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 1 Incumbent Local Exchange Carriers : Docket No.  
 Investigation into the obligations of : I-00030099  
 Incumbent Local Exchange Carriers to :  
 Unbundle Network Elements. :  
 :  
 Initial Prehearing Conference :  
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Pages 1 through 29 Hearing Room No. 2  
 Commonwealth Keystone Building  
 Harrisburg, Pennsylvania

Tuesday, November 25, 2003

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

BEFORE:

MICHAEL C. SCHNIERLE, Administrative Law Judge  
 SUSAN D. COLWELL, Administrative Law Judge

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WITNESS INDEX

WITNESSES

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FORM 2

EXHIBIT INDEX

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FORM 2

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

1  
2 ADMINISTRATIVE LAW JUDGE MICHAEL C. SCHNIERLE: This  
3 is the time and place set for a prehearing conference in the  
4 matter of the investigation into the obligations of the  
5 Incumbent Local Exchange Carriers to Unbundle Network  
6 Elements, Docket No. I-00030099. My name is Michael  
7 Schnierle, and with me is Susan Colwell. We're the  
8 Administrative Law Judges assigned to preside over this  
9 case.

10 Looking at the appearance sheet, I'm tempted to say  
11 round up the usual suspects, but I note the appearances of  
12 Renardo L. Hicks for Penn Telecom; Philip F. McClelland,  
13 Barrett Sheridan and Joel Cheskis for the Office of Consumer  
14 Advocate; Michelle Painter for MCI; Robert C. Barber and  
15 Mark A. Keffer for AT&T Communications of Pennsylvania, LLC;  
16 Ross Buntrock for Broadview, InfoHighway, MetTel, McGraw,  
17 Talk America and BullsEye Telecom; Alan Kohler for  
18 Pennsylvania Carriers' Coalition; Steve Augustino for Snip  
19 Link, Choice One, XO, Focal and Broadview, which are in the  
20 Loop Transport Carrier Coalition; Kandace F. Melillo for the  
21 Commission's Office of Trial Staff; Angela Jones for the  
22 Office of Small Business Advocate; Zsuzsanna Benedek for  
23 Sprint Communications Company, LP; Julia A. Conover and  
24 William B. Petersen for Verizon; and Debra Kriete for  
25 Allegiance Telecom.

1 Did I miss anybody?

2 (No response.)

3 JUDGE SCHNIERLE: The first order of business is we  
4 have Petitions to Intervene. We have received Petitions to  
5 Intervene from the following companies: Sprint  
6 Communications Company, LP; Broadview Networks,  
7 Incorporated; BullsEye Telecom, Inc.; ARC Networks,  
8 Incorporated, d/b/a InfoHighway Communications Corporation;  
9 McGraw Communications, Inc.; Metropolitan Telecommunications  
10 Corporation; Talk America, Inc.; MCI WorldCom Network  
11 Services, Inc.; AT&T Communications of Pennsylvania, LLC;  
12 Lightship Telecom, LLC; Focal Communications Corporation of  
13 Pennsylvania; Snip Link, LLC; XO Pennsylvania, Incorporated;  
14 Full Service Computing, t/a Full Service Network; Remi  
15 Retail Communications, LLC; ATX Licensing, Incorporated;  
16 Line Systems, Incorporated; the Pennsylvania Carriers'  
17 Coalition; CTSI, LLC; Allegiance Telecom of Pennsylvania;  
18 Penn Telecom; Choice One Communications of Pennsylvania; and  
19 Cavalier Telephone Mid-Atlantic, LLC.

20 Does anybody know if I have missed anyone?

21 (No response.)

22 JUDGE SCHNIERLE: Are there any objections to those  
23 Petitions to Intervene?

24 (No response.)

25 JUDGE SCHNIERLE: Hearing none, they're granted.

1 I have motions to admit attorneys pro hac vice for  
2 Genevieve Morelli, Ross Buntrock, Heather Hendrickson, Robin  
3 F. Cohn, Russell Blau, Steven Augustino, Darius Withers and  
4 Erin Emmott.

5 Is there any objection to those?

6 (No response.)

7 JUDGE SCHNIERLE: Hearing none, those individuals are  
8 admitted pro hac vice.

9 On a related note, congratulations, Ms. Painter, on  
10 admission to the Pennsylvania Bar.

11 MS. PAINTER: Thank you, Your Honor.

12 (Applause.)

