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COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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Petition of Cellco Partnership d/b/a :  
Verizon Wireless. : Docket No.  
 For Arbitration of Interconnection rates, : A-310489F7004  
 terms, conditions and related :  
 arrangements, with ALLTEL, Pennsylvania, :  
 Inc. :  
 :  
 Initial Prehearing Conference :  
 :  
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Pages 1 through 33

Hearing Room 2  
Commonwealth Keystone Building  
Harrisburg, Pennsylvania

**DOCKETED**

JAN 16 2004

Tuesday, January 6, 2004

Met, pursuant to notice, at 10:07 a.m.

BEFORE:

ROBERT A. CHRISTIANSON, Chief Administrative Law Judge

APPEARANCES:

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WITNESS INDEX

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(None.)

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FORM 1

EXHIBIT INDEX

NUMBER

FOR IDENTIFICATION IN EVIDENCE

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FORM 1

P R O C E E D I N G S

CHIEF ADMINISTRATIVE LAW JUDGE ROBERT A.

1  
2  
3 CHRISTIANSON: Let's be on the record. I'm Chief  
4 Administrative Law Judge Robert Christianson. We're here  
5 this morning for a conference concerning the arbitration  
6 request of Cellco Partnership, doing business as Verizon  
7 Wireless under the Telecommunications Act of 1996.

8 We've got two or more people on the speakerphone, and  
9 it's not working too well, but we'll see how that goes as we  
10 go along. I understand we have somebody from Verizon in  
11 D.C. and somebody from in Little Rock for the local company,  
12 which is ALLTEL.

13 Let's start with D.C. Introduce yourself and anybody  
14 with you.

15 MS. CRITIDES: This is Elaine Critides, inside  
16 counsel for Verizon Wireless. No one is with me.

17 JUDGE CHRISTIANSON: How about Little Rock?

18 MR. ROWELL: This is Steve Rowell, R-O-W-E-L-L, and  
19 I have with me Ms. Lynn Hughes, who has been one of the  
20 negotiators for ALLTEL through this process.

21 JUDGE CHRISTIANSON: You're coming through better  
22 than I had expected. We may stay with this for a while, but  
23 we have the other speaker in reserve as we go along.

24 Basically I got the prehearing memos from the two  
25 parties that have the basic pleading. I understand there's

1 somewhat of a settlement or an agreement on some of these  
2 points. You started with 20-odd points for one side and  
3 somewhere in the teens for the other side. How many points  
4 do we have left at this point, could somebody tell me that?

5 MS. ARMSTRONG: Your Honor, I'm not sure that that is  
6 necessarily clear on any party's behalf. I think the time  
7 would be well spent if we could try and sit down and agree  
8 to an approach to resolve this matter.

9 ALLTEL wants very much to finish this matter up, but  
10 we think it makes sense to try to do it in a reasonable  
11 fashion. It's clear from Mr. Arfaa's prehearing memorandum  
12 that there are issues that I think it was, you know, a  
13 misunderstanding of the parties.

14 Well, my understanding is ALLTEL and Verizon have had  
15 some discussions and hope next week to be able to get  
16 together to further clarify exactly where they are on these  
17 issues and how we can get best go forward with the matter.

18 As we have indicated in our response and in our  
19 prehearing memorandum, we believe there are significant  
20 deficiencies in what was filed.

21 However, we have not filed a motion to dismiss at  
22 this point in time. We don't want to go that route. We  
23 want to try and make some sense out of this proceeding. We  
24 want it to be done in a reasonable fashion, and we don't  
25 want to spend a lot of time arguing with the parties. We've

1 all been there. We can all do that. We don't think that's  
2 productive.

3 What we think might make some sense is to perhaps go  
4 off the record and try and see if we can't agree to a  
5 schedule that would accommodate everybody's needs, that  
6 would then be approved by Your Honor and everybody would  
7 agree to, that would allow for a meeting between ALLTEL and  
8 Verizon Wireless in the next week or so, provide for a  
9 status report back to Your Honor and schedule the entire  
10 matter through to its conclusion.

11 JUDGE CHRISTIANSON: That makes sense to me. Mr.  
12 Arfaa?

13 MR. ARFAA: I'd like to answer your first question,  
14 which was how many issues are actually contested. By our  
15 count, there are 32 issues raised together by the parties.  
16 They're of several sorts. One set are legal obligation  
17 issues, another set are factual issues and a third set  
18 appear to be contract drafting issues.

19 We believe, subject to check with ALLTEL which we're  
20 doing, that approximately eight of those issues are not in  
21 fact disputed by the parties.

