 MS. ENDEJAN: Not at this time.

20 JUDGE SCHAER: Ms. Singer Nelson?

21 MS. SINGER NELSON: No, thank you, Your
22 Honor.

23 JUDGE SCHAER: Mr. Trautman, Mr. Cromwell?

24 MR. CROMWELL: No, thank you.

25 MR. TRAUTMAN: No, Your Honor.

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1 JUDGE SCHAER: All right. Well, thank you
2 for your work this morning. I think it's going to be
3 very useful to making this proceeding work smoothly.

4 And we are off the record.

5 (Proceedings adjourned at 10:50 a.m.)

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