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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

INITIAL ARBITRATION MEETING

May 4, 2005

Jefferson City, Missouri

Volume 1

In the Matter of the Petition)
of Chariton Valley Telephone)
Corp. for Arbitration of)
Unresolved Issues Pertaining) Case No. TO-2005-0374
to a Section 251(b) (5))
Agreement with Unites States)
Cellular Corporation)

RONALD D. PRIDGIN, Presiding,
REGULATORY LAW JUDGE.

REPORTED BY:

STEPHANIE L. KURTZ MORGAN, RPR, CCR
MIDWEST LITIGATION SERVICES

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FOR: United States Cellular Corporation.

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

2 JUDGE PRIDGIN: Good morning. We are on the
3 record. This is the initial arbitration meeting in
4 Case No. TO-2005-0374, in the matter of Chariton Valley
5 Telephone Corporation for arbitration of unresolved issues
6 pertaining to a Section 251(b)(5) agreement with United States
7 Cellular Corporation.

8 I am Ron Pridgin. I am a Regulatory Law Judge with
9 the Commission, and I've also been appointed arbitrator over
10 this case.

11 I'll note for the record that this case has been
12 consolidated with five other cases, 0375 through 0379, and
13 0374 being the lead case.

14 We're here because of my April 25th order
15 scheduling this initial arbitration meeting. This is being
16 held on May 4th, 2005 in the Governor Office Building,
17 Room 305. The time is ten o'clock in the morning.

18 At this time I would like to get entries of
19 appearance from counsel, beginning with Chariton Valley,
20 please.

21 MR. JOHNSON: Judge Pridgin, Craig Johnson and Lisa
22 Chase, Andereck, Evans, Milne, Peace & Johnson, 700 East
23 Capitol, Post Office Box 1438, Jefferson City, Missouri 65102,
24 representing all of the Petitioners in the consolidated cases.

25 JUDGE PRIDGIN: Mr. Johnson, thank you.

1 Ms. Chase, good morning.

2 MS. CHASE: Good morning.

3 JUDGE PRIDGIN: And on behalf of Unites States
4 Cellular, please?

5 MR. GARDNER: Judge Pridgin, this is Paul H.
6 Gardner, with the law firm of Goller, Gardner & Feather,
7 131 East High Street, Jefferson City, Missouri, appearing on
8 behalf of United States Cellular Corporation.

9 JUDGE PRIDGIN: Mr. Gardner, thank you. Good
10 morning.

11 I don't believe we have any other parties to this
12 case. Do I have any other counsel that need to enter an
13 appearance?

14 MR. GARDNER: I will have -- I'm gonna be filing a
15 petition for out-of-state counsel --

16 JUDGE PRIDGIN: Okay.

17 MR. GARDNER: -- to appear, but we haven't done so
18 yet. I expect to file it today or tomorrow --

19 JUDGE PRIDGIN: Okay.

20 MR. GARDNER: -- as co-counsel.

21 JUDGE PRIDGIN: Okay. And, Mr. Gardner, you're
22 probably already aware -- that counsel's probably already
23 aware of the fairly recent Supreme Court rule requiring
24 payment of -- of fees. I just want to make sure that they
25 were aware.

1 MR. GARDNER: Yeah. Yeah.

2 JUDGE PRIDGIN: Okay.

3 MR. GARDNER: I appreciate that. One of them has
4 already in the context of another case, but the other one
5 hasn't. We'll take care of that.

6 JUDGE PRIDGIN: All right. Thank you.

7 Let me kind of go over what I envision being the --
8 the schedule in this case. And what I plan to do is -- unless
9 I see any objections otherwise, is -- is go over kind of a
10 rough timeline and issue an order adopting that timeline, and
11 giving you time to go back to your offices and -- and
12 essentially object.

13 In other words, issuing an order, but not making it
14 effective for a few days, so you can sit down with my order
15 and the rules and talk and -- and see if you think that I've
16 just completely misread the rule, because I see time deadlines
17 going in both directions, and I'm trying to kind of compress
18 that and -- and see how to make this fit.