22 We believe that another eight of them are drafting  
23 issues, the resolution of which will flow from the  
24 resolution of the remaining legal issues.

25 We think there are 16 issues that are disputed,

1 approximately half of which require resolutions of fact, the  
2 other eight of which can be just done on the papers.

3 As for negotiation with ALLTEL, Verizon Wireless has  
4 been attempting to do so for a year. We intend to continue  
5 doing so, and my understanding is that the parties are  
6 continuing to talk despite the filing of this proceeding.

7 Verizon Wireless filed the proceeding on the last day  
8 it was allowed to under the federal statute because we need  
9 the relief to which we're entitled under the Act and we are  
10 constrained by that statute to file this petition to get  
11 that relief.

12 We very much feel that there is no need to delay  
13 these proceedings in order to facilitate negotiation and the  
14 parties are perfectly capable of doing that while their  
15 lawyers proceed with this litigation.

16 So that's our position. We believe that there's been  
17 plenty of time for negotiation. This proceeding may bring  
18 things to a head. We will continue to negotiate and we hope  
19 and anticipate that a substantial number of these issues  
20 will be resolved amicably.

21 However, in order to get what we are entitled to by  
22 law, we need to proceed with this proceeding in an  
23 expeditious manner.

24 ALLTEL has raised in its prehearing memo alleged  
25 deficiencies in our filing, and Ms. Armstrong said that she



1 didn't want to raise those in a motion to dismiss.

2 I would just note for the record that under Rule  
3 5.101, a preliminary motion has to be filed with the answer.  
4 We would take the position that that time has passed, just  
5 to respond to the representation on the record by Ms.  
6 Armstrong.

7 We are not averse to working with the Commission to  
8 make this work, however we don't think that there's a need  
9 to delay in order to get the parties to come to some  
10 resolution of the issues. That has already occurred.

11 The issues are framed by the pleadings. We think  
12 that there should be a negotiation track and also a  
13 litigation track. The negotiation track should be informal  
14 and does not need any intervention by the Commission, but  
15 the litigation track should proceed in order to comply with  
16 the statute and to get this matter resolved.

17 Now, we recognize that there has been this extremely  
18 short deadline because of the intervention of the holidays  
19 and of course ALJ Chestnut's unfortunate illness has put all  
20 the parties and the Commission in a bind.

21 Therefore, we are certainly willing to discuss a  
22 reasonable extension of time in order to resolve this fully  
23 and in a manner that's orderly and fair to all and to the  
24 Commission.

25 I'll save the rest of it for off the record so we can

1 actually discuss actual dates, but I just wanted to get our  
2 position in front of you, sir.

3 JUDGE CHRISTIANSON: You've got your basics  
4 established pretty well. I'll just mention that there are  
5 two limits working here, my Commission's limit associated  
6 with its order of May 23, 1996 and the statutory limit which  
7 is a little more relaxed.

8 I'm more worried about the statutory limit than my  
9 Commission's limit. I think the Commission limit has been  
10 waived before or just disregarded before.

11 I hadn't quite realized or I had forgotten the  
12 differences there, but I reread the Commission order of 1996  
13 again or at least parts of it, and I'm more familiar with it  
14 than I was.

15 I have an old timeline that Eric Rohrbach wrote up  
16 years ago which helps a little bit. But it's like with a  
17 normal rate case here, we can set a litigation schedule as  
18 well as a negotiation schedule. I'm not sure we're going to  
19 hit all the deadlines that seem to be in the offing, but  
20 we'll do what we can.

21 I should mention for the sake of the people in Little  
22 Rock and D.C., Chris Arfaa is here for Verizon. We have  
23 three people here, Mark Thomas, Patty Armstrong and Regina  
24 Matz are here from the Thomas firm for ALLTEL.

25 I'll get your names for the hearing report sheet

1 after the fact. I have it here. We can just fill out the  
2 sheet for that.

3 Any responses or any need for comment from -- let's  
4 try D.C. first.

5 MS. CRITIDES: No. I think Chris has reflected our  
6 position, and just in the way of further fact, Steve and I  
7 did talk late yesterday afternoon. We didn't agree to any  
8 time frames or anything except for to cooperate.

9 And if it's necessary to refine issues, and I hope we  
10 can, then we will definitely work together expeditiously to  
11 try to come up with like a joint list of issues.

12 However, I think because the parties' legal opinions  
13 might differ, getting 100 buy-in on all issues will probably  
14 not be possible.