13 JUDGE SCHNIERLE: The first thing I'm going to deal  
14 with is this problem over the identification of the CLECs in  
15 some of the Verizon materials.

16 Is anybody here representing CTSI, D&E, DQE,  
17 Fibertech, Fibernet, Level 3, Lightwave, Metromedia, PPL,  
18 Qwest, SBC or Telcove?

19 (No response.)

20 JUDGE SCHNIERLE: Hearing none. All right. Ms.  
21 Conover, does Verizon have any agreements with these  
22 companies that require Verizon not to disclose this  
23 information?

24 MS. CONOVER: I think there may be boilerplate  
25 clauses in interconnection agreements that do that, but,

1 generally, they contain exceptions when they are compelled  
2 via an Order.

3 JUDGE SCHNIERLE: All right. Well, there will be an  
4 Order issued compelling the disclosure of that information.  
5 It will not be proprietary. It will be in the public  
6 record. Frankly, in my opinion, the greatest competitive  
7 danger to any of these companies is from Verizon, not from  
8 their fellow CLECs; and if Verizon knows the names, there is  
9 no reason why everybody else shouldn't know the names.

10 MR. BARBER: Just as a point of clarification, Your  
11 Honor, would what the Order compelling Verizon to do is  
12 provide to the parties in the case a complete copy of their  
13 original filing?

14 JUDGE SCHNIERLE: Yes.

15 MR. BARBER: Thank you. When is the Order going to  
16 be issued, Your Honor?

17 JUDGE SCHNIERLE: Today.

18 MR. BARBER: Because we'd like to, obviously, get  
19 that copy as soon as possible.

20 MS. CONOVER: Your Honor, by point of clarification,  
21 and I just want to make sure this is clear on the record,  
22 the parties received essentially full printouts; that the  
23 only thing that was not in those documents, in the full  
24 documents, was the identification of the CLEC. It had a  
25 number of the CLEC.

1           So, we have no objection to re-serving that, but I  
2 just want to make it clear that this is not a huge amount of  
3 data. It is simply coding the name of the CLEC. We have  
4 never provided that information before in any context before  
5 the PUC to the other parties, but we have no objection to an  
6 Order. Obviously, if there is an Order, we will comply.

7           MR. BARBER: Verizon knows their filing, obviously,  
8 better than I do, Your Honor. The one thing where I might  
9 part with what Ms. Conover is characterizing is the  
10 Attachment 6, which is the transport. As I understand it,  
11 when we got our proprietary, we were given our proprietary  
12 information, but it was not even a compilation of the other  
13 transport.

14           MS. CONOVER: It should include all of the transport,  
15 but with numbers.

16           MR. BARBER: Okay.

17           MS. CONOVER: But to avoid any concern, we will give  
18 you the entire set.

19           MR. BARBER: Thank you.

20           MS. CONOVER: And, Your Honor, by point of  
21 clarification, can that service be done electronically?

22           JUDGE SCHNIERLE: Yes. The next order of business  
23 that I see is the schedule. It looks like at this point  
24 Verizon has proposed a schedule and the Pennsylvania  
25 Carriers' Coalition has proposed a schedule. The hearing

1 dates are generally in the same ballpark. The primary  
2 difference is the date due for the rebuttal or intervenor  
3 direct, however you want to characterize it, and then the  
4 Verizon surrebuttal or again rebuttal, however you want to  
5 characterize it.

6 Frankly, I'm leaning towards the Carriers' Coalition  
7 schedule simply because they haven't had all of the  
8 information and won't have it until the next day or two and  
9 I can't see requiring them to have their rebuttal done by  
10 December 15th and then essentially providing another month  
11 before the surrebuttal is due.

12 If you want to try to work out a compromise, take a  
13 couple minutes. Otherwise, I'm prepared to adopt the PCC  
14 schedule.

15 MS. CONOVER: I think it might be worthwhile if we do  
16 that.

17 JUDGE SCHNIERLE: All right. We're off the record  
18 for five minutes.

19 (Discussion off the record.)