19 The rule gives me the flexibility to move some of
20 these deadlines around, as long as I don't violate the -- the
21 federal TelCo Act. And what I've tried to do is dispense with
22 that 220-day deadline, which says that I have to have a draft
23 report in within the 220th day of the -- of the date the
24 petition is filed.

25 That is, when I see the other time deadlines going

1 in both directions, to me it's just almost physically
2 impossible to make that deadline. And so I'm not going to
3 try. But I'm gonna try to just dispense with that, and meet
4 the other deadlines.

5 Okay. Now, here again, is -- is a ballpark of how
6 I see a schedule to go. And I plan, again, on issuing an
7 order to that effect, and then, again, giving you time to
8 object, whether it's through pleadings or simply phone calls
9 or whatever and saying, this -- this just isn't workable.
10 You're misreading the rule.

11 I -- I understand that May 16th is U. S. Cellular's
12 deadline to reply?

13 MR. GARDNER: That's correct, Your Honor.

14 JUDGE PRIDGIN: All right. Following that, what I
15 envision is direct testimony, and then a revised statement of
16 unresolved issues to be filed by May 23rd, rebuttal testimony
17 by May 31st. And that's just allowing a little bit of time
18 for the Memorial Day weekend. Surrebuttal by June 6th.

19 And I see that the rule says that we will hold
20 mandatory mark-up conferences. And I would be pretty flexible
21 on that just to have those sometime in May and June, depending
22 on what the parties wanted -- or if they even wanted anything.

23 A list of issues and position statements and final
24 offers from the parties to be filed by June 13th. I've
25 reserved the week of June 20th for a hearing. Hopefully it

1 wouldn't take a full week, but I've got that full week blocked
2 off, the 20th through the 24th.

3 I would then plan to have a draft report issued by
4 July 11th. I would receive comments on that up until
5 July 21st. And I would -- I think the rule allows for
6 comments and/or briefs, and I would basically expect your
7 comments to be the brief; in other words, not to have both.
8 Just to allow you to -- to comment by July 21st.

9 I would then take to the Commissioners something
10 around July 28th saying this is where we stand. Do you wish
11 to accept my report or do something else?

12 And the reason I've done that is to allow some time
13 in August in case the Commission wants to hold further
14 hearings or get other pleadings.

15 And then I see as an operation of law date
16 August 21st. And I think that's a Sunday. So ostensibly
17 that -- that makes it more like August 19th. So that gives
18 some time in August if the Commission wants to do anything
19 else.

20 Now, if the parties have any comments on that, I'd
21 be glad to listen. I know I've thrown a lot of dates at you,
22 and --

23 Mr. Johnson?

24 MR. JOHNSON: Thank you, Judge.

25 We had exchanged tentative proposals --

1 JUDGE PRIDGIN: Okay.

2 MR. JOHNSON: -- between ourselves prior to today.

3 JUDGE PRIDGIN: Okay.

4 MR. JOHNSON: And so we -- I'm not saying that we
5 disagree with yours. We'll have to take it back and --

6 JUDGE PRIDGIN: I understand.

7 MR. JOHNSON: Because I don't know how amenable you
8 would be to a different proposal or a different structure.

9 I -- I started the process, and -- and based my
10 initial proposal on what the Commission ordered in the SBC --

11 JUDGE PRIDGIN: Uh-huh.

12 MR. JOHNSON: -- M2A arbitration.

13 JUDGE PRIDGIN: Okay.

14 MR. JOHNSON: As -- as far as I could tell, it was
15 the only arbitration I was aware of that actually had an order
16 scheduled in it.

17 I would comment on your schedule, it doesn't appear
18 to me that you have put time in at the back end for the
19 Commission to issue the order. And then normally because you
20 are resolving issues that have to be incorporated into an
21 agreement, the parties get a week or so to do that.