15 JUDGE CHRISTIANSON: I'll just mention for the people  
16 in Little Rock and D.C., you may not be fully aware that we  
17 have a strong mediation aspect in our OALJ Bureau. We have  
18 mediators, as a matter of fact, and we push coordination and  
19 cooperation quite a bit.

20 Utilities have to get along in the long run, after  
21 all, with their suppliers and with each other. It's a  
22 little bit unusual here because the one called "Verizon" is  
23 the one who is sort the outside looking in. Usually they're  
24 on the other side of the equation on that aspect of Verizon,  
25 the land line Verizon. You're not the land line Verizon,

1 you're distinct.

2 MS. CRITIDES: No, we're not, and we don't have the  
3 same presence in Pennsylvania and we're relying on Mr. Arfaa  
4 to kind of help us with the procedures in Pennsylvania.

5 JUDGE CHRISTIANSON: Yes, working for a law firm now.  
6 Anything from ALLTEL here, any responses to Mr. Arfaa?

7 MR. ROWELL: Your Honor, this is Steve Rowell from  
8 ALLTEL.

9 JUDGE CHRISTIANSON: Okay, we'll take Little Rock.

10 MR. ROWELL: I agree with what Elaine said. She and  
11 I talked yesterday and hadn't agreed on precise dates but I  
12 think basically agreed to try to talk and try to resolve.

13 Frankly, I think that's essential to try to go  
14 forward because one thing I would disagree with what  
15 Verizon's local counsel said, that the issues are framed, I  
16 think they're very unframed at this point.

17 Some of them are probably properly framed and we  
18 understand where each side is on it, and as Elaine said, I  
19 don't think we will reach necessarily agreement on it.  
20 There may be a need to move forward then for ultimate  
21 hearing.

22 But there are a number of issues that frankly we are  
23 still trying to figure out exactly where the parties differ  
24 on and others, exactly what the issue is that we are  
25 differing on.

1 But I think that through the conversation between our  
2 staff and Verizon's in-house staff, as soon as we get past  
3 these pleading deadlines here that are facing us right now,  
4 we can have some further meaningful conversation and at  
5 least agree to probably a much shorter list of, here's what  
6 we agree to disagree on, and then move forward in a proper  
7 time frame.

8 One complication that is laid on top of this is that  
9 Verizon filed the same petition, essentially the same  
10 petition against the ALLTEL Carolina ILEC entity in North  
11 Carolina, and so we are faced, the same people in ALLTEL are  
12 faced with responding, filing testimony, filing responses to  
13 a petition during this same time frame. And unfortunately,  
14 it's the very same people. Ms. Hughes, who is handling both  
15 these negotiations, is ultimately handling both of these  
16 proceedings as I am, also.

17 So that is taking our time, and because we are facing  
18 deadlines for meeting filings this week in North Carolina,  
19 that's why we cannot have more meaningful discussion and  
20 haven't been able to have meaningful discussion between the  
21 parties since the petitions were filed.

22 But I think by the end of this week we'll have at  
23 least the first wave of that behind us and then early next  
24 week can have very meaningful discussions about all of these  
25 issues, and as I said, at least agree to the ones that we're

1 going to disagree on and can come up with a much shorter  
2 list properly framed that we can file a status report with  
3 the Commission perhaps next week and from that move forward  
4 with a schedule which may still allow the Commission to meet  
5 the March statutory timeline unless the parties could agree  
6 to extend that which we would certainly agree to some modest  
7 extension of that.

8 But certainly we would need to move I think beyond  
9 trying to handle this entire proceeding during the month of  
10 January.

11 JUDGE CHRISTIANSON: It's good you mentioned the  
12 North Carolina proceeding. That's a very practical aspect  
13 of getting this thing wrapped up.

14 When you've got to work in North Carolina, you can't  
15 work here, obviously.

16 MR. ROWELL: Right.

17 MS. CRITIDES: Well, Your Honor, I'd like to add too  
18 that the exact same people on Verizon Wireless' side are  
19 handling both cases, and I think the issues, because in  
20 theory we're trying to negotiate a nationwide agreement that  
21 would be the same in each state, are almost identical in  
22 North Carolina.

23 So to the extent anything happens in one state, it  
24 will only make it easier in the other state. So I don't see  
25 it as two separate negotiations taking on two separate set

1 of resources. I do see a great deal of overlap.

2 JUDGE CHRISTIANSON: That's good. They can break  
3 trail in North Carolina if they want to. They're welcome to  
4 it. Let me check with Mr. Thomas. I assume ALLTEL is the  
5 biggest of the little guys here in Pennsylvania. Is that  
6 the case?

