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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

PREHEARING CONFERENCE

May 11, 2004

Jefferson City, Missouri

Volume 2

In the Matter of the Petition of New)
London Telephone Company, Orchard Farm)
Telephone Company and Stoutland) Case No.
Telephone Company for Suspension of the) TO-2004-0370
Federal Communications Commission)
Requirement to Implement Number)
Portability)

In the Matter of the Petition of KLM)
Telephone Company for Suspension of the)
Federal Communications Commission) Case No.
Requirement to Implement Number) TO-2004-0401
Portability)

In the Matter of the Petition of Holway)
Telephone Company for Suspension of the)
Federal Communications Commission) Case No.
Requirement to Implement Number) TO-2004-0403
Portability)

In the Matter of the Petition of Green)
Hills Telephone Company for Suspension)
of the Federal Communications) Case No.
Commission Requirement to Implement) TO-2004-0428
Number Portability)

In the Matter of the Petition of Farber)
Telephone Company for Suspension and)
Modification of the Federal) Case No.
Communications Commission Requirement) TO-2004-0437
to Implement Number Portability)

1 In the Matter of the Petition of Peace)
Valley Telephone Company, Inc. for)
2 Suspension and Modification of the) Case No.
Federal Communications Commission) TO-2004-0438
3 Requirement to Implement Number)
Portability)
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5 Port Telephone Company for Suspension)
and Modification of the Federal) Case No.
6 Communications Commission Requirement) TO-2004-0439
to Implement Number Portability)
7
In the Matter of the Petition of Alma)
8 Communications Company d/b/a Alma)
Telephone Company for Suspension of the) Case No.
9 Federal Communications Commission) IO-2004-0453
Requirement to Implement Number)
10 Portability)
11
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12 Steelville Telephone Exchange, Inc. for)
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13 Federal Communications Commission) TO-2004-0454
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14
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15 Mid-Missouri Telephone Company for)
Suspension of the Federal) Case No.
16 Communications Commission) TO-2004-0455
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17 Portability)
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19 River Mutual Telephone Corporation for)
Suspension and Modification of the) Case No.
20 Federal Communications Commission) TO-2004-0456
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Portability)
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22 Lathrop Telephone Company for)
Suspension and Modification of the) Case No.
23 Federal Communications Commission) TO-2004-0457
Requirement to Implement Number)
24 Portability)
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1 In the Matter of the Petition of Mark)
 Twain Rural Telephone Company for)
2 Suspension and Modification of the) Case No.
 Federal Communications Commission) TO-2004-0458
3 Requirement to Implement Number)
 Portability)
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5 Telephone Company for Suspension and)
 Modification of the Federal) Case No.
6 Communications Commission Requirement) TO-2004-0459
 to Implement Number Portability)
7
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8 Chariton Valley Telephone Corporation)
 for Modification of the Federal) Case No.
9 Communications Commission Requirement) IO-2004-0467
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11 Northeast Missouri Rural Telephone)
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12 Communications Commission Requirement) IO-2004-0468
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13
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14 Chariton Valley Telecom Corporation for) Case No.
 Modification of the Federal) CO-2004-0469
15 Communications Commission Requirement)
 to Implement Number Portability)
16
 In the Matter of the Petition of)
17 Ellington Telephone Company for)
 Suspension and Modification of the) Case No.
18 Federal Communications Commission) TO-2004-0480
 Requirement to Implement Number)
19 Portability)
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 In the Matter of the Petition of BPS)
20 Telephone Company for Suspension and)
21 Modification of the Federal) Case No.
 Communications Commission Requirement) TO-2004-0484
22 to Implement Number Portability)
23
 In the Matter of the Petition of)
23 Citizens Telephone Company of)
24 Higginsville, Missouri for Suspension) Case No.
 and Modification of the Federal) TO-2004-0486
25 Communications Commission Requirement)
 to Implement Number Portability)

