

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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Petition of DIECA Communications, Inc., :
t/a COVAD Communications Company : Docket No.
For arbitration of interconnection :
rates, terms, conditions and related : A-310696F7000
arrangements with Verizon-Pennsylvania, :
Inc. :
:
:
Petition of DIECA Communications, Inc., :
t/a COVAD Communications Company : Docket No.
For arbitration of interconnection :
rates, terms, conditions and related : A-310696F7001
arrangements with Verizon North, Inc. :
:
:
Telephonic Prehearing Conference :
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:
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13th Floor, State Office Building
Broad and Spring Garden Streets
Philadelphia, Pennsylvania

Tuesday, October 22, 2002

Met, pursuant to notice, at 1:00 p.m.

BEFORE:

MARLANE R. CHESTNUT, Administrative Law Judge

APPEARANCES:

JOHN POVILAITIS, Esquire
Ryan Russell Ogden & Seltzer
800 North Third Street
Harrisburg, Pennsylvania 17102
(For DIECA Communications, Inc., t/a
COVAD Communications Company)

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APPEARANCES (CONTINUED):

ANTONY RICHARD PETRILLA, Esquire
ANTHONY HANSEL, Esquire
DIECA Communications, Inc.
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Washington, D. C. 20005
(For DIECA Communications, Inc., t/a
COVAD Communications Company)

SUZAN DeBUSK PAIVA, Esquire
Room 32-NW
1717 Arch Street
Philadelphia, Pennsylvania 19103
(For Verizon-Pennsylvania, Inc. and
Verizon North, Inc.)

AARON PANNER, Esquire
Kellogg Huber Hanser Todd & Evans
130 K Street, NW
Washington, DC 20005
(For Verizon-Pennsylvania, Inc. and
Verizon North, Inc.)

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WITNESS INDEX

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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(None.)

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EXHIBIT INDEX

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
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(None.)

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P R O C E E D I N G S

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2 ADMINISTRATIVE LAW JUDGE MARLANE R. CHESTNUT: This
3 is the prehearing conference scheduled at Docket No.
4 A-310696F7000 and Docket No. A-310696F7001.

5 For the record, I am Administrative Law Judge
6 Marlane R. Chestnut.

7 I would like the participants to identify
8 themselves for the record. Please state your name, your
9 address and telephone number and on whose behalf you are
10 appearing.

11 We will start with you, Mr. Povilaitis.

12 MR. POVILAITIS: Thank you, Your Honor.

13 This is John F. Povilaitis, P-O-V-I-L-A-I-T-I-S,
14 from the firm of Ryan Russell Ogden & Seltzer at 800
15 North Third Street, Harrisburg, Pennsylvania 17102. My
16 telephone number is 717 236-7714. I am representing
17 COVAD Communications Company.

18 JUDGE CHESTNUT: Thank you.

19 Mr. Petrilla.

20 MR. PETRILLA: My name is Antony Richard Petrilla.
21 My address is 600 14th Street, Northwest, Suite 750,
22 Washington, DC 20005. My telephone number is 202
23 220-0418. I am representing COVAD Communications
24 Company.

25 JUDGE CHESTNUT: Thank you.

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1 Ms. Paiva.

2 MS. PAIVA: Suzan Paiva on behalf of
3 Verizon-Pennsylvania and Verizon North. My address is
4 1717 Arch Street, 32-N, Philadelphia, Pennsylvania 19103.
5 And my telephone number is 215 963-6068.

6 JUDGE CHESTNUT: Thank you.

7 Mr. Panner.

8 MR. PANNER: My name is Aaron Panner. My address
9 is 1301 K Street, Northwest, Washington, DC 20036. I am
10 with the firm of Kellogg Huber Hanser Todd & Evans. I
11 represent Verizon. My telephone number is 202 326-7921.

12 JUDGE CHESTNUT: Thank you.

13 MR. POVILAITIS: Judge, we also have another
14 attorney for COVAD here that I believe we gave you a pro
15 hac vice motion for.

16 JUDGE CHESTNUT: Okay.

17 MR. POVILAITIS: That is Mr. Tony Hansel.

18 JUDGE CHESTNUT: Mr. Hansel, go ahead.

19 MR. HANSEL: Anthony Hansel. I am with COVAD
20 Communications. The address is 600 14th Street,
21 Northwest, Suite 750, Washington, DC 20005. The phone
22 number is 202 220-0410.

23 JUDGE CHESTNUT: Thank you.

24 Now, you are all free to participate but I would
25 like each party to designate someone as the primary

1 speaker.

2 For COVAD would that be you, Mr. Petrilla?

3 MR. PETRILLA: Yes, Your Honor.

4 JUDGE CHESTNUT: And for Verizon would that be you,
5 Mr. Panner?

6 MR. PANNER: Yes, Your Honor.

7 JUDGE CHESTNUT: Let me state for the record that I
8 did receive prehearing memoranda from for both COVAD and
9 Verizon. Does anybody object to the consolidation of
10 these two proceedings?

11 (No audible response.)

12 JUDGE CHESTNUT: No? Okay. Then they will be
13 consolidated for hearing and decision purposes.

14 The motion for admission pro hac vice filed on
15 October 17, 2002, by Mr. Povilaitis on behalf of
16 Mr. Hansel and Mr. Petrilla is granted. They are
17 therefore admitted pro hac vice to represent COVAD in
18 this proceeding.

19 The motion for admission pro hac vice filed on
20 October 17, 2002, by Ms. Paiva on behalf of Mr. Panner
21 and Mr. Angstreich -- am I saying that right?

22 MR. PANNER: It's actually pronounced Angstreich,
23 Your Honor.

24 JUDGE CHESTNUT: Angstreich. Okay. That will be
25 granted. They are admitted pro hac vice to represent

1 Verizon-Pennsylvania, Inc. and Verizon North, Inc. in
2 this proceeding.

3 Is there anything further about admissions?

4 (No audible response.)

5 JUDGE CHESTNUT: Let me state that subsequent
6 motions for admission pro hac vice if not defective on
7 their face will be deemed granted if not objected to
8 within three business days after filing. If objected to
9 such pleadings will be addressed by order.

10 Does everybody understand that?

11 UNIDENTIFIED SPEAKER: Yes, Your Honor.

12 JUDGE CHESTNUT: And let me state, too, that I will
13 be issuing a prehearing order discussing these procedural
14 items.