22 And I -- I was just noticing, for example, in the
23 bell one that there was a couple of weeks between the
24 Commission's decision and the time to get the successor -- the
25 successor agreement, is what they called it, that incorporates

1 the arbitration decision into the agreement, and it to be
2 filed. And that way it leaves the Commission another maybe
3 week to approve it.

4 JUDGE PRIDGIN: Okay.

5 MR. JOHNSON: That's one observation I have about
6 your schedule that it doesn't have the last two weeks built
7 in --

8 JUDGE PRIDGIN: Okay.

9 MR. JOHNSON: -- similar to what the other one was.
10 And it looked to me like, looking at your rule,
11 this is the first time I've been through this process.

12 JUDGE PRIDGIN: Me too.

13 MR. JOHNSON: and the rule in some respects seem
14 real definitive, and in other respects seem to give you the
15 flexibility to pretty much do what you wanted to.

16 I've spoken with counsel -- negotiating counsel for
17 United States Cellular. And they say they prefer to have an
18 issue-by issue final arbitration, as opposed to an
19 entire-package final arbitration.

20 As I read your rule, it -- the default is issue by
21 issue, unless the parties all agree to an entire package. So
22 I was wishing to advise you that we probably will be using the
23 issue-by-issue --

24 JUDGE PRIDGIN: That's fine.

25 MR. JOHNSON: -- structure.

1 JUDGE PRIDGIN: Okay.

2 If -- if -- if you care to, I can tell you what we
3 have --

4 JUDGE PRIDGIN: Sure.

5 MR. JOHNSON: -- exchanged, in order to compare it
6 to what you have presented to us. And it looks to me like
7 you're interested in having enough time for yourself, your
8 advisors and the Commission to do their job, and so you were
9 squeezing the front of the schedule up a little bit on us.

10 But we -- the schedule that we had exchanged was
11 May 16th response, May 23rd was the joint revised statement of
12 unresolved issues. We're trying to agree on the precise
13 wording and organization of the issues, which can be kind of
14 cumbersome, Your Honor.

15 JUDGE PRIDGIN: Sure.

16 MR. JOHNSON: Especially when we talk about what
17 we'll -- I'll just loosely refer to as a return-traffic issue,
18 the land-line to wireless traffic.

19 If that is an issue -- if that's subject to
20 reciprocal compensation, it brings a lot of the same issues
21 that we have with respect to our past traffic compensation
22 amounts into the mix. But the issues don't exactly match
23 structurally, so we have been working on that.

24 And this -- this is -- again, this is not something
25 that's been agreed to. But they had proposed that we have a

1 prehearing legal memorandum filed at the same time of the
2 joint revised statement of unresolved issues May 23rd.

3 They had a May 31 simultaneous direct testimony.
4 And they had in here a June 9th prehearing conference. Maybe
5 that could be called a mark-up conference. A June 10
6 simultaneous rebuttal.

7 And I'm presuming that the dates you gave me for
8 testimony were simultaneous filing dates?

9 JUDGE PRIDGIN: Yes.

10 MR. JOHNSON: Okay. Thank you.

11 A June 10 final offer deadline, a June 13 final
12 joint revised statement of unresolved issues.

13 And I'm thinking that we anticipate the possibility
14 that some issues will be resolved as we go along. And we've
15 been trying to decide between ourselves an appropriate way to
16 advise yourself when that happens --

17 JUDGE PRIDGIN: Okay.

18 MR. JOHNSON: -- to take an issue. And we don't --
19 we're not really sure exactly what the mechanism will be.

20 Another prehearing legal memorandum on June 13th,
21 June 15th discovery cut-off date, June 20 evidentiary hearings
22 that week, July 6th post-hearing briefs, July 18 draft report,
23 July 25th parties comments on the draft report.

24 August 2 will be an oral argument, if necessary.

25 And again, that's built in because of what we saw in the

1 SBC agreement -- or the -- the procedural schedule.

2 An August 19th Commission decision, August 26 to
3 file what they've referred to as the successor agreement,
4 which I -- I think would be more aptly described as an
5 agreement to the arbitration decision.