1 In the Matter of the Petition of)
Kingdom Telephone Company for)
2 Suspension and Modification of the) Case No.
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3 Requirement to Implement Number)
Portability)
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5 In the Matter of the Petition of)
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6 Suspension and Modification of the) Case No.
Federal Communications Commission) TO-2004-0489
7 Requirement to Implement Number)
Portability)
8
9 In the Matter of the Petition of)
Goodman Telephone Company, Ozark)
10 Telephone Company and Seneca Telephone) Case No.
Company for Suspension and Modification) TO-2004-0490
of the Federal Communications)
11 Commission Requirement to Implement)
Number Portability)
12
13 In the Matter of the Petition of)
McDonald County Telephone Company for)
14 Suspension and Modification of the) Case No.
Federal Communications Commission) TO-2004-0491
15 Requirement to Implement Number)
Portability)
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17 In the Matter of the Petition of Granby)
Telephone Company for Modification of)
18 the Federal Communications Commission) Case No.
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Portability)
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20 In the Matter of the Petition of Le-Ru)
Telephone Company for Suspension and)
21 Modification of the Federal) Case No.
Communications Commission Requirement) TO-2004-0494
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22
23 In the Matter of the Petition of New)
Florence Telephone Company for)
24 Suspension and Modification of the) Case No.
Federal Communications Commission) TO-2004-0503
Requirement to Implement Number)
Portability)
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1 In the Matter of the Petition of Cass)
County Telephone Company for)
2 Suspension and Modification of the) Case No.
Federal Communications Commission) TO-2004-0504
3 Requirement to Implement Number)
Portability)
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5 In the Matter of the Petition of)
Craw-Kan Telephone Cooperative for)
Suspension and Modification of the) Case No.
6 Federal Communications Commission) TO-2004-0505
Requirement to Implement Number)
7 Portability)
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9 In the Matter of the Petition of Miller))
Telephone Company for Suspension and)
10 Modification of the Federal) Case No.
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12 In the Matter of the Petition of Oregon))
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Suspension and Modification of the) Case No.
13 Federal Communications Commission) TO-2004-0526
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15 In the Matter of the Petition of MoKan)
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16 Communications Commission Requirement) IO-2004-0545
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18 In the Matter of the Petition of)
Choctaw Telephone Company for)
Suspension and Modification of the) Case No.
19 Federal Communications Commission) IO-2004-0546
Requirement to Implement Number)
20 Portability)

21
22 MORRIS L. WOODRUFF, Presiding
SENIOR REGULATORY LAW JUDGE.
23 VICKY RUTH,
SENIOR REGULATORY LAW JUDGE.
24 STEVE GAW, Chair
CONNIE MURRAY,
25 ROBERT CLAYTON, III
COMMISSIONERS.

1 REPORTED BY:
2 TRACY L. THORPE, CSR, CCR
3 MIDWEST LITIGATION SERVICES

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Granby Telephone Company
Grand River Mutual Telephone Corporation
Green Hills Telephone Cooperative
Holway Telephone Company
Iamo Telephone Company
Kingdom Telephone Company
KLM Telephone Company
Lathrop Telephone Company
Le-Ru Telephone Company
McDonald County Telephone Company
Mark Twain Rural Telephone Company
Miller Telephone Company
New Florence Telephone Company
New London Telephone Company
Orchard Farm Telephone Company
Oregon Farmers Mutual Telephone Co.
Ozark Telephone Company
Peace Valley Telephone Co., Inc.
Rock Port Telephone Company
Seneca Telephone Company
Steelville Telephone Exchange, Inc.
Stoutland Telephone Company

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P R O C E E D I N G S

JUDGE RUTH: Good morning. My name is Vicky Ruth, and I am one of the regulatory law judges assigned to the Local Number Portability cases. Beside me is Morris Woodruff, he's also a regulatory law judge assigned to several of the cases. We'll be conducting today's prehearing conference jointly.