15 Pursuant to 52 Pa. Code, section 1.55, each party
16 is limited to one entry on the service list. COVAD has
17 indicated that should be Mr. Hansel. For Verizon who
18 should that be?

19 MS. PAIVA: Mr. Panner.

20 JUDGE CHESTNUT: Mr. Panner? Okay.

21 Now, that brings me to my e-mail list, where
22 parties are not limited to one entry. For COVAD should
23 that be all three of you: Mr. Povilaitis, Mr. Petrilla
24 and Mr. Hansel?

25 MR. POVILAITIS: Yes, Your Honor.

1 JUDGE CHESTNUT: I do have Mr. Povilaitis' e-mail
2 address. I think the motion had it for the other two,
3 right?

4 MR. POVILAITIS: It should have, Your Honor.

5 JUDGE CHESTNUT: Mr. Hansel, yours is
6 thansel@covad.com?

7 MR. HANSEL: Yes, Your Honor.

8 JUDGE CHESTNUT: And Mr. Petrilla, you are
9 apetrilla@covad.com?

10 MR. PETRILLA: Yes, Your Honor.

11 JUDGE CHESTNUT: Okay.

12 Then for Verizon that would be Ms. Paiva and
13 Mr. Panner.

14 MR. PANNER: Yes, Your Honor. If both me and my
15 colleague, Scott Angstreich, could be included that would
16 be great.

17 JUDGE CHESTNUT: And do I have your e-mail address
18 anywhere? If not, could you give it to me?

19 MR. PANNER: Certainly. I don't know if you have
20 it yet. It is apanner@khhte.com.

21 JUDGE CHESTNUT: I'm sorry. khhte?

22 MR. PANNER: It's khhte -- five letters - .com.

23 JUDGE CHESTNUT: Okay.

24 MR. PANNER: And for Mr. Angstreich it is
25 sangstreich@khhte.com.

1 JUDGE CHESTNUT: Okay.

2 MR. PANNER: Thank you.

3 JUDGE CHESTNUT: And on your e-mail list put me, of
4 course. My e-mail address is machestnut@state.pa.us.
5 Does everybody have that?

6 (No audible response.)

7 JUDGE CHESTNUT: And I would also like you to
8 include my secretary, Kathy Niesborella. Her name is
9 N-I-E-S-B-O-R-E-L-L-A. Her e-mail address is
10 kniesborel@state.pa.us.

11 Is everybody clear on the e-mail list?

12 MR. POVILAITIS: Yes, Your Honor.

13 JUDGE CHESTNUT: What that Mr. --

14 MR. POVILAITIS: That was Mr. Povilaitis.

15 JUDGE CHESTNUT: Okay. Again, for the benefit of
16 the court reporter please identify yourself.

17 MR. POVILAITIS: Certainly. I'm sorry.

18 JUDGE CHESTNUT: The next issue that I would
19 normally discuss would be discovery. Is there anything
20 to address in terms of that?

21 MR. PETRILLA: Your Honor, Tony Petrilla.

22 COVAD has been in a proceeding with Verizon in
23 California and received a certain set of documents
24 relating to its network architecture. These documents
25 are subject to a proprietary order in California and so

1 we cannot admit them directly in Pennsylvania.

2 We approached Verizon a few weeks ago asking
3 whether it would be amenable to waive the proprietary
4 order for purposes of using the documents in this
5 proceeding and with the expectation that the documents
6 would be covered by a protective order in this case. And
7 Verizon refused to do that.

8 We plan to ask for these documents in discovery but
9 we were hoping that there might be some mechanism to
10 simplify this process because it does seem somewhat
11 unnecessary to go through the same set of discovery
12 hurdles that we did in California to get these documents
13 when we know what they are.

14 MR. PANNER: Your Honor, this is Aaron Panner.

15 I can speak to that. It's unfortunate. I didn't
16 know that Mr. Petrilla was going to raise this issue at
17 this time, but the fact of the matter is the proceeding
18 there was in a very different procedural posture and the
19 issues were different. The documents that are at issue
20 have nothing to do with the dispute in this case and
21 frankly I am not really sure if it is appropriate under
22 the protective order to have brought this up in this
23 proceeding at this time.

24 But in any event, we think that it is getting very
25 far ahead of things to be talking about what documents

1 ought to be produced before there has even been a
2 discussion about what discovery if any might be needed.
3 And we certainly are not prepared to waive the
4 proprietary order which was put in place precisely so
5 that those documents would not be used beyond that
6 proceeding. At this point I have never heard a cogent
7 reason why any of those documents are needed in this
8 proceeding.

9 JUDGE CHESTNUT: Well, Mr. Panner, I'm trying to
10 understand. You seem to be objecting on the basis of
11 relevancy?

12 MR. PANNER: Well, no, Your Honor. In the first
13 instance, Your Honor, the point is that we would not
14 consent to, you know, permitting these documents to come
15 into this proceeding before there has even been a
16 discovery request, before there has been any sort of
17 request that has been made as to which these are
18 relevant. In other words, it seems to me that -- I don't
19 understand -- COVAD has said up front we would like to be
20 able to use these documents in this proceeding. We have
21 a proprietary order under which that is not required and
22 we don't think it is appropriate.

23 JUDGE CHESTNUT: What's the problem with having an
24 appropriate protective order in this proceeding?

25 MR. PANNER: Because, frankly, Your Honor, we just

1 don't -- for the same reason that --

2 JUDGE CHESTNUT: I hope you are not going to say
3 relevancy. Because I'm sure you know in this type of
4 arbitration the Commission's approach is to encourage
5 free discovery.

6 MR. PANNER: Well, Your Honor, to be honest with
7 you --

8 JUDGE CHESTNUT: And I will be honest with you,
9 Mr. Panner, right up front. I would not sustain any kind
10 of objection based on relevancy.

11 MR. PANNER: Well, Your Honor, I guess I don't
12 understand how -- Your Honor, there has not been a
13 request for any document. If they asked us for -- many
14 of these documents have to do with our business planning
15 in California and Texas. Now, I would say that there is
16 a relevancy objection as to those documents, as to
17 production of those documents in this proceeding. You
18 know, it does seem to me as a threshold matter it is
19 important to understand that COVAD has been involved with
20 litigation and with Verizon in a number of fora and so it
21 is of great concern to us that documents not be used
22 inappropriately and not be produced in instances where
23 frankly they are not relevant.