20 JUDGE SCHNIERLE: Let's go back on the record.

21 You've reached an agreed-upon schedule. Does  
22 somebody want to lay it out?

23 MS. CONOVER: Yes. I've been designated to give it.

24 JUDGE SCHNIERLE: All right.

25 MS. CONOVER: This is the agreed-upon schedule. The

1 first date is December 19th, and that would be when Verizon  
2 would file any update to reflect a loop case based upon any  
3 discovery that we would do and/or update its other triggers  
4 cases to reflect the Commission discovery.

5 Your Honor, we'd like to talk about that separate,  
6 because there are discovery responses that we don't have  
7 yet, and I think other parties sort of share that concern,  
8 but that would be December 19th. If we're going to submit  
9 an updated case, we would do so by December 19th.

10 JUDGE SCHNIERLE: Okay. So any updates to its case  
11 will be filed by December 19th.

12 MS. BENEDEK: And that would be electronically to the  
13 extent possible.

14 MS. CONOVER: Yes. January 9th would be the  
15 intervenor direct. January 20th, Verizon rebuttal.  
16 Hearings on January 26th, 27th, 28th and the 30th. We  
17 understand that the 29th is not an available date. That was  
18 on your list as not being available. So, if necessary, we'd  
19 go onto the 30th.

20 MR. BARBER: The 29th and 2nd were both listed as  
21 blackout dates in your Prehearing Order.

22 JUDGE SCHNIERLE: We can adjust that if you would  
23 prefer. I think we can adjust that. So do you want to just  
24 make it the 26th through the 30th?

25 MS. CONOVER: Yes.

1 JUDGE SCHNIERLE: All right.

2 MS. CONOVER: All testimony would be served  
3 electronically to the parties with follow-up by overnight  
4 mail.

5 JUDGE SCHNIERLE: Except in the case of --

6 MS. CONOVER: Except for the OTS.

7 JUDGE SCHNIERLE: And then close of record will be  
8 February 2nd?

9 MS. CONOVER: Right.

10 JUDGE SCHNIERLE: Okay. And main briefs February  
11 17th and reply briefs March 1st?

12 MS. CONOVER: Yes.

13 JUDGE SCHNIERLE: All right. That schedule will be  
14 adopted.

15 MR. McCLELLAND: Your Honor?

16 JUDGE SCHNIERLE: Yes.

17 MR. McCLELLAND: Just another point of clarification.  
18 I wasn't part of all of the discussions over there. Verizon  
19 is now putting on a case for both operating companies,  
20 Verizon PA and Verizon North exclusive?

21 MS. CONOVER: Yes.

22 MR. McCLELLAND: On the 19th, is that just for  
23 updating transport possibly or high capacity loops?

24 MS. CONOVER: Loops.

25 MR. McCLELLAND: But not for switching triggers?

1 MS. CONOVER: No. It could possibly be for switching  
2 based upon -- it depends what we get from the Commission  
3 discovery. In other words, when we filed our case, we did  
4 not have any of the Commission discovery, and we want the  
5 opportunity to review that and potentially update our case  
6 based upon what the Commission has obtained in their  
7 discovery, which we believe should be part of the record, in  
8 any event.

9 MR. BARBER: And that is an issue we probably need to  
10 address. I do want to get a point of clarification on what  
11 Phil just asked, however. I mean, the petition was filed by  
12 Verizon Pennsylvania, Inc. Is Verizon North territory  
13 implicated in the filing?

14 MS. CONOVER: I don't think so.

15 MR. KOHLER: I think it said specifically only  
16 Verizon Pennsylvania.

17 MS. CONOVER: Right.

18 MR. BARBER: I was a little confused by the answer to  
19 Phil's question.

20 MR. McCLELLAND: I thought they were including data  
21 from Verizon North.

22 MS. CONOVER: We may have included the data, but I  
23 don't believe that the request included --

24 MR. KOHLER: The way I read the petition, you're only  
25 requesting relief for Verizon Pennsylvania.

1 MS. CONOVER: Right, but the data included both.

2 MR. McCLELLAND: I guess I'm confused. If you put in  
3 a switching territory of Verizon North and you say the  
4 triggers have been met, doesn't that mean then that you're  
5 saying the Verizon UNE switching would no longer be offered  
6 in that rate center? So isn't that implicating Verizon  
7 North?