Today's date is Tuesday, May 11, 2004 and it's a few minutes after ten o'clock. Now, as I mentioned, we're here for a prehearing conference in the Local Number Portability cases. Rather than read all of those into the record, I have a copy of the caption from the hearing from last week and I'll give those to the court reporter to type in unless anyone objects, in which case I'll read them all into the record.

Okay. Seeing no objection, I'll provide that to her at the end of the hearing.

Let's go ahead and do entries of appearance. Counsel for New London, etc.

MR. ENGLAND: Thank you, your Honor. Let the record reflect the appearance of W.R. England and Brian T. McCartney on behalf of the group I think you've named New London, etc. Our business address is Brydon, Swearngen, England, Post Office Box 456, Jefferson City, Missouri 65102.

1 JUDGE RUTH: Thank you.

2 And I'll go ahead and state as in the hearing,
3 I do have a tendency to refer to the parties represented by
4 Mr. England as the New London parties and the parties
5 represented by Ms. Chase as the Alma parties. When I refer
6 to them, I am including all of their -- all of the cases
7 that each counsel is involved in.

8 Okay. Ms. Chase?

9 MS. CHASE: Thank you, your Honor. Let the
10 record reflect that Lisa Chase appears on behalf of the Alma
11 parties. My address is 700 East Capitol, Jefferson City,
12 65201--102.

13 JUDGE RUTH: Thank you.

14 And Public Counsel?

15 MR. DANDINO: Thank you, your Honor. Michael
16 Dandino, Office of the Public Counsel, Post Office Box 2230,
17 Jefferson City, Missouri 65102 representing the Office of
18 Public Counsel and the public.

19 JUDGE RUTH: Thank you.

20 Staff?

21 MR. MEYER: Good morning. David Meyer and
22 William Haas -- Haas, sorry, for the Staff of the Missouri
23 Public Service Commission. It's PO Box 360, Jefferson City,
24 Missouri 65102.

25 JUDGE RUTH: Okay. And Western Wireless?

1 MR. STEINMEIER: Thank you, your Honor. Let
2 the record reflect the appearance of William D. Steinmeier,
3 William D. Steinmeier PC, PO Box 104595, Jefferson City,
4 Missouri 65110-4595 on behalf of WWC License, Western
5 Wireless doing business as Cellular One.

6 JUDGE RUTH: Thank you.

7 Okay. The first thing I want to mention is
8 that the Commission has authorized us to, from the Bench,
9 issue or grant a temporary suspension. And we'll follow up
10 with notices in each case, but let me state now then that in
11 each case, the deadline of May 24th for the companies to
12 become LNP ready is suspended until August 7th, 2004. And I
13 believe that's a Saturday, but again, August 7th, 2004. And
14 there will be a notice confirming that for each of the
15 cases.

16 And I'm going to let Morris take over.

17 JUDGE WOODRUFF: Well, as you're probably
18 aware, the Commission has requested that we conduct hearings
19 in these cases. And we've brought you all together today to
20 try and get some idea of how to proceed, which cases can be
21 grouped with which cases and some idea on when a hearing can
22 be held. The August 7th date was based on the -- I believe
23 the statute allows -- is it 120 days?

24 JUDGE RUTH: 180 days.

25 JUDGE WOODRUFF: Excuse me, 180 days from the

1 initial filing of a request for the Commission to act -- to
2 investigate an act, collect evidence. The August 7th date
3 would be 180 days from the date that the first -- first of
4 these cases was filed.

5 JUDGE RUTH: The 370 case, I believe.

6 JUDGE WOODRUFF: So I'm just going to throw it
7 open to the parties. Anybody that would like to explain how
8 we can best divide up these cases and proceed?