24 I realize that there is certainly going to be a
25 bias in favor of broad discovery. We are certainly aware

1 of that and we certainly respect that rule. At the same
2 time, you know, we are going to have to object where
3 COVAD is -- to the extent they have, and we don't have a
4 document request to which we have been asked to respond
5 and we don't have a discovery issue pending. We have not
6 raised any objection to any document request that has
7 been made. But certainly to the extent that COVAD says,
8 you know, what is your planning with respect to, you
9 know, network deployment in California we are going to
10 object that that discovery request is not relevant in
11 this proceeding.

12 JUDGE CHESTNUT: Mr. Panner, I would suggest that
13 you focus your energies on developing an appropriate
14 protective order.

15 MR. PANNER: Thank you, Your Honor.

16 JUDGE CHESTNUT: And I would expect that to be a
17 joint offering, that you can both satisfy valid business
18 concerns, frankly. But again, I have to tell you that
19 the whole point of this arbitration as it is now, since
20 you have not resolved it between yourselves, is the
21 Commission encourages complete -- almost complete, you
22 know -- disclosure of information requested subject to an
23 appropriate proprietary order so that the information is
24 not misused.

25 MR. PANNER: As I said, I do respect that and I

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1 certainly think that to the extent -- and I certainly
2 think that we are going to have to work to provide that
3 if there is a valid request for information. But at the
4 same time, Your Honor, given the litigation in which
5 these parties are involved -- you know, I'm not saying in
6 advance there will be any problem. I certainly hope that
7 there won't.

8 JUDGE CHESTNUT: Well, I hope that there won't
9 either. But I think it is important that -- Mr. Panner,
10 I have never done an arbitration in which you have been
11 involved and I don't know how much Pennsylvania
12 experience you do have, but I can't imagine that the
13 approach that I have indicated to you is anything that
14 isn't used in any Pennsylvania arbitration, if you
15 understand what I am trying to say here.

16 MR. PANNER: Well, as I say, Your Honor, this is
17 somewhat unusual because the parties are involved in
18 litigation in so many fora and COVAD has proven so
19 litigious in so many fora that there is particular
20 sensitivity on our part.

21 JUDGE CHESTNUT: I think that is standard. I mean,
22 don't think I've ever done an arbitration where it is
23 confined only to Pennsylvania.

24 But, again, I am going to leave it up to you folks
25 to come up with an appropriate protective order and deal

1 with discovery pursuant to it, or I should say document
2 exchanges pursuant to it. I would hope that I would not
3 have to resolve any kind of formal discovery dispute
4 because I think I have made it clear what my approach
5 would be.

6 MR. PETRILLA: Your Honor, Tony Petrilla.

7 We are very happy to propose a protective order
8 that has been used by the Commission in previous
9 proceedings.

10 JUDGE CHESTNUT: And of course I am assuming good
11 faith on the part of both parties here, that COVAD would
12 not ask for inappropriate material or documents and that
13 Verizon would not be unreasonable in responding to
14 legitimate requests.

15 MR. PANNER: Well, if there are specific documents
16 in that production that Mr. Petrilla wants to put before
17 us and ask us to waive the protective order with respect
18 to a particular document, we are certainly willing to
19 look at that.

20 JUDGE CHESTNUT: Okay. Good. Because I'll tell
21 you, I really would not look very favorably on some kind
22 of objection to legitimate discovery. And legitimate
23 discovery really is very broad in this case.

24 MR. PETRILLA: Your Honor, this is Tony Petrilla.

25 What I was hoping for is that we could come to some

1 agreement on the California documents. I mean, it has
2 always been within our right to pose discovery requests
3 asking for the specific documents and then dealing with
4 Verizon's objections as they come up. But I was hoping
5 that we could avoid that process just because it will
6 slow the proceeding down and I think it is unnecessary
7 given that a production of these documents has already
8 been made.

9 JUDGE CHESTNUT: Well, I will leave it to you folks
10 to come up with something. And if you can't then
11 obviously I will have to resolve anything that is
12 presented to me.

13 Given that, is it necessary for us to discuss the
14 standard modification to discovery that is usually done
15 in this kind of case?

16 MR. PETRILLA: You are talking about the turnaround
17 time, Your Honor?

18 JUDGE CHESTNUT: Yes. Do you want me to go through
19 them?

20 MR. PETRILLA: Go ahead.

21 MR. PANNER: That would be helpful, Your Honor.

22 JUDGE CHESTNUT: Okay. Because this is standard.
23 In fact, I'm just reading off a prior prehearing order
24 now.

25 The first one is that when an interrogatory is

1 served on a Friday or the day before a holiday the
2 appropriate period is deemed to start on the next
3 business day.

4 Second, the period for replying to written
5 interrogatories is seven calendar days. Objections to
6 interrogatories are to be communicated orally to the
7 propounder within two business days of receipt and in
8 writing within four business days of receipt.

9 Does everybody have that so far?

10 MR. PETRILLA: Yes, Your Honor.

11 JUDGE CHESTNUT: Motions to dismiss objections and
12 to compel response shall be filed with me within three
13 business days of the receipt of the objections. Answers
14 to such motions shall be filed with me within three
15 business days after filing of the motion.

16 Now, normally what I would do is when I get a
17 motion to compel and a response I would have a conference
18 call and see if we could resolve it or narrow it or come
19 up with something. I don't normally just write an order
20 without discussing it first with the parties.

21 Interrogatories which are objected to but which are
22 not made the subject of a motion to compel will be deemed
23 withdrawn.

24 Pursuant to 52 Pa. Code, section 5.341, subsection
25 (b), neither interrogatories nor responses are to be

1 served on the Commission or the Presiding Officer,
2 although a certificate of satisfaction may be filed with
3 the Commission's Secretary.

4 The parties are expected to resolve discovery
5 issues among themselves. Motions to compel should be
6 filed only after such efforts have failed.

7 Interrogatories are to be provided electronically
8 as well as on paper. And the parties are also urged to
9 use alternative means of discovery such as discovery
10 conferences or depositions.

11 Does anybody have any comments or questions
12 concerning these aspects?

13 MR. PETRILLA: Tony Petrilla, Your Honor.

14 No, we don't. Thank you.

15 JUDGE CHESTNUT: Mr. Panner?

16 MR. PANNER: Well, Your Honor, as far as it goes we
17 don't. I had hoped -- and this is in the prehearing
18 statement and it may not be time to discuss this yet, but
19 we had hoped that there would be at least the possibility
20 of discussing a procedure that might --

21 JUDGE CHESTNUT: You know, I think it is premature
22 to talk about that in terms of discovery, unless you want
23 to tie it in somehow.