7 MR. THOMAS: No, that's not the case. ALLTEL I  
8 believe is smaller than Sprint and may be a little smaller  
9 than Commonwealth.

10 JUDGE CHRISTIANSON: I think more of the rural  
11 companies.

12 MR. THOMAS: It's the largest of the group of rural  
13 companies that have been participating together on a lot of  
14 the Telecom '97 issues.

15 JUDGE CHRISTIANSON: Will this result be a precedent  
16 or a pattern setter for other cases, other situations?

17 MR. THOMAS: It depends on the resolution. I can't  
18 answer until I see what the result is.

19 JUDGE CHRISTIANSON: But it might be?

20 MR. THOMAS: Could impact where we go with some of  
21 the smaller companies.

22 JUDGE CHRISTIANSON: The rural exemption is still  
23 viable? I haven't been in touch with telco issues much  
24 lately.

25 MR. THOMAS: The rural exemption, there's the remand

1 proceeding before Judge Weismandel that should be -- the  
2 prehearing conference on that is scheduled on January 15th.

3 JUDGE CHRISTIANSON: I remember that, yes.

4 MR. THOMAS: And that's the proceeding whereby  
5 Verizon Wireless filed arbitration petitions, filed request  
6 for interconnection with respect to maybe around 20 smaller  
7 companies and then subsequently, about six months later,  
8 requested the termination of the rural exemptions.

9 Judge Weismandel issued an initial decision  
10 dismissing the request to terminate the rural exemptions.  
11 The Commission then remanded it back to Judge Weismandel for  
12 resolution of several legal questions and that's what the  
13 prehearing conference will be scheduled on, I think some  
14 time next week.

15 JUDGE CHRISTIANSON: I got something else on my desk,  
16 I'll check later, just came back down from court, I think,  
17 but that's neither here nor there. There's always activity  
18 on telco, it seems. Kecksburg I think came back.

19 MR. THOMAS: Yes, Kecksburg has filed a petition, I  
20 think it's 703(g) petition to modify a prior order which had  
21 terminated its rural exemption, and that petition is  
22 currently pending at the Commission.

23 JUDGE CHRISTIANSON: I think that landed on my desk.  
24 I'll check that at a break. I'll verify that or see what I  
25 got. I just it the other day.



1 MR. THOMAS: I think a hearing notice or a prehearing  
2 conference notice went out on that.

3 JUDGE CHRISTIANSON: Maybe that's true.

4 MR. THOMAS: We are not involved in that proceeding.

5 JUDGE CHRISTIANSON: Okay, you're not in that.

6 MR. THOMAS: No.

7 JUDGE CHRISTIANSON: Okay. Well, then, that gives me  
8 some background.

9 MS. ARMSTRONG: Your Honor, as a follow-up to a  
10 response to Mr. Arfaa and what Mr. Rowell indicated, part of  
11 what we really have indicated is that the issues are not  
12 clear. That is in fact what your implementation order was  
13 trying to get at and in fact the Commission on its own  
14 motion in the past has said, hey, you haven't followed and  
15 therefore we're going to address it in due course, not  
16 following the time frame.

17 All we're saying is that they attached to the  
18 petition something we hadn't seen before. We're trying to  
19 decide exactly what the issues are, get the issues clearly  
20 framed, get the issues resolved, find out which ones really  
21 do need to be addressed, and that's what we indicated when  
22 we started this morning should be the subject of an  
23 off-the-record conversation so that we might try and come up  
24 with a reasonable schedule that can better frame the issues,  
25 eliminate issues and get this matter moving forward on a

1 reasonable basis.

2 JUDGE CHRISTIANSON: Is the wireless an unusual  
3 thing? Does that add novelty to the situation?

4 MS. ARMSTRONG: Yes, it does, Your Honor. One of the  
5 primary issues, and hopefully I'm not going to misstate the  
6 issue, but Verizon Wireless takes the position that ALLTEL  
7 is required to be responsible for the transit and transport  
8 costs to Verizon Wireless' chosen point of interconnection  
9 within an MTA.

10 An MTA is a very large area, generally larger than a  
11 LATA. And ALLTEL's position is, we are responsible only for  
12 costs to our own certificated service border area on our own  
13 facilities. And that's a huge issue which is primarily  
14 unique to the fact that we are dealing with a wireless  
15 carrier.