8 JUDGE SCHNIERLE: One minute.

9 (Pause.)

10 JUDGE SCHNIERLE: All right. Back on the record.

11 MR. McCLELLAND: There's a conflict here.

12 MR. HICKS: Make your point for the Judge.

13 MS. CONOVER: I don't know off the top of my head.

14 MR. McCLELLAND: Your Honor, the point I would make  
15 is, specifically, there are some sort of shaded areas with  
16 Cells 1, 2 and 3, and I think I have in mind Hershey,  
17 Pennsylvania, which is part of the Harrisburg MSA, which  
18 seems to me was implicated in the filing as saying there are  
19 sufficient switches so that this large area would no longer  
20 have to provide UNE switching, and shaded in was Hershey,  
21 Pennsylvania.

22 JUDGE SCHNIERLE: Which is the old GTE North.

23 MR. McCLELLAND: Verizon North currently.

24 JUDGE SCHNIERLE: Which would be now Verizon North.

25 MS. CONOVER: And what I was going to say is that

1 maybe -- off the top of my head, I'd have to go back and  
2 look at the data to see whether or not that was actually  
3 identified in our data as an area that was picked up. I  
4 hadn't recalled that it was, but it might have been, because  
5 the maps are really just a depiction of the data  
6 pictorially.

7 MR. McCLELLAND: I can't recall another instance, but  
8 the concern is exactly what are we litigating and what  
9 companies?

10 MR. KOHLER: It's a simple question. Your filing  
11 says you're only seeking relief for Verizon Pennsylvania.  
12 So are you seeking relief for Verizon North or not? I think  
13 if you are, it's inconsistent with your filing.

14 MR. BARBER: I guess the point is if they -- and this  
15 may get into the merits of the case -- if they're using data  
16 from Verizon North to prove lack of impairment of Verizon PA  
17 territory, but that sort of ties in with our discovery where  
18 we're asking for --

19 MR. KOHLER: That would be different.

20 MR. BARBER: -- where we're asking for some wire  
21 center breakdown here in terms of figuring out where you're  
22 saying the trigger candidates are.

23 MR. McCLELLAND: I guess if I can leave this at we'd  
24 like this clarified now, but if not now, soon.

25 MS. CONOVER: Okay. We'll go back and look at that

1 and clarify that.

2 JUDGE SCHNIERLE: I think it's time to fish or cut  
3 bait on that one, because we can't extend the schedule  
4 ourselves.

5 All right. As long as we're on the subject of the  
6 Commission's discovery, the Bureau of Fixed Utility Services  
7 has asked that they be sent electronic copies of all the  
8 responses, the proprietary version of all of the responses  
9 of the Commission's data requests, because they're trying to  
10 do some kind of compilation.

11 The person who is actually working on it is Rick  
12 Watson. I'm guessing that his e-mail address is  
13 [rwatson@state.pa.us](mailto:rwatson@state.pa.us), but don't hold me to that.  
14 If he can get it in Exel, that would be better, but I guess  
15 they'll take it in whatever they can get it. I'm going to  
16 put that in the Order, too.

17 MR. BARBER: Your Honor, there is one issue that Ms.  
18 Conover alluded to, and I think it's sort of a shared  
19 sentiment at the table. A lot of the discovery that was  
20 filed -- it's our understanding that a fair amount, if not a  
21 large amount of the discovery that was filed by carriers in  
22 response to the Commission's October 2nd Order was filed by  
23 carriers who aren't at the table here and, just as  
24 important, wasn't filed, certainly wasn't served on  
25 everyone.

1 I think there is an issue as to whether that data  
2 should be in the record in the first place; and, secondly,  
3 that it, in fact, needs to be directed -- that these  
4 carriers need to be ordered to have them serve this data on  
5 everybody who is parties to this case.

6 MR. HICKS: As well as those who did not respond at  
7 all.

8 MR. BARBER: And we have no way of knowing how that  
9 works. I don't know if the Commission ever married up  
10 responses versus parties that were directed to respond. I  
11 mean, they obviously propounded this data in an effort to  
12 develop some census information. I don't know whether they  
13 were planning on using it independently of the record that  
14 was developed in this case, which would be a little odd.