24 MR. PANNER: I think so, Your Honor.

25 JUDGE CHESTNUT: Okay.

1 MR. PANNER: Because it really goes to the schedule
2 of the proceeding.

3 The parties have been involved right now in
4 prehearing conferences in New York and my own feeling,
5 having been involved with several of these and in fact
6 one before Judge Cocheres, Your Honor, in Pennsylvania,
7 as well as proceedings in other states, is that, you
8 know, these are proceedings that can be burdensome and
9 expensive and they are frankly ones where the parties'
10 disputes tend to be issues that are really legal and
11 policy issues. I am not aware of any disputed issues of
12 fact with respect to the issues that are presented here.

13 Now, there may be disagreement about that but the
14 procedure that has been used elsewhere which I think
15 should at least considered here is one where the parties
16 earlier in the process rather than later should have an
17 opportunity to brief issues with supporting declarations
18 or affidavits if necessary, you know, where the parties
19 felt that that was necessary to explain an issue that
20 wasn't purely a matter of law or otherwise susceptible of
21 demonstration from legal materials which the Court, you
22 know, which the ALF could take notice, to present the
23 proceedings, to present the conflicting views to Your
24 Honor at an earlier stage rather than later. And I think
25 that what one will find is that virtually all of the

1 issues that are presented in that way would be
2 susceptible -- I think all, but certainly virtually all
3 -- would be susceptible of decision without need for any
4 further factual development in the case. And frankly I
5 believe all of the issues but certainly almost all of the
6 issues would then be resolvable if to the extent the
7 party's pleadings and declarations demonstrated a genuine
8 disputed issue of fact, of material fact, that the
9 parties disputed.

10 An example that I use, I don't think it is actually
11 presented, but suppose that one party's expert suggested
12 that there was spectrum interference in a particular
13 configuration of service and the other party's expert
14 said, no, I don't think there is spectrum interference.
15 It might be necessary to have further discovery to try to
16 elucidate that disputed fact and formal proceedings that
17 would be directed towards factfinding. But in the
18 absence of such a dispute it seems to me that the parties
19 would save a great deal of time and effort and in fact
20 COVAD would get a decision sooner, which seems to be in
21 its interest, to the extent that the parties arranged for
22 such submissions sooner rather than later, again, if
23 there are issues that remain to be resolved after further
24 factfinding if it was found to be necessary.

25 But as I say, having looked at these issues with

1 some care and the parties having looked at the issues
2 with some care, I am not aware of any really disputed
3 fact in the case.

4 JUDGE CHESTNUT: I have thought about that,
5 Mr. Panner, because obviously I read both party's
6 prehearing memoranda and I think you are taking a much
7 too narrow view of the point of any hearings that may be
8 held. First off, with respect your outstanding issues
9 let me tell both of you I think you should all be
10 embarrassed that there are so many outstanding issues.
11 Over 50 issues for each of these? That is ridiculous,
12 absolutely ridiculous. At the most, you know, maybe 10
13 or 15. Somebody is not doing their job if you have this
14 many issues outstanding, or hasn't been doing their job.

15 Second, the point of the hearing is not always to
16 develop a factual record. I know that I have done
17 arbitrations where it was obvious there was a failure to
18 communicate between the two parties and it was resolved
19 by the fact that the two witnesses were there talking
20 directly to each other. There have also been times when
21 I have been able to suggest an approach that was accepted
22 by both parties.

23 Now, I'm the last person to want to have
24 unnecessary hearings or to burden any party with
25 unnecessary legal expenses. And I think it is really

1 important for everybody to understand that this should
2 not focus on litigation. The focus shouldn't even be on
3 the arbitration, whether it's done through pleadings or
4 through hearings or through initial and final offers or
5 anything else. Your focus should be on negotiating. I
6 can't see that it is in anybody's interest to have a
7 third party whether it is me, the Commission or the
8 Commonwealth Court, making business decisions for you.

9 That is just something I wanted to mention. I
10 really hope your focus really isn't on the formal
11 litigation aspect of this. I mean, obviously that is
12 what we are talking about because this is a prehearing
13 conference. But I really would hope that you would be
14 able to proceed and resolve many if not most of these
15 issues.

16 In fact, let me ask, these issues that are listed
17 as being outstanding, have they be resolved?

18 MR. PANNER: Your Honor, I know that several of the
19 issues --

20 JUDGE CHESTNUT: This is Mr. --

21 MR. PANNER: I'm sorry. This is Mr. Panner.

22 JUDGE CHESTNUT: Okay.

23 MR. PANNER: I know that many of the issues that
24 were initially in the petitions have been resolved.

25 JUDGE CHESTNUT: How about the issues listed in our

1 prehearing memorandum?

2 MR. PANNER: Of those, I believe if they were
3 listed in the prehearing memorandum then they are still
4 pending.

5 But I take your point and I believe that the
6 parties do continue to talk. Verizon for its part
7 continues to make further proposals with respect to open
8 issues in the proceeding in the hope of narrowing them
9 and reducing them.

10 And I think, you know, frankly, the issues can be
11 grouped so that there aren't quite -- I mean, obviously
12 COVAD enumerated the number of issues but you are right
13 that it is certainly a failure of both sides when this
14 many issues are presented. But I do think that it is
15 worth -- they fall into groups of issues that they center
16 around areas where there are some disputes about how
17 things ought to happen and so there are sort of
18 underlying disputes about, frankly, as I say, sort of
19 issues of law and policy with respect to certain key
20 issues that the parties have been unable to resolve and
21 that is where a legal determination is called for.

22 Again, I certainly appreciate the fact that in the
23 course of proceedings and in the course of hearings the
24 parties do have an opportunity to talk. But I think as
25 Tony Petrilla will agree, the parties have been talking

1 for a long time in this case. And, you know, there are
2 some underlying issues, I think some underlying disputes
3 about what the law requires or at least that is the basis
4 for the issues that are presented. And, again, that is
5 why I think that -- that is why I suggested the
6 possibility that taking an approach that looked at the --
7 that teed up those legal and policy issues for resolution
8 at an earlier point might actually be helpful.