6 And then September 1 would be -- do we have
7 September 1?

8 MR. GARDNER: Approval.

9 MR. JOHNSON: Approval Septem-- of successor
10 agreement. But I think the problem with those dates in their
11 schedule are they're outside the window.

12 It looks to me like August 19th is the last date
13 the Commission is gonna have a business day in which to act.
14 And so even the schedule that has been proposed needs to be
15 squeezed up on the backside.

16 JUDGE PRIDGIN: Is it -- it's my understanding
17 that -- that -- that the Commission and/or the arbitrator has
18 to issue some sort of order on the dispute within the
19 nine months and not necessarily approve the agreement.

20 In other words, the -- that once the Commission
21 approves the agreement, then -- then we start another
22 deadline. That 30-day deadline comes afterwards; is
23 that -- am I missing something?

24 MR. JOHNSON: I would say, unfortunately, there are
25 many things about 251 and 252 of that Act that are very gray

1 and are not very clear at all. And I don't know the answer to
2 your question.

3 I had assumed that the Commission's opinion was
4 they had to get the final agreement approved within the
5 nine-month window. If you've got an interpretation that says
6 they've got another 30 days to do that, that's fine with me.

7 The problem with interpretations is if somebody
8 relies on it and it turns out to be incorrect, you give
9 somebody a free shot to take the final result to court.

10 JUDGE PRIDGIN: Right.

11 Mr. Haas, let me put you on the spot since you just
12 walked in. I don't know if you heard the question or if you
13 caught up with what we're talking about.

14 We're -- do you -- do you have an opinion as to
15 whether the -- the nine months -- the nine-month deadline in
16 the TelCo Act includes or does not include the final
17 interconnection agreement?

18 In other words, does this Commiss-- does the
19 arbitrator or the Commission simply have to resolve this
20 arbitration within the nine months, or does that also include
21 that -- that 30 days on the backside where the -- the parties
22 also have to file the agreement itself?

23 MR. HAAS: I haven't looked at that question, so
24 I'll have to get back to you on that.

25 JUDGE PRIDGIN: That's fine. That's fine.

1 I was operating under assumption that -- that the
2 nine months is -- is -- I mean, I'm just looking at the rule
3 here, you know, sub-- subparagraph 24 of 4 CSR 240-36.040, the
4 Commission shall make its decision resolving all of the
5 unresolved issues.

6 MR. JOHNSON: You're reading the Act now?

7 JUDGE PRIDGIN: No. I'm sorry. I'm reading the
8 Commission's rule.

9 MR. JOHNSON: Okay.

10 JUDGE PRIDGIN: No. Obviously if you see something
11 else in the Act that's to the contrary, please --

12 MR. JOHNSON: I'll have to go back and check that,
13 Your Honor.

14 JUDGE PRIDGIN: Okay. And I read that to mean it's
15 resolving the issues, and that the parties later after that
16 270 days would file an agreement that conforms with the --
17 with the decision. And then that's when our 30 days --

18 MR. JOHNSON: I know historically -- this has been
19 several years with different Commissioners -- we applied to
20 intervene in an arbitration because of some transit traffic
21 provisions that we had some conceptual problems with.

22 And the Commission at that time refused
23 intervention, because they felt like they had to get the
24 arbitration and the approved agreement resolved --

25 JUDGE PRIDGIN: Okay.

1 MR. JOHNSON: -- within the nine months.

2 Now, again, I'm not sure if that was a legal
3 interpretation as maybe as close to being the most
4 conservative approach possible. And I just assumed from the
5 SBC M2A schedule that that was also a conservative approach
6 taken there.

7 But I like your idea, Your Honor, of getting out a
8 tentative schedule and enter an order and giving us a couple
9 of days this week to -- I'd like to go back with Mr. Reed
10 and -- and reconsider some of the dates in here in light of
11 this discussion that we've had, and maybe come up with
12 something that would incorporate your front-end schedule a
13 little bit more and get rid of some of the unnecessary events
14 in the schedule that he's proposed.