16 MR. ARFAA: May I ask for clarification? You mean  
17 the costs for -- not all the costs, but what you're saying  
18 is our position, Verizon Wireless position, each carrier  
19 bears the costs of transporting the traffic that it  
20 originates to the other carrier?

21 MS. ARMSTRONG: Correct.

22 MS. CRITIDES: Again, this shows that the parties  
23 have different ways of stating the issues, although I think  
24 we agree that the issue needs resolution before we can draft  
25 language.

1 MS. ARMSTRONG: But that is in fact in response to  
2 His Honor's question, the fact that we're dealing with MTAs  
3 and wireless carriers makes it somewhat different from other  
4 proceedings.

5 MR. ARFAA: Yes, we appreciate that distinction.

6 JUDGE CHRISTIANSON: The word I used is "novel," yes.

7 MS. ARMSTRONG: Correct.

8 JUDGE CHRISTIANSON: That's sort of a neutral word.  
9 This reminds me a little bit of that NXX proceeding that  
10 we're trying to get out of Judge Paist. She and I discussed  
11 that, and I think I did that series of cases, MFX or  
12 something like that, and Schnierle did --

13 MR. ARFAA: MFS.

14 JUDGE CHRISTIANSON: They're was MFS-I, and I opted  
15 for bill-and-keep there which is a simple system, but I  
16 think we're beyond that now.

17 MS. CRITIDES: Well, bill-and-keep is very simple and  
18 we would advocate that, but I don't think that ALLTEL would  
19 agree to it, so --

20 MR. ARFAA: But the Commission certainly --

21 MS. CRITIDES: If that could make this all go away,  
22 Verizon Wireless would be very happy.

23 MR. ARFAA: It is an option open to the Commission.

24 JUDGE CHRISTIANSON: Yes, I think I recommended that  
25 when I did MFS-I, but there's been two or three phases since

1 then.

2 MR. THOMAS: Your Honor, with the traffic disparity,  
3 we don't think bill-and-keep is reasonable.

4 JUDGE CHRISTIANSON: Well, you might as well get your  
5 position stated.

6 MR. ARFAA: Your Honor, may I respond to Ms.  
7 Armstrong I think in a constructive way?

8 JUDGE CHRISTIANSON: Yes.

9 MR. ARFAA: Hopefully it will be. We completely  
10 support continuing to negotiate and narrow issues during  
11 this proceeding. In fact, under the Telecommunications Act,  
12 both parties are legally obligated to continue to negotiate  
13 during this proceeding and I think both parties will  
14 continue to do that.

15 I would point out, though, that having the pending  
16 proceeding and the deadlines looming tends to focus one's  
17 attention and that there's been a lot more activity in the  
18 last few days of back and forth between the parties -- I  
19 won't characterize who did what -- than there has been over  
20 the months beforehand, I think, at least the weeks  
21 beforehand.

22 So we think that adhering as reasonably possible,  
23 understanding that special circumstances in this case may  
24 require some adjustment, adhering to the litigation  
25 deadlines required by the federal law actually enhances the

1 prospect of negotiation and informal resolution. So we  
2 think that those two aspects, formal litigation and  
3 negotiation, are actually complementary.

4 And I also think Ms. Armstrong's suggestion of  
5 perhaps going off the record at Your Honor's convenience to  
6 discuss a potential schedule might be constructive at a  
7 point that you choose, sir.

8 JUDGE CHRISTIANSON: I think we can go off the record  
9 soon, as a matter of fact. Let me put my two cents in. I  
10 think I said it before. I think I want to try to adhere to  
11 the federal requirement of several months, I think it's nine  
12 months or eleven months or whatever it is.

13 I'm not so worried about my Commission's deadlines.  
14 We've got a lot of old constitutions that are becoming  
15 irrelevant in energy and telecommunications. We've got to  
16 change our rules, and I think the Commission deadlines are  
17 really a matter of Commission policy as opposed to federal  
18 statute which is a little bit more telling, I think, in the  
19 final analysis.

20 But unless we have more for the --

21 MR. THOMAS: Your Honor, can I stop you on that?

22 JUDGE CHRISTIANSON: Yes.

23 MR. THOMAS: Right now, the implementation order  
24 provides that the ALJ's initial decision, recommended  
25 decision must be issued within 220 days of the

1 interconnection request, which I believe is June 26th.

2 MR. ARFAA: Twenty-third.

3 MR. THOMAS: Twenty-third, 24th, somewhere in there.

4 JUDGE CHRISTIANSON: Maybe we've got a little bit  
5 more time than I thought.

6 MR. THOMAS: And then the implementation order  
7 provided that the Commission had 270 days or the nine months  
8 consistent with the Telecom Act of '96 to issue a final  
9 order. So the Commission was giving itself 50 days  
10 following the entry of the recommended decision.