9 JUDGE RUTH: And as some of you may be aware
10 if you were in the agenda session last Thursday, the
11 Commissioners did comment that it might be possible for the
12 parties in some of the cases to stipulate to the facts and a
13 hearing might not be necessary, but that certainly in the
14 cases -- the three cases where the Intervenor's involved,
15 the expectation is that a hearing would be necessary and we
16 want to hear from the parties then what you anticipate would
17 be an efficient and effective procedural schedule to move
18 forward on these cases.

19 When we were looking at them, you know, it
20 seems that if a hearing is necessary, I don't know if they
21 can all be heard in one case or if perhaps there needs to be
22 a couple of hearings grouping them by perhaps the companies
23 that are LNP ready in one hearing versus the companies that
24 are not LNP ready for another hearing or if you would prefer
25 to group them by the ones that ask for modification and

1 suspension versus the ones that only ask for modification.

2 We want to hear from you as to what would work
3 best or perhaps you feel they can all be heard in one
4 hearing. And, again, I don't know if you've had an
5 opportunity to meet with any of the parties since last
6 Thursday, if you have discussed the feasibility of
7 stipulating to the facts in some of the cases, but that was
8 mentioned in the agenda session as perhaps a way to proceed
9 on some of the cases.

10 MR. ENGLAND: Your Honor, I'll take a crack at
11 it. We have not had an opportunity to talk with the various
12 parties. We are aware of the Commission's discussion in its
13 agenda meeting. What I have to say would just be my own
14 personal thoughts off the top of my head to some degree.

15 I tend to agree with you. I think the three
16 cases where we have an Intervenor, probably if you want to
17 group cases, would form one group. Within that group we've
18 got two that are sort of similarly situated and then one
19 that has a different situation.

20 And we're prepared to discuss with Intervenor
21 counsel, Mr. Steinmeier, how best to proceed with those.
22 Perhaps we can even reach some sort of stipulation with
23 respect to some or all of those three.

24 The remaining companies or the remaining
25 requests, at least insofar as we represent them, as I

1 indicated in the on-the-record presentation and you alluded
2 to just a minute ago, we have some that are requesting
3 suspension and modification and then those that are simply
4 requesting modification that are LNP capable, if you will,
5 but requesting a modification or a clarification of their
6 porting requirements. So it would seem that that would be
7 sort of a logical breakpoint for the remaining 27 companies
8 that we represent.

9 And, again, we're prepared and willing to
10 discuss that with Staff and Public Counsel and see if we
11 can't come up with some agreed-upon procedures. I think
12 trying to do all in one day is a little ambitious. At the
13 very least, I would try to group it in the categories that I
14 just mentioned and you may even want to bifurcate it or
15 subgroup it even more, frankly, depending on the questions
16 from the bench.

17 We feel like we've given you enough
18 information for you to say yes or no. So I don't know what
19 else we need in the way of a hearing to present evidence
20 other than to put somebody up there and say, I'm the fellow
21 that, for example, put this cost information together and if
22 you have any questions about it, have at it. But I think it
23 speaks for itself. It's fairly straightforward and
24 self-explanatory.

25 JUDGE WOODRUFF: And that might be a good

1 point for a stipulation of facts as well.

2 MR. ENGLAND: We'd certainly be willing to
3 entertain that.

4 JUDGE WOODRUFF: I know the Commissioners have
5 had an opportunity already to ask some of these questions
6 and we're concerned about making a record that they can make
7 a decision on, and through a stipulation of facts could
8 certainly help us with that.

9 Mr. Dandino?

10 MR. DANDINO: Yes, your Honor. Rather than a
11 new document of a stipulation of facts, if the parties would
12 agree that the record in the case would consist of the
13 already filed cost information, the verified cost
14 information and the verified applications and Staff
15 recommendation and the proceedings here the other day, which
16 I believe some were -- or at least testimony was under
17 oath --

18 JUDGE WOODRUFF: Yes.

19 MR. DANDINO: -- that that would constitute a
20 record and we could stipulate that the Commission could use
21 that to decide rather than, you know, trying to redraft a
22 whole record. At least they would have it and then the --
23 and then the parties could, you know, submit a brief just
24 highlighting what parts of it should be the most relevant
25 part. How would the Commission look at something like that

1 or are they looking for a new document?