9 JUDGE CHESTNUT: Well, Mr. Panner, I think you are
10 comparing apples and oranges here. You keep talking
11 legal and policy. Legal issues to me are completely
12 different from policy issues. On a legal issue
13 theoretically at least there is a right and a wrong
14 answer in terms of applying whatever the relevant legal
15 provision is. Policy is a completely different matter.

16 MR. PANNER: Well, Your Honor, I certainly
17 appreciate what you're saying. And I grant you the
18 difference, although sometimes I think the differences
19 are ones of degree.

20 But that said, I think I still would draw the
21 distinction between, you know, an issue of policy where
22 the facts are undisputed and the Commission is going to
23 be called upon to make a decision about what it thinks
24 local competition ought to look like in Pennsylvania
25 versus a question of, for example, as I said, you know,

1 using that example again, spectrum interference.

2 Now, if there is spectrum interference obviously
3 you don't want to have it. Nobody says we ought to have
4 spectrum interference if it is going to degrade service.
5 And that is not really an issue that -- but if there is a
6 dispute, a good faith dispute, about the facts, about
7 whether there is likely to be spectrum interference, you
8 know, the Commission may be called upon to resolve that
9 too and can only do so if it knows -- if it has an
10 opportunity to talk to the two experts and ask them
11 questions and say, you know, you say there is going to be
12 no interference but have you thought about this or that,
13 or you say there is going to be interference but have
14 you thought about this other possibility. And that is
15 why I think it is worth thinking about them as separate
16 categories.

17 JUDGE CHESTNUT: Mr. Petrilla, did you want to jump
18 in here?

19 MR. PETRILLA: Your Honor, I frankly don't know
20 what to say. I mean, I think there are disputed facts
21 between the parties. You can start with the documents in
22 California as being some of those. And we feel that a
23 hearing is appropriate for that. Our proposal is merely
24 to allow for rebuttal at the hearing so that Your Honor
25 has the benefit of seeing both parties' positions right

1 in front of you stated as best as they possibly can be.
2 And that is all I have to say.

3 JUDGE CHESTNUT: Well, you know, I would feel a lot
4 different about this if there were many less issues to be
5 addressed. I do not feel comfortable not having a
6 proceeding with no hearing when there are 50-some issues.
7 Were there three, five, ten issues, sure, that would make
8 sense. I think it could be addressed that way. When you
9 have this many issues I am not willing to accept that you
10 are completely finished in terms of negotiating. And I
11 think frankly the more direct communication there is,
12 whether at a hearing or whatever, the better.

13 So I am not comfortable just doing this on the way
14 that you have proposed, Mr. Panner. I just think there
15 are way too many issues that involve way too many types
16 of determinations. I am just not comfortable doing that
17 especially in this kind of arbitration. If both parties
18 agreed I would feel uncomfortable but I would go along
19 with. But in these kinds of proceedings the last thing I
20 want to do is prevent any party from having a full and
21 complete opportunity to present its position.

22 MR. PANNER: I certainly appreciate that. And the
23 reasons, as I say, the reason for my proposal -- I
24 shouldn't say it's mine, but the reason that we came up
25 with this -- and frankly I have been struggling with

1 this. In all candor, Your Honor, I think there is a lot
2 of attraction to any attorney to the idea of having a
3 hearing and having an opportunity to cross-examine
4 witnesses and put on a case live. It is something that,
5 you know -- it's what we like to do. And we like to
6 think that we are persuasive in that context.

7 But also in looking back at the many proceedings
8 that I have been involved with of this type I think about
9 whether that has shed more heat or more light on the
10 proceedings, and obviously, you know, it is our
11 responsibility as lawyers to try to make sure that it
12 sheds as much light as it can. But I feel like a
13 presentation of the issues that would give a full
14 opportunity for the parties to present their positions
15 and any factual allegation, if there is a dispute --
16 again, Mr. Petrilla continues to say there is a dispute
17 of fact. I still haven't heard one. So I guess my
18 thought about it was -- and actually the number of issues
19 that are involved I think supports it if anything in my
20 own mind, and I understand Your Honor's views to the
21 contrary and certainly Your Honor's view will control,
22 needless to say, but my own view of it is that given the
23 number of issues and the task involved in simply
24 organizing the material for presentation the idea that I
25 had in mind was give the parties an opportunity -- and

1 obviously the motive to settle is great, I think for both
2 sides, certainly great for Verizon, to try to settle
3 these issues where there is a reasonable accommodation --
4 but to have an opportunity simply to say, look, here are
5 the issues, to the extent that there is an issue that we
6 need to support in terms of a description of what things
7 are like out there when people are trying to do business,
8 have a supporting declaration and both parties would have
9 the opportunity to put in those declarations, have reply
10 briefs, provide the parties the opportunity to put in a
11 reply brief, and that would have an opportunity to
12 crystalize the issues if there are disputes. As I say, I
13 think the disputes are going to be over policy and over
14 legal requirements. Those are, I think, very
15 appropriately dealt with in a written form and with
16 written presentation.

17 But I have made my case and I understand that so
18 far I have not persuaded you.

19 JUDGE CHESTNUT: Well, again, if both parties were
20 in agreement I would go along with that.

21 Mr. Petrilla, do you still think it is a good idea
22 to have hearings?

23 MR. PETRILLA: Yes, I do, Your Honor.

24 JUDGE CHESTNUT: Then I don't feel that I have any
25 choice but to schedule it that way.

1 That is not to say that every issue needs to be
2 addressed. You supply testimony. This is a little
3 different from the way that you have proposed this
4 because I think -- and I have to apologize because I had
5 planned to be in the office today but obviously I am not
6 and I did not have a chance to go through my files on
7 this in terms of procedure. But I seem to remember that
8 in prior ones there wasn't testimony as such and there
9 were not briefs as such. It was more that each party
10 presented initial offers, you know, their best initial
11 offers and their best final offers.

12 I don't know if that simplifies things or is
13 irrelevant or what. But, I mean, you are right. I don't
14 think a legal issue needs to be the subject of testimony.
15 A policy issue, you know, may be an appropriate subject
16 for testimony because there has to be a basis for it.