15 I mean, if the desire was to have that data utilized  
16 in this proceeding, it's obviously data that needs to get  
17 into the record of this case and data that needs to get into  
18 all the parties' hands so we can assess what's going on.

19 MR. KOHLER: Your Honor, if I could add to that, we  
20 had someone spend some time in the file room yesterday,  
21 which apparently was quite an experience, comparing the  
22 docketing sheets to what was served. I think we came back  
23 with seven or eight Q and A's that were not served on  
24 anyone.

25 We haven't had time to do an inventory yet. I don't

1 know if anybody else has done a complete inventory, but I  
2 think there are carriers that haven't responded at all. I  
3 don't know that anybody is sure of that.

4 Certainly, except for the copies we have in our  
5 office, most of the people in the room haven't been served  
6 with anywhere near all of them.

7 MS. CONOVER: That's correct.

8 MS. BENEDEK: That's correct.

9 MR. KOHLER: The other thing I'd add to that that  
10 Your Honor should be aware, the file room is pretty confused  
11 about this case. They are confused about what is  
12 proprietary, who gets proprietary, whether highly  
13 confidential is different than proprietary, who should get  
14 what. We struggled through it, but they could certainly use  
15 some guidance.

16 I'm not sure if what we came back with matches what's  
17 in the docketing sheets, and it also appears there are  
18 things that have been filed that aren't on the docketing  
19 sheets. We tried to work through that, but it was  
20 difficult.

21 MR. BARBER: I guess that gets back to -- again, I  
22 don't know what your sense is of how this data should be  
23 used or whether you want it in the case, but I guess the  
24 question becomes what's the best mechanism. I mean, is it  
25 an Order from the Presiding ALJs? Is it going back and

1 getting a Secretarial Letter out saying anybody who filed  
2 needs to serve this data on the following parties? I'm not  
3 sure I have a good answer for that right now, but I know we  
4 need it.

5 JUDGE SCHNIERLE: Right.

6 MR. KOHLER: One thing as to whether it goes into the  
7 record, I think one side or the other is going to want it in  
8 the record. I mean, if you need to actually sponsor that  
9 into the record, then you're faced with problems like  
10 getting third-party subpoenas unless everybody is willing to  
11 waive foundation, and I don't know that we can waive  
12 foundation for the people that aren't here.

13 MR. BARBER: The third-party subpoenas are going to  
14 be an issue we're probably going to be confronting in this  
15 case anyway. I mean, it's my understanding based on what  
16 Verizon provided in their response last night, there are a  
17 fair number of parties that they appear to have identified  
18 as trigger candidates for switching at least -- I don't know  
19 for transport as well -- that have not entered appearances  
20 in this case, apparently have no intention of participating  
21 in the case, but who we are probably going to be needing to  
22 serve discovery on to assess the accuracy of the data in  
23 terms of what they're purporting to be providing here, and  
24 the way I see it under these timetables and everything else,  
25 the only way we're going to be able to do that is through

1 third-party subpoenas.

2 Again, having just seen who it is and not yet having  
3 the complete picture of what they're alleged to be providing  
4 or not providing and where they're being providing, I'm not  
5 equipped right now to be saying, "Okay, Your Honor, you need  
6 to be authorizing subpoenas for the following information  
7 for the following carriers," but that's coming.

8 JUDGE SCHNIERLE: Well, I disclaim any responsibility  
9 for the file room.

10 MR. BARBER: One issue at a time.

11 MR. KOHLER: I wasn't trying to impute  
12 responsibility.

13 JUDGE SCHNIERLE: I'm just telling you I have  
14 absolutely no responsibility for that.

15 MR. KOHLER: The reason I'm a little bit concerned,  
16 and I know you've ordered that Verizon's filing be public,  
17 and this isn't so much a concern of myself, but if people  
18 are really concerned about protecting information according  
19 to the protection given in the Protective Order, I think  
20 it's pretty messing down there right now and you could  
21 probably come back with almost anything.

22 JUDGE SCHNIERLE: Well --

23 MR. KOHLER: I'm just bringing it to your attention.

24 JUDGE SCHNIERLE: We're off the record for a minute.

25 (Discussion off the record.)

1 JUDGE SCHNIERLE: Let's go back on the record.

2 I will say this. Looking at the list of carriers in  
3 the response, I know that something was filed by CTSI and  
4 Level 3. I don't recognize any of these others as having  
5 filed anything.