11 Are you saying that maybe we can narrow that 50 day  
12 period?

13 JUDGE CHRISTIANSON: I think you can narrow that  
14 down, yes.

15 MR. THOMAS: That would be great.

16 JUDGE CHRISTIANSON: The Commission has had that  
17 narrowed down on them in other cases, and I think this case  
18 is a good candidate for narrowing that a little bit.

19 MR. THOMAS: I know in the past, though, we got some  
20 stern warnings that the Commission didn't want its time  
21 narrowed.

22 JUDGE CHRISTIANSON: They get a little feisty about  
23 that, but I think we can push them a little bit on this one.  
24 We can talk about that later or you can talk about it off  
25 the record.

1 MS. ARMSTRONG: And Your Honor, the only other thing  
2 I would point out as just a matter of a statement of fact is  
3 that in countless negotiations before this Commission, the  
4 parties have agreed to a modification of the federal  
5 statutory guideline.

6 JUDGE CHRISTIANSON: I think they have.

7 MS. ARMSTRONG: And that's clearly permitted.

8 MR. THOMAS: And we've done it with the state  
9 statutory deadlines, for example rate cases.

10 JUDGE CHRISTIANSON: The general rate increase case  
11 goes into effect subject to refund, anyway.

12 MR. THOMAS: Right, but also the utility in many  
13 cases has agreed to extending the effective date to permit  
14 the conclusion of the proceeding.

15 JUDGE CHRISTIANSON: But we don't have to agree now.  
16 We can worry about that when the time comes. We can set our  
17 dates and if they have to be modified, we can modify them as  
18 we go along, but we should set them first.

19 It might be of interest to you, I have the original  
20 memo from 1996 that my lawyer wrote. He's still with us.  
21 He's the guy that tried to set up the speakerphones. He  
22 does anything for the shop at this point.

23 Well, then, If we have no further conversation, we  
24 can go off the record for a bit. We'll decide after we go  
25 off whether we break this phone tie or not. We can keep it

1 for now but we can re-establish it later if we need to.

2 But let's for the moment at least, probably for at  
3 least a half an hour, I would guess, be off the record.

4 (Discussion off the record.)

5 JUDGE CHRISTIANSON: Let's be back on the record.

6 I'm Chief Administrative Law Judge Robert  
7 Christianson. We're back on the record again, about 11:15.  
8 The parties have worked out a tentative schedule and have  
9 discussed other matters.

10 I'll read the schedule as they have cobbled it out  
11 with one correction or one addition which was just brought  
12 up recently and we can go from there.

13 The first entry is the prehearing conference which is  
14 today. They'll file a status report on issues in the  
15 proceeding on 1/15. That's acceptable to me.

16 1/22, prefiled direct testimony served.

17 It looks like 2/2/04, responsive testimony served.

18 2/10 for a hearing, and we hope we will not run all  
19 day. We're reserving 2/11 partly because one witness has a  
20 problem on 2/10, so it's a carry-over day. We might not  
21 need that witness but we'll specify two days just in case.

22 2/24, main briefs together with proposed disposition  
23 of each issue which I guess is sort of settlement results.

24 Reply briefs, due 3/2.

25 Recommended decision is due 3/30, with 4/29, action



1 by the Commission.

2 Now, is 4/29 the proposed meeting date?

3 MR. THOMAS: That's the public meeting.

4 JUDGE CHRISTIANSON: Then would that order have to be  
5 entered on 4/29 to meet the schedule? When is the witching  
6 hour for the federal deadline? Does anybody have that?

7 MR. ARFAA: The current one is I believe March 19th,  
8 and so by stipulation we'd be extending that.

9 JUDGE CHRISTIANSON: You're ignoring that for the  
10 sake of ten days?

11 MS. ARMSTRONG: A month and ten days.

12 MR. THOMAS: It's March 19th. We're now at the end  
13 of April.

14 JUDGE CHRISTIANSON: I think that's within the realm  
15 of reason.

16 MR. THOMAS: I believe both parties would have to  
17 stipulate to that.

18 MR. ARFAA: We have to do it and we'll have to  
19 negotiate what the words say, but I think we can do that,  
20 working together.