17 MR. PANNER: I think that is exactly right. And as
18 I say, you know, I certainly respect the desire for both
19 sides -- I mean, again, we have all been through these to
20 some extent in the past and I understand the need for
21 purposes of reliable decisionmaking and the desire that
22 all the parties have to say I want to get on the record
23 what it is that I have in mind and the basis for it. And
24 so I was just -- what I have been casting about for in my
25 own mind is a way to do that that frankly reduces the

1 burden on the people who are involved, it reduces the
2 expense, it reduces, frankly, the amount of -- the
3 elaborateness of the procedure where parties don't really
4 have a dispute about a fact. Again, if there is a
5 dispute about a fact and the argument is, you know -- and
6 there is a dispute about that -- and of course that is
7 why this is different from a typical complaint proceeding
8 because often in the case of a complaint proceeding there
9 is a fight about what happened. And that is the essence
10 of the fight. But I don't think that is the case here
11 and that is why I guess it does seem to me that, you
12 know, it is more like a rulemaking. It is more like a
13 situation where -- because after all, as I think COVAD
14 itself emphasized, this is a resolution of issues that is
15 going to govern the operation of all CLECs in effect
16 because the resolution that is reached is one that will
17 be available to all CLECs and will be binding on Verizon
18 with respect to all CLECs. And that is why it seems to
19 me that the model that is typically used in a rulemaking
20 proceeding with an emphasis on written comments and a
21 written presentation and if necessary a hearing to deal
22 with disputed issues is the one that made more sense to
23 me. And that, you know, genuinely looking for a way that
24 this could be done in a way that is most reliable,
25 certainly to the extent that we can add to, from our

1 point of view, the reliability of the decision we are
2 happy -- you know, the extra expense is not so
3 significant. But if the extra expense is simply extra
4 expense then that is obviously unfortunate.

5 JUDGE CHESTNUT: On the other hand, I'll tell you
6 the truth, I don't have any problem with you folks
7 incurring unnecessary or excessive expense if you can't
8 resolve these issues. Maybe knowing that you will have
9 to drag in 35 witnesses will help you to settle hem.
10 I'll tell you, I found it a very productive use of my
11 time to be able to ask these witnesses directly, well,
12 Mr. Verizon witness what is wrong with the COVAD
13 proposal? They say this. They say that. What is your
14 response to that? And then I can get it clear in my mind
15 whether he is not lying but has a basis or doesn't have a
16 basis.

17 I'm sorry. I just don't have a lot of sympathy for
18 your request as an economy measure.

19 MR. PANNER: Fair enough.

20 JUDGE CHESTNUT: I think it might be good for you
21 folks to recognize you will be incurring a substantial
22 expense. And I am not going to let you shift that to me.

23 MR. PANNER: Pardon me?

24 JUDGE CHESTNUT: I am not going to let you shift
25 your work to me. That is really what you are asking to

1 do. You are just asking to brief these issues,
2 basically, and then I have to do the sifting and the
3 discussion and everything else. There is a limit to
4 that.

5 MR. PANNER: Well, you know, I appreciate that.
6 And I certainly recognize the need to, you know, try to
7 narrow the issues. That message is certainly coming
8 through loud and clear.

9 JUDGE CHESTNUT: Thank you. I hope it was. And I
10 hope everybody understands my point here, which is I
11 think -- I would hope you keep your clients' best
12 interests in mind here. And maybe your clients' best
13 interests is not to have these issues resolved in this
14 fashion but to maintain control and come up with
15 something that is suitable for both of you to continue in
16 a business environment because obviously you will be
17 doing business with each other.

18 Now, when I looked through these issues -- and I
19 didn't spend a whole lot of time doing it because I
20 didn't really get it until this morning -- but none of
21 these are new. I am sure all of these issues have been
22 addressed in other proceedings. And I am talking about
23 other jurisdictions. I know that a lot of these I have
24 seen in other arbitrations -- I'm sorry --
25 interconnection agreements. I have to tell you that, you

1 know, the way that I approach these is if it has already
2 been accepted in some kind of interconnection agreement
3 that is pretty persuasive that it is a reasonable way to
4 handle that issue.

5 Now, I would think you would want to have that kind
6 of approach too. Obviously you are looking at this from
7 a multi-jurisdictional perspective. I can appreciate
8 that and I think that is an appropriate way to address
9 these.

10 Does anybody have a comment or want to respond to
11 what I said?

12 MR. PETRILLA: Your Honor, this is Tony Petrilla.

13 It might be helpful if I described where
14 negotiations have been just in terms of scope and what we
15 are doing right now, not on a substantive level but more
16 on a sort of procedural level.

17 JUDGE CHESTNUT: Okay.

18 MR. PETRILLA: The parties have been negotiating
19 for about 30 months and they have resolved a large number
20 of issues. But there are a large number remaining, as
21 you noted.

22 They basically have agreed to a somewhat unorthodox
23 procedure where they are going to go ahead and execute a
24 new interconnection agreement. The new interconnection
25 agreement will include all of the consensus language

1 between the parties but it will also include where we
2 have a dispute Verizon's template language or the
3 language that Verizon proposes as a standard offering.

4 COVAD has done this -- and it's not just in
5 Pennsylvania, it is throughout the region. COVAD has
6 done this in an effort to get out of its old agreements
7 as soon as possible, which expired more than a year ago,
8 and to also give the parties the benefit of the consensus
9 language.

10 So right now what -- I am the negotiator for COVAD.
11 What we are focusing on is getting those agreements
12 signed. And there has been a tremendous amount of work
13 related to that because we not only have to figure out
14 what the agreement should look like but we also have to
15 have basically a settlement agreement that preserves
16 COVAD's right to pursue the disputed issues in other
17 states in the future. So we have probably spent the last
18 month or so trying to hammer out those agreements.

19 But the other thing I can tell you is that we are
20 definitely committed to resolving the disputed issues in
21 front of you and that is something that we will do
22 throughout the arbitration, even if we are in the middle
23 of writing a brief.

24 That is all I have to say.

25 JUDGE CHESTNUT: Well, are any of these issues

1 being addressed in other jurisdictions? I mean, can this
2 follow another jurisdictional resolution?

3 MR. PETRILLA: The parties agreed to file
4 arbitration petitions in three states: New York,
5 Pennsylvania and Florida. The agreement between the
6 parties contemplated that we would get the results of the
7 three arbitrations and use that as a potential vehicle
8 for coming to consensus by seeing, for example, if COVAD
9 loses an issue in all three jurisdictions it would likely
10 give up the issue, for example. All of these
11 arbitrations are in roughly the same track, although
12 Florida appears to be somewhat behind.