6 I'm inclined, in order to do this as quickly as  
7 possible, to issue an Order to the same companies that the  
8 Commission did telling them to serve proprietary versions of  
9 their responses on the representatives of the active  
10 parties, because I don't see how we can have it in-house and  
11 not put it in the record, basically. I'm in absolute  
12 agreement with you on that. It's either going to be in the  
13 record for decision or the Commission can't consider it.  
14 It's one or the other, but not both.

15 If you need to do third-party subpoenas, you're just  
16 going to have to do them.

17 MR. KOHLER: Sure.

18 JUDGE SCHNIERLE: There's a time lag on that, because  
19 you've got to serve them and give them time to answer and  
20 all that business, so I'd suggest as quickly as possible.

21 Frankly, looking at the list in the response, I'd  
22 really be curious to see what DQE and PPL have to do with  
23 this. I've got an idea on PPL. It might be their remote  
24 metering stuff.

25 MR. HICKS: Your Honor, could you attach a date to

1 that electronic service?

2 JUDGE SCHNIERLE: Yes, I will. I guess I have -- Mr.  
3 Hicks, send me --

4 MR. HICKS: Verizon's update case date that we talked  
5 about is the 19th of December.

6 JUDGE SCHNIERLE: Right, right. I'm sensitive. I  
7 understand. Do we have your e-mail address, your latest  
8 one?

9 MR. HICKS: I don't know. Here it is.

10 JUDGE SCHNIERLE: Pass that up. We keep a -- I'll  
11 tell you how it works. We have a contact list of all the  
12 attorneys and parties and whatnot who appear before us, and  
13 when we find that somebody has changed an e-mail address or  
14 something, we try to keep it updated. The Judges do that,  
15 not the Secretary's Bureau.

16 MR. BARBER: Your Honor, circling back on the  
17 potential for the third-party subpoena issue, unfortunately  
18 I'm not walking around with my copy of the Pennsylvania  
19 Code, but I understand there is a normal time limit for  
20 parties to respond to applications for subpoenas. Is there  
21 any possibility we could get that shortened given the time  
22 constraints of this case?

23 JUDGE SCHNIERLE: Well, it's ten days. Since the  
24 other parties aren't here, I'm pretty reluctant to shorten  
25 that any. I'm pretty reluctant to try to shorten that at

1 all. I would suggest call them and try to do it informally.

2 MR. BARBER: Part of the problem is figuring out who  
3 to call, but we'll work it out, Your Honor.

4 MS. BENEDEK: The application, if I'm correct, goes  
5 to you, Your Honor; correct?

6 JUDGE SCHNIERLE: Yes.

7 MS. BENEDEK: Maybe there could be some expedited  
8 treatment once the application comes in and the answers are  
9 forthcoming by the third party.

10 JUDGE SCHNIERLE: I mean, the problem is they could  
11 wait ten days. I'm assuming that Ms. Conover is not going  
12 to object to yours and you're not going to object to hers,  
13 but since we don't have these other parties here, they have  
14 ten days to respond. You're going to have to find out who  
15 to serve anyway.

16 Is there anything else we need -- oh, on the briefs,  
17 what we're going to want is similar to that briefing letter  
18 that the Commission sent out on the 100 case. Arrange the  
19 briefs by issues under the FCC's Order. Address the  
20 trigger, you know, specific factors so I won't have to go  
21 searching through to find out what -- I can't think of the  
22 language that was used by the Commission in that 100 Order,  
23 the Secretarial Letter on the briefs on the 100, but it's  
24 the same general idea. Follow the issues --

25 MR. KOHLER: The FCC's discussion.

1 JUDGE SCHNIERLE: -- as they're laid out in the FCC  
2 discussion in its Order.

3 MR. BARBER: Maybe the parties will need to get  
4 together and come up with a common briefing format.

5 JUDGE SCHNIERLE: Well, I'll tell you what. I'll  
6 leave that out of the Order, and then hopefully by the time  
7 we get around to the hearing, if you haven't reached some  
8 agreement, then we'll send an Order out and tell you what to  
9 do.