21 JUDGE CHRISTIANSON: You can always fudge with the  
22 original initiating document date, but it's better to be  
23 straightforward and just waive the --

24 MR. THOMAS: I think it would probably be easiest  
25 just to stipulate to a resolution date at the PUC.

1 JUDGE CHRISTIANSON: Yes, and I think nobody is going  
2 to quarrel with that. No harm, no foul, in a sense.

3 MR. THOMAS: Nobody has in the past.

4 JUDGE CHRISTIANSON: It's happened fairly frequently  
5 in the past. It has to be a reasonable extension. I think  
6 this is reasonable enough.

7 So then Commission action 4/29 with an order  
8 presumably entered shortly thereafter. I think that's  
9 doable. I think the RD has plenty of time for that.

10 I will probably hold this case myself until the end  
11 of January anyway, but I'll be in communication with Mr.  
12 Arfaa and Mr. Thomas about who will preside here.

13 I'm running a little bit short of judges with  
14 telecommunications expertise, and I want to get a good judge  
15 for this because it might be a fairly important proceeding.  
16 It's somewhat novel and breaks trail in some areas.

17 Just the fact that the suppliant is Verizon makes a  
18 difference. It does my heart good that somebody named  
19 "Verizon" is there banging on the door trying to get in, and  
20 the establishment company is ALLTEL in this case.

21 MR. ARFAA: That's right. We're the little guy.

22 (Laughter.)

23 MR. THOMAS: Don't believe that. We're a needle in a  
24 haystack compared to Verizon Wireless.

25 JUDGE CHRISTIANSON: Okay. Well, you're still the

1 big guy for purposes of this proceeding.

2 MR. ARFAA: I apologize.

3 JUDGE CHRISTIANSON: But we can deal with that off  
4 the record. That's more a joke than anything at this point.

5 Mr. Arfaa had something he wanted to mention.

6 MR. ARFAA: Yes. Thank you, Your Honor. First of  
7 all, I want to thank Your Honor for facilitating this  
8 meeting. I think it's been very productive, and thank  
9 opposing counsel for their efforts as well.

10 I just wanted to note for the record that part of  
11 this agreement is that -- and Mr. Thomas or Ms. Armstrong  
12 will correct me if I'm wrong -- that ALLTEL has agreed not  
13 to raise any alleged non-compliance with filing requirements  
14 with respect to documents submitted with our petition in  
15 this proceeding. Is that correct?

16 MR. THOMAS: That's correct.

17 MR. ARFAA: Thank you.

18 JUDGE CHRISTIANSON: Sort of make up for lost time if  
19 you have to or make up for any defects.

20 MR. THOMAS: We aren't going to raise --

21 JUDGE CHRISTIANSON: The timing question.

22 MR. THOMAS: -- alleged substantive deficiencies in  
23 the petition through a motion to dismiss or at any phase in  
24 the proceeding.

25 MR. ARFAA: And I'll also say, if you need a

1 document, just give us a call.

2 JUDGE CHRISTIANSON: Then you essentially want to  
3 join the issue in these pleadings and be done with it.

4 MR. THOMAS: We're going on the pleadings as they  
5 exist.

6 JUDGE CHRISTIANSON: That's smart, I think.

7 MS. ARMSTRONG: Your Honor, we also agree that the  
8 service dates in the schedule that Your Honor read into the  
9 record would be satisfied if we served the parties  
10 electronically with the testimony and followed up with those  
11 services by overnight mail that date for delivery the next  
12 day on active parties.

13 JUDGE CHRISTIANSON: Yes. Here we don't have much  
14 trouble with inactive parties. We could theoretically have  
15 Consumer Advocate in the case, but they haven't knocked on  
16 the door as far as I know.

17 MS. ARMSTRONG: Judge Chestnut's service list still  
18 contained OSBA, OCA and OTS, so --

19 MR. THOMAS: I wonder if we could take them off the  
20 service list since they have elected not to participate in  
21 the prehearing?

22 JUDGE CHRISTIANSON: Yes. I didn't bring my rules of  
23 practice, but I'll invoke the rate case, active/inactive  
24 parties. If they're in this case, they're inactive,  
25 certainly.

1 MR. ARFAA: I believe Judge Chestnut's order  
2 contemplated what happened if you didn't show up.

3 JUDGE CHRISTIANSON: I never even looked at  
4 Chestnut's order. We can look at it as we go along. But  
5 they clearly had an opportunity to be in this case and  
6 they're not in the case.

7 MR. THOMAS: They had the prehearing -- they had both  
8 I think the petition and the response.

9 MS. ARMSTRONG: And the prehearing memos.

10 MR. THOMAS: And the prehearing memos, and they  
11 didn't show up today.

12 JUDGE CHRISTIANSON: They can always jump in with  
13 exceptions, as I recall, but they've waived their right to  
14 participate.