15 JUDGE PRIDGIN: Okay. And -- and looking at
16 252(b) -- I'm trying to cite this correctly -- (b)(4)(c), the
17 State Commission shall resolve each issue set forth in the
18 petition and the response, if any, by imposing appropriate
19 conditions as required to implement Subsection C. And those
20 are the standards for arbitration.

21 And shall conclude resolution of any unresolved
22 issues not later than nine months. And if anybody sees any
23 case law or -- or thinks I'm misreading the statute, please
24 just let me know.

25 But to me that means that -- that the Commission

1 issues its decision, and then -- within the nine months, and
2 then the interconnection agreement is filed afterwards -- or
3 can be.

4 MR. JOHNSON: It could be part of your
5 implementation authority under that language.

6 JUDGE PRIDGIN: Which triggers the 30 days for the
7 Commission to Act after the nine months. Now, again, if
8 somebody sees law to the contrary, please let me know -- or
9 has an argument.

10 And I -- if I understand correctly, the
11 Commission's had at least one other arbitration in which the
12 parties agreed to extend the deadline past the nine months.
13 And the Commission approved that.

14 MR. GARDNER: Yeah, it was one of the early ones, I
15 think.

16 JUDGE PRIDGIN: I think there's been one pretty
17 recently.

18 MR. GARDNER: Really?

19 MR. JOHNSON: Several years ago there was a
20 situation where a bunch of arbitrations were filed with agreed
21 dates as to when the nine month-window started.

22 JUDGE PRIDGIN: Right.

23 MR. JOHNSON: And the Commission rejected that.

24 JUDGE PRIDGIN: Yeah.

25 MR. JOHNSON: It only took one of those

1 arbitrations. So maybe they were hot and cold, depending
2 on --

3 JUDGE PRIDGIN: Who the -- who the five are.

4 MR. JOHNSON: Whatever.

5 JUDGE PRIDGIN: I think, and I -- and I just talked
6 briefly with the judge this morning. And I think the judge
7 told me that just recently there's been one where the parties
8 agreed to extend, and the -- and that the Commission allowed
9 that. So that's something to keep in mind.

10 Also, as I read the rule -- and when I -- I'm
11 talking about the Commission's rule on arbitration -- it
12 prohibits ex parte contact with the advisory Staff, Mr. Cecil
13 and Mr. Peters.

14 But I don't see anything that prohibits you from
15 meeting with them outside of my presence. Now, again, if
16 anybody -- and I'm not saying that you have to or don't have
17 to. I just don't see anything in the rule that if everybody
18 wants to meet with them without me, I -- I think that's okay.

19 Again, if somebody reads the rule and concludes
20 otherwise, please let me know. And I'm not saying that you
21 have to or don't have to. I'm just saying that's how I read
22 the rule.

23 MR. JOHNSON: I appreciate you bringing --

24 JUDGE PRIDGIN: Mr. Peters. I'm sorry. Yes, sir?

25 MR. PETERS: So does that mean I can't be here now?

1 JUDGE PRIDGIN: No, not at all. You're -- you're
2 absolutely --

3 MR. PETERS: Okay. What would be prohibited then?

4 JUDGE PRIDGIN: I don't think -- what I'm saying is
5 I don't think it's prohibited if they want to meet with you
6 without me. I think that that's okay.

7 MR. JOHNSON: And by they, you mean both sides?

8 JUDGE PRIDGIN: Correct.

9 MR. JOHNSON: I had a question of my own. If I
10 wanted to provide communication to either Mr. Cecil or
11 Mr. Peters, as long as I copied in the other side on that
12 communication and they were aware of it, that would not be
13 considered ex parte. And whether or not it ever got discussed
14 between you and the advisors would be simply between you and
15 the advisors.