2 JUDGE WOODRUFF: I get the feeling the
3 Commission's probably looking for a new document to set it
4 out. I don't want to speak for them, how open they would be
5 to other alternatives.

6 Ms. Chase, do you want to state your position?

7 MS. CHASE: Yes. We have one company that's a
8 little differently situated than the other companies and
9 that's Alma Telephone Company. It has a switch that will
10 not be supported come January 2007.

11 It has done its analysis, which is part of its
12 cost information that has been submitted to the Staff, that
13 shows that the cost for upgrading its switch for the period
14 between now and January of 2007 will be extremely high and
15 Staff has issued a recommendation that appears to indicate
16 that they feel the same way.

17 Alma is in the process of looking at re-doing
18 its entire network system so that it not only upgrades the
19 switch, but it's also putting in fiber to each of its
20 customers so that they will have enhanced features going
21 from this point forward, but they will need a two-year
22 suspension to get this entire network upgrade in place.

23 And it was their opinion and mine that it was
24 more cost efficient for them to make one upgrade, and that
25 is to upgrade their entire network at this time, instead of

1 upgrading the switches at this time and then having to do a
2 subsequent upgrade come 2006 so that they're ready when the
3 switch is no longer supported in 2007.

4 Staff has issued its recommendation in that
5 case based on the cost of upgrading its switch and
6 recommended the two-year suspension and, of course, we have
7 no dispute with that.

8 With respect to other companies, we have one
9 company that has requested suspension and modification, one
10 that has requested modification and, in the alternative,
11 suspension, and then the others have simply requested
12 modification.

13 At this time we have companies that have moved
14 forward and -- or either already have their switches LNP
15 capable or are close to having their switches close to LNP
16 capable and so with respect to the remaining companies,
17 given the suspension that has been granted to August 7th,
18 they are only interested in the modification portion of
19 their request.

20 JUDGE WOODRUFF: Okay.

21 JUDGE RUTH: Can you clarify which ones that
22 would be then which are only interested now in the
23 modification issues because of the suspension until
24 August 7th?

25 MS. CHASE: That would be Mid-Missouri

1 Telephone Company, Northeast Telephone Company, Chariton
2 Valley Telephone Company, Chariton Valley Telecom, MoKan
3 Dial, Inc., and Choctaw Telephone Company.

4 JUDGE RUTH: Thank you.

5 JUDGE WOODRUFF: Anybody else want to be
6 heard? Yes, Mr. Steinmeier. I saw him first.

7 MR. MEYER: Nobody can hear me anyways.

8 MR. STEINMEIER: Your Honor, as we expressed
9 last week, the greatest overriding concern of Western
10 Wireless in this matter is that the Commission rigorously
11 enforce the burden of proof that is statutorily set forth by
12 the Congress for suspensions or modifications from this LNP
13 requirement.

14 And we continue to stand amazed that 30-some
15 companies, almost the entire universe of small rural ILECs
16 in the state, found it impossible after eight years notice
17 that LNP was coming to meet LNP at the date prescribed six
18 months ago on a firm final basis by the Federal
19 Communications Commission.

20 And, unfortunately, that phenomenon meant that
21 the Staff of the Commission was slammed in the sense that
22 restaurants get slammed when more customers come all at once
23 then you expect to come. The burden that was placed on the
24 Staff was onerous and unreasonable to have to try to digest
25 and sort out and evaluate and verify the soundness of the

1 reasons of 30-some companies for suspensions and
2 modifications.

3 Having said that, we would hope that in the
4 hearing process that comes out of this prehearing, the Staff
5 would continue to seek to vigorously enforce and assure that
6 the companies requesting suspension and modification are
7 held to that burden of proof.