10 MR. McCLELLAND: Your Honor?

11 JUDGE SCHNIERLE: Yes.

12 MR. McCLELLAND: One other point of clarification.  
13 As you issue that Order ordering other companies who have  
14 not served the parties to serve the parties, it strikes me  
15 that some of these parties are not familiar with the PUC or  
16 telecom litigation here, and I've had some experience where  
17 we get the public, but we don't get private; and perhaps if  
18 you could also just indicate -- and I realize it's on the  
19 record and they should all know -- that there is a  
20 Proprietary Order outstanding in this case that does provide  
21 for due consideration of confidential information, et  
22 cetera, so that rest assured these parties are bound to  
23 maintain privacy of this information.

24 JUDGE SCHNIERLE: Right.

25 MR. McCLELLAND: That may assure that we may get a

1 little faster responses. Just a suggestion.

2 JUDGE SCHNIERLE: Sounds legitimate.

3 MS. PAINTER: I don't think we discussed the  
4 discovery in terms of shortening the time frames. I think  
5 all the parties have agreed to the proposal in MCI's  
6 prehearing memorandum about the ten days for turnaround, but  
7 we agreed with Verizon that the ten days for discovery  
8 already served would start from today, the ten-day due date,  
9 and then for all future discovery served.

10 JUDGE SCHNIERLE: All right. Anything else?

11 MS. CONOVER: I just want to clarify that everyone  
12 who is a party is going to be asked, including Verizon, to  
13 serve any of the discovery, proprietary discovery, that they  
14 provided to the Commission on all the other parties.

15 MR. HICKS: That is correct. That's my  
16 understanding.

17 MR. BARBER: I think we've got all of the parties'  
18 e-mail addresses. I mean, I think that the flurry of  
19 e-mails last week and last night may have captured  
20 everybody's e-mail, but we'll probably just need to double-  
21 check. There are actually a few people that were on that  
22 e-mail list that didn't come today. Counsel for RCN I don't  
23 think made the trip.

24 JUDGE SCHNIERLE: What I kind of intended to do was  
25 in this -- I'm not going to do this Order as -- well, maybe

1 I will as part of the Prehearing Order. I've got to think  
2 about it a little bit. When I do an Order, I'm going to try  
3 to list primary counsel's e-mail address in each case so  
4 that whoever gets this will be able to follow through  
5 without making a lot of phone calls or anything like that.

6 MR. McCLELLAND: One other thing, if I may interject.  
7 In our Notice of Intervention, we also listed we have three  
8 experts that we're using on this case, and we would ask the  
9 other parties to copy them on the e-mails as well so that  
10 the experts get it directly.

11 MS. BENEDEK: Phil, were there e-mails listed in the  
12 prehearing memorandum?

13 MR. McCLELLAND: On the Notice of Intervention.

14 JUDGE SCHNIERLE: I'm not going to put them on my  
15 list, because if I start down that road, I'll have a lot of  
16 people.

17 MR. McCLELLAND: I'm not asking you to, Your Honor;  
18 just the other parties.

19 MS. CONOVER: Just e-mail, but not the paper?

20 MR. McCLELLAND: As long as we're getting both, yeah,  
21 I think that will do.

22 MS. CONOVER: Because I think that's what adds to the  
23 killing of the trees.

24 MS. PAINTER: The problem is I have experts. We all  
25 have experts.

1 MR. KOHLER: I'm okay with doing it with the public  
2 advocates, but other than that, I think counsel ought to be  
3 responsible for dissemination.

4 MS. CONOVER: I agree with that.

5 JUDGE SCHNIERLE: Anything else?

6 MS. BENEDEK: Your Honor, we have not filed a  
7 prehearing memo on behalf of Sprint. I just want the  
8 parties to know we have at a minimum two witnesses that will  
9 be testifying in this case; so when we do eventually work  
10 out a schedule, that that should be considered as part of  
11 the working out of that schedule.

12 MR. BARBER: We'll obviously have a better feel for  
13 the hearing schedule once all the testimony comes in.

14 JUDGE SCHNIERLE: Right. Anything else?

15 (No response.)

16 JUDGE SCHNIERLE: All right. The prehearing  
17 conference is adjourned. Thank you very much and have a  
18 good day.

19 (Whereupon, at 11:15 a.m., the prehearing conference  
20 was adjourned.)

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C E R T I F I C A T E

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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