16 JUDGE PRIDGIN: Yeah, I don't -- I don't see a
17 problem with that, as long as -- as long as counsel is copied.

18 MR. JOHNSON: Okay.

19 JUDGE PRIDGIN: Again, obviously if you folks think
20 otherwise, please let me know.

21 MR. GARDNER: Yeah, I just want an opportunity to
22 respond --

23 JUDGE PRIDGIN: Sure.

24 MR. GARDNER: -- if we thought it was necessary.

25 JUDGE PRIDGIN: Sure.

1 I don't know if there's anything else that I can
2 cover for you. I mean, obviously you're here and ready to
3 talk.

4 MR. JOHNSON: We're ready to negotiate, Your Honor.

5 JUDGE PRIDGIN: Good.

6 MR. JOHNSON: Let's go.

7 MR. GARDNER: Judge?

8 JUDGE PRIDGIN: Yes.

9 MR. GARDNER: Do you have an idea when -- when
10 you'll issue your preliminary -- preliminary order on the
11 schedule?

12 JUDGE PRIDGIN: Probably -- probably tomorrow.
13 Maybe even today.

14 MR. GARDNER: Okay.

15 JUDGE PRIDGIN: Because I want to get you something
16 in paper immediately, so you can sit down and -- and say, oh,
17 your schedule is completely crazy and here's an objection.
18 And again -- and I'll make the effective date out, say, for a
19 week or so to give you time to object.

20 MR. JOHNSON: May I ask a question?

21 JUDGE PRIDGIN: Yes, sir.

22 MR. JOHNSON: Besides The final decision and
23 besides perhaps the procedural schedule, there's nothing else
24 the full Commission is going to be -- you're gonna be doing
25 everything else on your own --

1 JUDGE PRIDGIN: Right.

2 MR. JOHNSON: -- either as the arbitrator or as a
3 delegated order, but --

4 Okay.

5 JUDGE PRIDGIN: Yeah, the whole idea, right or
6 wrong, is that the Commission is -- is out of this until the
7 back end. So you're stuck with me.

8 MR. JOHNSON: Do they approve the schedule?

9 JUDGE PRIDGIN: No.

10 MR. JOHNSON: Okay. So you do the scheduling --

11 JUDGE PRIDGIN: Yes.

12 MR. JOHNSON: -- on your own as well?

13 Okay.

14 JUDGE PRIDGIN: Yes.

15 I mean, but because this rule is -- is -- has
16 deadlines going both directions and we've got some questions,
17 I -- I hesitate just to put the hammer down and say this is --
18 especially since I want you to negotiate. I want you to
19 settle this darn thing. And So I want to be sensitive to your
20 needs to get this done.

21 MR. JOHNSON: Do you have any trouble if we
22 structure the unresolved issue list in a way that we'd like
23 to, as opposed to matching every issue to a provision of the
24 agreement? It's sometimes awkward to do that.

25 JUDGE PRIDGIN: I don't -- I don't think I

1 have -- I'm not sure I understand your question. I -- I -- I
2 don't think I have a problem with that.

3 MR. JOHNSON: In terms of articulating the issues,
4 you would give us the leeway to submit whatever in the manner
5 we do it?

6 JUDGE PRIDGIN: Oh, I -- yeah, I think so.

7 MR. JOHNSON: Okay. I've seen people use matrices.
8 I've seen them tie everything to a section of the agreement
9 and just use a chronological series of things that aren't
10 necessarily sequential, because they're -- so much of the
11 agreement has been agreed to.

12 And I'm thinking if you come up with a structure
13 that's simple and everyone agrees to at the get-go probably be
14 easier to use that, rather than keep trying to -- tying the
15 number of --

16 JUDGE PRIDGIN: Right.

17 MR. JOHNSON: -- an individual issue back to an
18 agreement.

19 JUDGE PRIDGIN: That's fine. That's fine.

20 Is there anything else I can address for you?

21 Mr. Gardner?

22 MR. GARDNER: I just wanted to -- to comment.
23 Craig had mentioned the legal memorandum, which we had
24 proposed to file in conjunction with the revised statement.
25 And -- and it's possible that -- that the legal memorandum --

1 resolution of that ahead of time might obviate some of
2 these -- you know, some of the issues --

3 JUDGE PRIDGIN: Sure.

4 MR. GARDNER: -- as well. I don't know what your
5 inclination would be in terms of -- of ruling on that --
6 whether you just want to rule on it ahead of time or take it
7 with the case.