8 And we applaud the Staff for the job they've
9 done under adverse circumstances through no fault of their
10 own in trying to sort out and trying to fairly balance the
11 interests in this matter.

12 As to the lumping together of cases, although
13 we feel, as I have just expressed, on the overall issue of
14 the company's burden of proof in this matter, it would be
15 very difficult and costly for us to try to address those
16 issues in a single hearing taking on all 37 cases and only 3
17 of which we have specifically intervened.

18 We would agree with Mr. England that for our
19 purposes, we would ask that the three cases in which we have
20 intervened would be grouped together. We think they
21 reasonably could be. At least that's -- and as Mr. England
22 has properly pointed out, there are differences among those
23 three as well.

24 Whether KLM needs its own hearing and the
25 other two companies their own, we can discuss further,

1 although coming in today we sensed that we could lump those
2 three cases together and hear them on a consolidated basis.

3 As far as stipulations of fact goes, we're
4 certainly more than willing to pursue that possibility even
5 in our cases, have a few ideas of that -- about that. Due
6 to the rather expedited schedule on which this prehearing
7 was established, I have been simply unable to put anything
8 on paper yet, but I'm confident that those are things that
9 counsel can discuss among ourselves.

10 JUDGE WOODRUFF: For Staff?

11 MR. MEYER: I'll also echo some of
12 Mr. England's suggestions about grouping and note that
13 perhaps the list that Staff had prepared that had been
14 submitted last week breaking down the companies between cost
15 recovery, switch replacement and modification might serve as
16 a starting point for that breakdown, but note in light of
17 some of Ms. Chase's comments it sounds as if some of those
18 companies may be switching groupings, so it might be perhaps
19 something that the parties could do would be to update a
20 breakdown in the three groupings.

21 We'd also echo Mr. Steinmeier's comments about
22 separating out his three intervention cases; if nothing
23 else, just for the convenience of the parties and for the
24 Commission to consider those since they will have a somewhat
25 different situated record.

1 I'd also make the comment just to throw out
2 there that there's the possibility in the cases involving
3 cost recovery that they might involve discussion of
4 proprietary information, which while in writing among the
5 parties and among counsel may not be a problem to exchange,
6 they do involve different individual companies and, thus, if
7 discussed in an open -- or even in a closed record but with
8 different parties in the room might create some potential
9 problems with clients hearing other clients' information,
10 which again, I just note that.

11 I think it probably could be overcome in a
12 communal hearing, but it's perhaps something the Commission
13 could be aware of.

14 JUDGE WOODRUFF: Perhaps go in-camera for that
15 type of discussion and take care of it that way.

16 MR. MEYER: It may. It probably would be the
17 discretion of the parties represented by counsel on how to
18 handle that. But if certain parties are not to hear other
19 parties' proprietary information, it may entail some coming
20 and going in the hearing room.

21 JUDGE WOODRUFF: Sure.

22 JUDGE RUTH: I want to add that during at
23 least two agenda sessions, the Chairman expressed an
24 interest in having all of these cases heard in one day.
25 And I expressed concern with that idea, however, it's an

1 idea he's still interested in. So if the parties believe
2 that is not appropriate, you need to -- in the follow-up to
3 this, you need to explain why, because apparently I did not
4 explain it to him very well because he is still interested.

5 He wanted me to convince him why it shouldn't
6 all be done in one day. And I suggested to him maybe two or
7 three different hearings and he wasn't convinced. So unless
8 the parties want it all in one day, I do suggest that in a
9 follow-up to this prehearing conference, that you make it
10 clear why one hearing would be a bad idea.

11 MR. DANDINO: Would we necessarily need a
12 hearing -- if the parties all agreed that a modification
13 ought to be made, is there any need for a hearing in that
14 case?