13 So as to your question, I don't think there is
14 going to be a jurisdiction ruling ahead of you. If it
15 did, it might only be like a day or two ahead of you.

16 JUDGE CHESTNUT: Too bad.

17 MR. PETRILLA: Well, you know.

18 JUDGE CHESTNUT: Because like I said, obviously in
19 addressing these various types of issues it is very
20 helpful to see what is done in other jurisdictions -- not
21 just other jurisdictions but other interconnection
22 agreements as well.

23 MR. PETRILLA: We will always present precedent,
24 Your Honor.

25 JUDGE CHESTNUT: Okay. I would really ask that you

1 do that. If an issue has been addressed tell me how and
2 where.

3 MR. PETRILLA: But I think what you will find too
4 is that issues have been addressed in a contradictory
5 manner. It won't always be the case where the precedent
6 leans in one direction.

7 JUDGE CHESTNUT: Okay.

8 Well, from what you are saying, Mr. Petrilla, it
9 sounds like you are working more on the process now in
10 terms of an interim process as opposed to substantive
11 issues. Is that correct?

12 MR. PETRILLA: Well, it's not an interim process,
13 though. These agreements that result from this will be
14 permanent agreements. They will just have to be amended
15 in the future based upon whatever additional agreements
16 the parties reach or based upon potentially an
17 arbitration in these other states.

18 JUDGE CHESTNUT: Okay.

19 Well, I'm not sure where we are at this point. I
20 think I have already expressed my preference that we do
21 have some type of hearing. Well, before I say that,
22 though, I would urge the parties to see if you can work
23 out a process to deal with these disputed issues. Now, I
24 know that you have a joint hearing based schedule and
25 perhaps you could agree what issues will be addressed

1 that way.

2 MR. PANNER: I imagine that we probably can make
3 progress in that direction at least, Your Honor.

4 JUDGE CHESTNUT: Yes. I mean, at least narrow down
5 the issues. Obviously I want you to narrow down the
6 issues that need to be resolved. But also I want you to
7 narrow issues that need to be addressed for hearing or
8 some other type of presentation.

9 MR. PETRILLA: Your Honor, this is Tony Petrilla.

10 I think you would benefit from seeing documents
11 that the parties have submitted and will submit in New
12 York. Judge Linsider in New York made the same request
13 that you did but he asked the parties to brief it. And
14 so COVAD on last Thursday submitted a document that
15 basically went through each issue and said, okay, this
16 issue we think can be resolved without any hearings, this
17 issue can be resolved with a hearing, this issue should
18 be resolved through what in New York they call technical
19 conference. We would be happy to provide you with our
20 version of that.

21 Verizon's response to our document is due to today
22 in New York and Verizon presumably will hopefully agree
23 with us in some of the ones that aren't going to go to
24 hearing and will, you know, provide arguments about why
25 other things should.

1 JUDGE CHESTNUT: I think that sounds like a good
2 idea.

3 What do you have to say, Mr. Panner?

4 MR. PANNER: I think that's fine. I guess I would
5 propose that unfortunately -- well, if we are to do that
6 -- I am not exactly sure. Let me back up. I am not
7 exactly sure what Mr. Petrilla is proposing.

8 To the extent that he is proposing that we share
9 with you the pleadings from New York, of course we would
10 be happy to do that. They are public documents. We
11 would be happy to provide you a copy of what we filed
12 today.

13 Unfortunately there are some differences because
14 there are significantly a larger number of issues in
15 Pennsylvania than there are in New York frankly because
16 some of the issues that are disputed in Pennsylvania have
17 been resolved in New York and are no longer a subject of
18 dispute between the parties.

19 JUDGE CHESTNUT: I understand that.

20 MR. PETRILLA: Your Honor, I would like to speak to
21 that point when he is done.

22 MR. PANNER: And the other point is that there are
23 -- first, New York has sort of an unusual procedure and
24 an unusual set of procedures that it has been going
25 through. But, as I say, we would be certainly happy to

1 prepare that. I guess the only thing I would suggest is
2 to is address how things ought to happen in this
3 proceeding what we proposed is a little bit different
4 from what we proposed in New York because I think in New
5 York there are existing records of technical -- of
6 collaborative processes that cover a lot of issues
7 whereas that same record may not exist in Pennsylvania.
8 So that was really the thought behind the supporting
9 affidavits that we proposed in this proceeding or
10 supporting declarations that we have proposed in this
11 proceeding.

12 But as I say, this is a very long way,
13 unfortunately, of making two points. One is I would be
14 happy to provide the New York pleadings but I also think
15 that to the extent that after consultations the parties
16 remain at odds about what ought to go to hearing and
17 under what precise circumstance it might be worth having
18 further conversation about it or submitting it in writing
19 and then having further conversation about it.

20 MR. PETRILLA: Your Honor, this is Tony Petrilla.

21 I just wanted to address the earlier point about
22 how there are fewer issues in New York.

23 The main driver of that is that New York has
24 resolved more of the DSL issues in its tariffs and we
25 have deferred to the Verizon tariffs in that regard. And

1 in Pennsylvania we didn't have the benefit of that. So
2 to a certain extent I guess you could say there was
3 precedent and Verizon just didn't want to pay attention
4 to it in Pennsylvania.

5 JUDGE CHESTNUT: I don't even begin to understand
6 that, Mr. Petrilla. I mean, are you saying that Verizon
7 does not have a DSL tariff in Pennsylvania?

8 MR. PETRILLA: It does. But it doesn't address as
9 many issues as the tariff in New York did.

10 JUDGE CHESTNUT: Okay. Well, is there some basis
11 for pursuing the possibility of changing the tariff to
12 include it?

13 MR. PETRILLA: Oh, we wholeheartedly agree. What
14 Verizon was telling us in negotiations was we disagree
15 with the result in New York and so we are not willing to
16 give that to you in Pennsylvania on a negotiated basis.

17 JUDGE CHESTNUT: Oh, okay.

18 MR. PANNER: Your Honor, obviously I don't know
19 exactly what Mr. Petrilla is referring to but obviously
20 there is going to be merits briefing as to that. And
21 certainly if Mr. Petrilla believes he has something
22 helpful from the New York jurisdiction he will raise it.
23 But I certainly don't want to suggest that I think his
24 account is accurate or fair.

25 JUDGE CHESTNUT: Well, what is unfair or inaccurate

1 about it?