15 MR. THOMAS: That's right. Outside parties can  
16 actually come in --

17 JUDGE CHRISTIANSON: That's right. That's in the  
18 Commission '96 order, I think.

19 MR. THOMAS: Right.

20 JUDGE CHRISTIANSON: I can worry about that, later.  
21 I can find Judge Chestnut's order. I sort of know what it  
22 looks like, I think I'm confident of what it looks like.

23 I guess we're about done for this session. We have  
24 experienced counsel, which has helped a lot. Essentially it  
25 will be an e-mail case like we've been running lately.

1           Unfortunately, McNulty can't be e-mailed yet. We're  
2 working on computers to do that.

3           MR. ARFAA: Service will be by overnight delivery.

4           JUDGE CHRISTIANSON: Yes, the actual paper service,  
5 right, but e-mail notice is certainly a good idea.

6           MR. ARFAA: We've agreed to use both so we can have  
7 the convenience but also the backup.

8           JUDGE CHRISTIANSON: Well, you both e-mailed me your  
9 prehearing memos. That was handy. It's nice to get ready  
10 at your desk and ready to go.

11           I did receive one strange e-mail address out of  
12 Thomas, Moore or something like that.

13           MR. THOMAS: Instead of me typing out my e-mail  
14 messages, I just give them to my secretary.

15           JUDGE CHRISTIANSON: That's what I thought.

16           MR. THOMAS: She e-mails them for me, so if you get  
17 V. Moore, you know it's Mark Thomas.

18           JUDGE CHRISTIANSON: Everybody treated it like Mark  
19 Thomas, but I wondered at first what was going on there. I  
20 expected that, yes.

21           MR. THOMAS: They take care of me back there at the  
22 office.

23           JUDGE CHRISTIANSON: You're a name partner, so you  
24 get special treatment.

25           (Laughter.)

1 JUDGE CHRISTIANSON: Anything more for the record?  
2 Anything from D.C.?

3 MS. CRITIDES: No, Your Honor. Thank you.

4 JUDGE CHRISTIANSON: You understood our mutterings or  
5 at least the thrust of our mutterings. We can elucidate if  
6 you need it.

7 MS. CRITIDES: Yes. No, I think we're fine. One  
8 thing I could clarify is, it sounds like we're going to be  
9 re-assigned to another judge, or --

10 JUDGE CHRISTIANSON: Yes. I will probably make that  
11 decision late this month. If it's simple enough -- I've  
12 kept some of these cases. I kept a Green Mountain electric  
13 case about a year ago. I keep them occasionally because I  
14 used to be a judge myself years ago until '95, I guess. I  
15 kept several cases then when I became Chief Judge, as a  
16 matter of fact, so I can handle it.

17 I'm not too up on telco, but I can always manage to  
18 get familiar with it as I have to. I think I'll probably  
19 hand this off to somebody late this month who can take it  
20 home from there.

21 Some of my best candidates are otherwise occupied  
22 right at the moment, so I'll get somebody or else keep it  
23 myself. I'll keep track of it. I'm the judge on the case  
24 until I tell you otherwise, so look for some status change  
25 maybe late this month.

1 Anything more from Little Rock?

2 MR. MEISTER: No. Thank you.

3 JUDGE CHRISTIANSON: I could mention, I stumble  
4 around a little bit. I myself have Parkinson's disease, so  
5 I don't always get my articulation too good, unless I think  
6 about it. So if you ever have me on the phone and I mumble,  
7 just tell me to speak up and I realize what the problem is.

8 So I'll keep this for now. We'll be doing it as an  
9 e-mail case. Some day the rules of practice will be revised  
10 to reflect that. There's a draft now before the  
11 Commissioners that is going that way somewhat.

12 I think the Environmental Hearing Board is there and  
13 others are there, but e-mail would help a lot if we get it  
14 finally done.

15 I thank you all. I think we're done. Anything more  
16 for the record here?

17 MS. ARMSTRONG: No, Your Honor.

18 MR. ARFAA: No, Your Honor.

19 JUDGE CHRISTIANSON: Thank you. We're done. We're  
20 off the record for the prehearing conference, I guess we  
21 call it, pre-arbitration conference. Thank you all.

22 (Whereupon, at 11:28 a.m., the proceedings were  
23 concluded.)  
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I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me or under my direction, and that this transcript is a true and accurate record to the best of my ability.

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