15 JUDGE RUTH: The Commissioners indicate if you
16 stipulate to the facts, in that particular situation, a
17 hearing might not be necessary. But they were anticipating,
18 I believe, a written stipulation of facts in those cases and
19 then a hearing would not be necessary. Now, you're frowning
20 at me. I take it I'm not being clear.

21 MR. DANDINO: What I was thinking --

22 JUDGE RUTH: Do you want to clarify?

23 MR. DANDINO: I didn't mean any disrespect,
24 your Honor.

25 JUDGE RUTH: No. I understand.

1 MR. DANDINO: What I was thinking of was,
2 well, if you stipulate to the facts in virtually -- in all
3 the cases, maybe the facts aren't in dispute, but if you do
4 and even though you're not agreeing to it, don't you have a
5 record there that you could decide? I mean, you're not
6 agreeing on the ultimate outcome, you're just saying, Here
7 are the facts, go ahead and decide it.

8 JUDGE RUTH: You're trying to convince the
9 wrong party.

10 MR. DANDINO: I understand.

11 MR. ENGLAND: Your Honor --

12 JUDGE RUTH: The Commissioners seem to believe
13 that they need or want hearings or stipulations of fact.

14 MR. ENGLAND: And I can appreciate that, but I
15 think I think I know where Mr. Dandino may be going with
16 this. To the extent on the non-contested cases, if you
17 will, that the parties can reach a stipulation not only with
18 respect to facts, but perhaps to what the Commission ought
19 to do, my recent experience is that still would be subject
20 to an on-the-record presentation, questioning from the
21 Commission.

22 And if, for example, we have 27 of those or
23 even some large number but less than 27, I think it may be a
24 little ambitious to think that the Commission's going to --
25 to the extent they have questions regarding each and every

1 one, to expect that to be done in one day.

2 So I want to follow up on Mr. Dandino's
3 question. If we have stipulations, frankly, we think we can
4 do it one day because there's not going to be any questions
5 from us, but we can't predict what's going to happen from
6 the Commission. And, secondly, I'm not sure I can get all
7 27 or whatever of my clients that need to be here on the
8 same day.

9 So, I mean, with those practicality issues, if
10 you will, logistical issues spoken, we'll try to accommodate
11 the Commission's desires as best we can.

12 JUDGE RUTH: And I did not mean to imply that
13 you have to propose a procedural schedule or on-the-record
14 presentation schedule that is only one day. What I was
15 trying to convey is if it's not a good idea, you need to
16 make it clear why it's not a good idea because I was not
17 successful in expressing why it was not a good idea. Does
18 that make sense?

19 So if you have some parties that would have
20 the same set of witnesses or whatever, you want to break it
21 down that way, I'm leaving it with you to propose a good way
22 to handle that. And, of course, it's theoretically possible
23 that they would not want an on-the-record presentation if
24 the parties file a Stipulation and Agreement.

25 MR. MEYER: And I'll throw this out there just

1 as a suggestion. In many Stipulations and Agreements that
2 Staff participates in, there is language just setting forth
3 the possibility that there would be suggestions in support
4 filed by Staff at a later point in time, at which point then
5 the Commission would sometimes notice it on an agenda
6 session for potentially more informal questions of parties
7 regarding that. Would that be something that could be
8 suggested in these stipulations?

9 JUDGE RUTH: I think it could be.

10 JUDGE WOODRUFF: You can certainly suggest it.
11 If they tell us no, they tell us no.

12 JUDGE RUTH: Exactly. And we're not going to
13 probably suggest it on our own if you don't put it in there.
14 But if you put it in there, it's going to be their final
15 call whether they want to do that.

16 Did you have something you wanted to add,
17 Mr. Steinmeier?

18 MR. STEINMEIER: Your Honor, I would just add
19 that this is not a case where an association is asking for
20 some action from the Commission. These are 30-odd
21 individual cases each with its own unique set of facts.