8 And I guess it really -- really don't have to
9 commit yourself now. But I -- I wanted you to be aware that
10 that's -- you know, we view that as a -- as -- as something we
11 want to do, because we think some of these are pure -- pure
12 legal issues that might have an impact on what's actually
13 arbitrated if we -- if we go to arbitration.

14 JUDGE PRIDGIN: That's fine.

15 And -- and when I issue an order setting the
16 schedule, I don't do that intending to preclude you from doing
17 something else that you think is necessary.

18 MR. GARDNER: Okay.

19 JUDGE PRIDGIN: In other words, you know, I may set
20 the schedule and give you a week to object. But you're always
21 free to say -- to file other pleadings or just to simply talk
22 to me and say, we -- you know, we think we've resolved this
23 issue or we think -- we think this is the best way to proceed.

24 Because, again, the whole idea is to get you to --
25 to settle this thing --

1 MR. GARDNER: Okay.

2 JUDGE PRIDGIN: -- hopefully and not have to use me
3 very much.

4 MR. JOHNSON: I think I'm familiar with what Paul
5 is speaking about, and this issue has been a problem. The
6 technical date of traffic that's been the subject of the
7 problem since February 5th, 1998. So it's been a
8 long-standing issue.

9 And recently the FCC issued the decision. I'm not
10 sure it's technically final yet, but we may be advising you in
11 our own way of what we think the import of that decision is.

12 But there are -- there are things that have
13 happened since we've even began the arbitration --

14 JUDGE PRIDGIN: Okay.

15 MR. JOHNSON: -- that are legal decisions that have
16 impacted the arbitration. And I'm not sure if you're talking
17 trying to get preliminary rulings at the beginning of the
18 arbitration or before the hearing that say this is the legal
19 conclusion I'm going to reach. Is that what you're asking
20 for?

21 JUDGE PRIDGIN: Well, kind of motions --

22 MR. JOHNSON: So we take this issue off the table.

23 MR. GARDNER: That -- that's along the lines of
24 what I'm thinking.

25 JUDGE PRIDGIN: Okay.

1 MR. GARDNER: Now, I -- I don't -- you know, we
2 have -- I'll tell you, we haven't done the arguments yet. But
3 I -- this is a possibility. And that's why we wanted the
4 opportunity to do a legal memo. Obviously you guys would have
5 an opportunity to respond.

6 Normally under the Commission rules it's 10 days.
7 But we don't have a problem if you want to, you know, change
8 that. And I assume that Judge Pridgin --

9 MR. JOHNSON: Well, I see --

10 MR. GARDNER: -- doesn't.

11 MR. JOHNSON: -- two competing considerations. In
12 a normal proceeding, anytime somebody wants to file a motion
13 that's directed a legal issue and considered dispositive, you
14 file, there's 10 days to respond, and the Commission may or
15 may not rule, depending on their inclination.

16 When you get into an arbitration, it looks to me
17 like what we're asking the Commission to do is to decide the
18 unresolved issues that we have framed during the period of
19 time -- the 135- to 160-day window.

20 And there may be a conceptual problem with taking
21 something off the table by a legal dispositive motion if it is
22 something the parties have been negotiating over. But I
23 understand either side can ask that that can be done.

24 MR. GARDNER: Yeah, I mean, obviously we can -- we
25 might disagree on whether it's dispositive --

1 MR. JOHNSON: Right.

2 MR. GARDNER: -- at all. I mean -- and, of course,
3 Judge Pridgin would rule on that at -- whenever he thinks it's
4 appropriate.