2 MR. PANNER: Well, I don't know, Your Honor,
3 because what he is -- I just don't know.

4 JUDGE CHESTNUT: What I understood Mr. Petrilla to
5 say was that the tariff in New York addresses certain
6 issues that are not addressed by the tariffs in
7 Pennsylvania.

8 MR. PANNER: If that is all he is saying I'm sure
9 that that's right. I think what he suggested was that
10 there are issues that have been resolved in New York in a
11 certain way and as I say, I think it -- I don't mean to
12 be captious. I am not trying to raise a dispute for the
13 purpose of raising a dispute. I just do not want on the
14 record to go undisputed his account of that. That was
15 really the only purpose.

16 JUDGE CHESTNUT: Okay.

17 Well, you know, I think at this point I'm not going
18 to adopt Verizon's proposal for no hearings whatsoever.
19 What I am going to suggest is that you folks get together
20 and see what issues should be addressed at a hearing, if
21 we have one, and work out some kind of, you know, way to
22 deal with that. Whether that means adopting this joint
23 proposed schedule you have or modifying it -- we do have
24 to talk about that. I am kind of concerned about the
25 timeframes there.

1 MR. PETRILLA: COVAD, Your Honor, will also provide
2 you with the document we filed in New York. We will do
3 that today.

4 JUDGE CHESTNUT: Okay.

5 I don't have your petition and response to the
6 petition here so I don't know where we are in terms of
7 the statutory deadlines. Does this proposed schedule
8 comply with that?

9 MR. PETRILLA: Your Honor, this is Tony Petrilla.

10 It contemplates that the parties will extend the
11 statutory deadlines to accommodate Your Honor's as well
12 as the Commission's consideration of the issues.

13 JUDGE CHESTNUT: Okay. Because I was kind of
14 concerned here. I really don't want to have to write
15 this in one day.

16 MR. PETRILLA: Yes. We recognized that.

17 JUDGE CHESTNUT: I understand too that for whatever
18 reason the Commission was delayed in assigning this to
19 OALJ. I have no idea what is involved in that or what is
20 going on. But I am concerned that we not run into any
21 kind of problems that way.

22 Now, in terms of this, I'm not sure direct
23 testimony and briefs are really the best way to approach
24 this. We can do it that way. Or, again, you could do it
25 through an initial and final offer kind of basis.

1 MR. PETRILLA: Your Honor, this is Tony Petrilla.

2 The reason that we felt that prefiled testimony
3 would be helpful was as an explanatory document. Now, if
4 there is some sort of offering document that could
5 perform that same function then we are openminded toward
6 that.

7 One of the issues, the PARTS unbundling issue --
8 PARTS is the packeted remote terminal service -- that
9 issue we think needs to be dealt with on paper. It is
10 too complicated for somebody to just tell it to you
11 orally.

12 JUDGE CHESTNUT: Okay.

13 MR. PETRILLA: So that is our feeling on that. We
14 are not looking necessarily for testimony.

15 JUDGE CHESTNUT: Okay.

16 Well, again, it is up to you folks to determine
17 what you want to put in and how. I don't want to be in
18 the position of restricting any party's ability to fully
19 present its case in a way that they feel most comfortable
20 with.

21 MR. PANNER: Your Honor, this is Aaron Panner.

22 It seems like Tony and I have some more talking to
23 do to try to at least present to you hopefully a
24 consensual view of how things can proceed given what you
25 have said.

1 JUDGE CHESTNUT: That would be a very good idea.
2 And then we can get back and discuss this further if
3 necessary.

4 MR. PANNER: Yes.

5 JUDGE CHESTNUT: We can communicate by e-mail or we
6 can have a further telephonic conference if you would
7 like in a couple of days. Tell me what suits you both,
8 or what you suits both best.

9 MR. PANNER: Well, Tony and I are going to be
10 spending a lot of time together in the next couple of
11 days because we are going to be having a similar
12 prehearing conference in New York on Thursday. I am
13 certainly prepared to -- I imagine we will both want to
14 prepare for that but certainly I am ready to -- depending
15 on what comes out of that we may be able to use some of
16 what comes out of that as a model for what ought to
17 happen in this proceeding. So certainly perhaps --

18 JUDGE CHESTNUT: That would be a good idea. I
19 really don't want to have to make all of you engage in
20 repetitive types of things. If you come up with a
21 workable plan in one jurisdiction why not use it here?
22 Or if you come up with some way to deal with an issue,
23 you know, that's fine.

24 MR. PETRILLA: Your Honor, this is Tony Petrilla.

25 We would love that. We don't have very many people

1 working on this and we would be thrilled to use exactly
2 the same procedure in New York as Pennsylvania.

3 JUDGE CHESTNUT: Why don't you see what you can
4 come up with. Can you give me some kind of timeframe
5 when you think you would like to get back to me?

6 MR. PETRILLA: How about after our conference in
7 New York? Say Friday morning?

8 JUDGE CHESTNUT: Is that the 25th?

9 MR. PETRILLA: Yes.

10 JUDGE CHESTNUT: I'm not sure if I'm going to be in
11 the office that day.

12 MR. PETRILLA: Okay. How about the following
13 Monday?

14 JUDGE CHESTNUT: I will know Thursday probably
15 whether or not I will be in or how much longer I am going
16 to have to be out.

17 MR. PETRILLA: Between those two days do you want
18 to pick something and just let us know?

19 JUDGE CHESTNUT: No. Why don't you just send me an
20 e-mail. And then we will see if we need to have a
21 further discussion and then we can schedule it.

22 MR. PANNER: That would be fine with Verizon, Your
23 Honor.

24 JUDGE CHESTNUT: Is that okay?

25 MR. PETRILLA: Yes. That makes sense.

1 JUDGE CHESTNUT: Is there anything further, then,
2 before this prehearing conference is adjourned?

3 MR. PETRILLA: I don't have anything, Your Honor.

4 JUDGE CHESTNUT: Was that Mr. Panner?

5 MR. PANNER: I believe that was Mr. Petrilla.

6 JUDGE CHESTNUT: I'm sorry.

7 MR. PANNER: But this is Mr. Panner.

8 I don't have anything.

9 JUDGE CHESTNUT: Okay. Then thank you all very
10 much. I look forward to hearing from you.

11 MR. PETRILLA: Thank you, Your Honor.

12 MR. PANNER: Thank you, Your Honor.

13 (Whereupon, at 2:10 p.m., the prehearing conference
14 was concluded.)

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter,
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