22 Each of the 37 -- is it 37? Each of the
23 30-odd -- and I don't mean to indicate that any of them
24 individually are odd. Any of the 30-plus companies who have
25 filed petitions in these matters, each of them has an

1 individual burden of proof to prove on the unique facts and
2 circumstances of their company why the requirements of LNP
3 should be suspended or modified.

4 Within our three cases, I think it would be
5 very difficult to complete a hearing in a single day. For
6 that fundamental reason, I think in my mind, it seems quite
7 unrealistic to expect a hearing in a single day. Granted,
8 however, that there is always the possibility that parties
9 will come to agreements and stipulations that would
10 considerably reduce the time required for hearing
11 presentation.

12 JUDGE RUTH: And I count 37 companies for
13 Petitioners and 33 cases. Now, I may have miscounted, but
14 that's -- there were a few cases that have more than one
15 company. And quickly counting, I think I have 33 cases,
16 37 companies.

17 The next thing, you know, we would -- we need
18 a sense of when the parties think they would know whether
19 they're going to be able to stipulate to the facts, etc. I
20 know that Judge Woodruff and I have discussed this briefly
21 and we would like a very quick turnaround of something from
22 the parties. How many days, do you think?

23 JUDGE WOODRUFF: I suggested by Thursday of
24 this week, two days. That should give us basically a
25 proposed procedural schedule setting out how these cases

1 could be divided up. And I guess just go ahead and set
2 it -- we'll request a hearing date. And then you can tell
3 us whether or not you think you can stipulate to the facts,
4 tell us that as well.

5 MR. MEYER: Just to clarify, you don't
6 actually expect the stipulations themselves to be filed by
7 Thursday, just an indication --

8 JUDGE WOODRUFF: No.

9 MR. MEYER: -- of whether a stipulation could
10 be addressed?

11 JUDGE WOODRUFF: And we're not going to have
12 the hearing on Thursday either.

13 MR. MEYER: Right. And would you then expect
14 Staff to file that? The only reason why I say that is
15 because that would require us to make 33 filings in one day
16 in all of these separate cases.

17 JUDGE WOODRUFF: We're going to be
18 overwhelming EFIS and the Data Center on all this.

19 JUDGE RUTH: I think we could split them up
20 into some groups. You know, part of it is -- I would
21 anticipate that there will be some cases, perhaps the three
22 Intervenor cases, that you're going to file a proposed
23 procedural schedule for that. And I don't know if you're
24 going to come up with one hearing for those or how you're
25 going to do it, but you'll make your recommendation.

1 And then on some where you think there's a
2 possibility of having a Stipulation and Agreement or
3 stipulation to the facts, then, you know, I realize you'll
4 need more time to come up with that stipulation, but I would
5 think that you could give the Commission a sense of --
6 fairly quickly of where those groupings might be.

7 And then if there are some others that aren't
8 intervention cases, but you don't expect to be able to
9 stipulate to the facts or stipulate -- have a Stipulation
10 and Agreement, then perhaps you could file a procedural
11 schedule -- proposed procedural schedule very quickly on
12 those too. Is that clear as mud?

13 JUDGE WOODRUFF: I don't want to try and rush
14 you too much by putting it on Thursday. The Commissioners
15 won't be here next week so there aren't going to be any
16 agenda sessions for next week. So really any time -- we can
17 say a week from today and if you want to start filing them
18 Friday and Monday and Tuesday, that would be fine. So let's
19 say the proposed procedural schedule and groupings will be
20 due one week from today.

21 JUDGE RUTH: The 18th?

22 JUDGE WOODRUFF: That will be the 18th. And
23 however you want to make it more convenient to file that
24 information, that's fine, as long as it's in by the 18th.

25 JUDGE RUTH: I don't have anything further.

1 JUDGE WOODRUFF: Anything else anyone wants to
2 add while we're on the record?

3 All right. We'll leave you to your
4 discussions then. We are adjourned.

5 WHEREUPON, the pre-hearing conference was
6 adjourned.

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