5 JUDGE PRIDGIN: That's probably something I
6 would -- I would guess I would put off until a final report,
7 again, to give you time to respond formally and also give
8 the -- the Commission time. And hop-- again, hopefully to
9 give you time just to settle it which, of course, you're going
10 to do.

11 MR. JOHNSON: Of course.

12 JUDGE PRIDGIN: Okay. Any -- anything else that I
13 can answer, resolve for you? I don't know that I can do much
14 more for you right now.

15 (No response.)

16 JUDGE PRIDGIN: okay. I'm gonna step out, and
17 we're gonna go off the record here in just a minute. You
18 obviously have access to this room the rest of the day. I'm
19 on the ninth floor.

20 If for some reason you arrive at hearing dates that
21 are completely different than that June 20th week, please let
22 me know. Because it's a matter of trying to find time on the
23 calendar, and that's not the easiest thing to do.

24 But -- but I'm assuming that that June 20th week is
25 probably gonna be --

1 Mr. Johnson?

2 MR. JOHNSON: I'm sorry to do this to you, but --

3 JUDGE PRIDGIN: That's okay.

4 MR. JOHNSON: And this may be something that you
5 can't answer now, but perhaps you could think you. We -- I
6 think we have six different arbitrations consolidated.

7 JUDGE PRIDGIN: Yes, sir.

8 MR. JOHNSON: And we've negotiated with United
9 States Cellular as group as well. I'm not sure what we will
10 and won't be able to resolve prior to the hearing.

11 But there are some things that -- if there would be
12 no objection to one witness handling for a multitude of
13 companies, even though that witness may be a consultant and
14 may not have the personal background or the personal
15 knowledge -- traffic volumes, for example, might be just
16 something.

17 That may be something I'd ask you all to think
18 about. Because I have a -- there's four of the companies that
19 there's not a whole lot at stake here financially or traffic
20 volumewise, and there's two companies where there is a
21 significant amount.

22 And if there's a way we can shorten the evidentiary
23 hearing by having a consultant maybe testifying as to cost
24 support for rates also be responsible for fielding questions
25 with respect to those four companies' traffic, that might be

1 something that would help us shorten up the hearing.

2 And it will be something that I'll be talking to
3 Daryl about.

4 MR. GARDNER: I'm sure we'll agree with anything
5 reasonable.

6 MR. JOHNSON: I -- I know. It's never been a
7 problem in the past.

8 I hate to rely on that and bring somebody down here
9 and find out that they would object, and he wouldn't be
10 allowed to testify. If that's gonna happen, I would just as
11 soon bring everybody here, which would make it clumsy.

12 JUDGE PRIDGIN: Sure. I understand.

13 Okay. Anything else?

14 MR. JOHNSON: You don't envision a series of
15 hearings; you envision a single hearing to take care of all
16 unresolved issues that are pending at that time?

17 JUDGE PRIDGIN: That's what I was anticipating.

18 MR. JOHNSON: Because the rule talked about mark-up
19 conferences and --

20 JUDGE PRIDGIN: Right.

21 MR. JOHNSON: -- a series of limited evidentiary
22 hearings.

23 JUDGE PRIDGIN: Right. Yeah, I would just plan to
24 just -- I would just plan to just block out that week, and
25 just do whatever it takes to get it done that week. Hopefully

1 sooner -- sooner than that.

2 MR. JOHNSON: Well, thank you. That's all I can
3 think of to talk about.

4 JUDGE PRIDGIN: All right. If there's nothing
5 further, I'm going to go off the record. I am up on the ninth
6 floor if anybody needs to discuss anything with me.

7 Is there anything further from the parties?

8 MR. GARDNER: Not that I can think of, Your Honor.

9 JUDGE PRIDGIN: If there's nothing further, then
10 we'll conclude this initial arbitration meeting in Case
11 No. TO-2005-0374.

12 Thank you. We are off the record.

13 WHEREUPON, the on-the-record portion of the initial
14 arbitration meeting was concluded.

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