



STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

Southwestern Bell Telephone, L.P, d/b/a SBC Missouri's Petition for
Compulsory Arbitration of Unresolved Issues or Successor
Interconnection Agreement to the Missouri 271 Agreement ("M2A")

TRANSCRIPT OF PROCEEDINGS
Telephonic Late Prehearing Conference

May 18, 2005
Jefferson City, Missouri
Volume 2

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*Missouri
Public Service Commission*

KEVIN A. THOMPSON, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE

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May 18, 2005
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Southwestern Bell Telephone, L.P,))
d/b/a SBC Missouri's Petition for))
Compulsory Arbitration of))
Unresolved Issues for a Successor) Case No. TO-2005-0336
Interconnection Agreement to the))
Missouri 271 Agreement ("M2A")))

KEVIN A. THOMPSON, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE

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

2 JUDGE THOMPSON: Okay. I apologize for
3 doing this, but I'm gonna poll everybody on line and
4 see just who we have and let the reporter get it down
5 this time. We are, of course, on the record here.
6 Before we start, I should probably point out that
7 this is the Arbitration for Southwestern Bell
8 Telephone L.P. doing business as SBC Missouri, their
9 Petition for Compulsory Arbitration of Unresolved
10 Issues for a Successor Interconnection Agreement to
11 the Missouri 271 Agreement, noted as the M2A.

12 This is Case No. TO-2005-0336. My name
13 is Kevin Thompson and I've been designated as the
14 Arbitrator by the Missouri Public Service Commission,
15 and this is the prehearing conference that was set in
16 our procedural schedule. So we'll go ahead and poll
17 the persons that we have on the line.

18 I can tell you that here in the actual
19 hearing room we have the court reporter, myself and
20 three members of my arbitration staff and no one
21 else. So this is, appropriately enough, going to be
22 pretty much entirely a telephonic prehearing
23 conference. So who do we have for Southwestern Bell?

24 MR. LANE: Paul Lane and Leo Bub.

25 JUDGE THOMPSON: Very good. The rest of

1 you can just take turns telling me who you are and
2 who you represent.

3 MR. SAVAGE: Well, this is Chris Savage
4 representing Charter Fiberlink Missouri. We've got
5 K.C. Halm with me.

6 JUDGE THOMPSON: Okay. Very good. Who
7 else do we have?

8 MS. GENOVA: I'm Leslie Genova and I'm
9 Charter Fiberlink as well.

10 JUDGE THOMPSON: Okay. Very good. I
11 heard -- go ahead.

12 MR. MAGNESS: Bill Magness with the law
13 firm of Casey, Gentz and Magness representing the
14 CLEC Coalition, and I will identify those companies
15 for the record and then refer to it as the CLEC
16 Coalition.

17 JUDGE THOMPSON: Very good.

18 MR. MAGNESS: Now? It includes Big
19 River Telephone Company, LLC; Birch Telecom of
20 Missouri, Inc.; ionex Communications, Inc.; NuVox
21 Communications of Missouri, Inc.; Socket Telecom,
22 LLC; XO Communications Services, Inc. and Xspedius
23 Management Company Switch Services, LLC.

24 JUDGE THOMPSON: Thank you. Who else do
25 we have out there?

1 MR. CURTIS: Lee Curtis, all remaining
2 in the CLEC Coalition.

3 THE REPORTER: I'm sorry. I didn't
4 hear.

5 JUDGE THOMPSON: That was Lee Curtis.

6 THE REPORTER: Thank you.

7 MR. LEOPOLD: This is Brett Leopold
8 representing Sprint Communications Company, L.P.

9 JUDGE THOMPSON: Okay.

10 MS. BOURIANOFF: Good morning, your
11 Honor. Michelle Bourianoff and Kevin Zarling on
12 behalf of AT&T Communications of the Southwest, Inc.

13 JUDGE THOMPSON: Okay. Hang on a minute
14 while I write that down.

15 Mark Johnson, are you on there?
16 He's evidently having trouble getting in. I don't
17 know what to do about that. Everyone else has gotten
18 in. The number is (573)522-8028. He may have called
19 before the number became available, which was, I
20 think, right about at ten.

21 Who else do we have out there?

22 MR. MORRIS: Steve Morris, MCI.

23 JUDGE THOMPSON: Very good. Anyone
24 else?

25 MR. PORTER: Scott Porter with WilTel

1 Communications.

2 JUDGE THOMPSON: WilTel, you say?

3 MR. PORTER: That's correct.

4 JUDGE THOMPSON: Okay. Who else?

5 MR. JOHNSON: Hi. This is Mark Johnson.

6 JUDGE THOMPSON: Very good. You got in.

7 MR. JOHNSON: Yes, sir.

8 JUDGE THOMPSON: Who are you
9 representing, Mark?

10 MR. JOHNSON: Well, let's see. Today
11 Pager Phone, Navigator and I'm local counsel for
12 Charter Fiberlink.

13 JUDGE THOMPSON: Okay. I think they win
14 with the largest number of lawyers on the call
15 anyway. Who else do we have?

16 MR. LEDOUX: Ken LeDoux with Navigator
17 Telecommunications.

18 JUDGE THOMPSON: I'm sorry. Could you
19 repeat your name more slowly?

20 MR. LEDOUX: Ken LeDoux, L-e-D-o-u-x,
21 with Navigator Telecommunications.

22 JUDGE THOMPSON: Very good. Who else?
23 Or anyone else? Okay. Let me just run through the
24 names that I have, and if you do not hear your name,
25 then you'll need to speak up and tell me who you are

1 and who you're representing. Paul Lane and Leo Bub,
2 Chris Savage, K.C. Halm, Leslie Genova, Bill Magness,
3 Leland Curtis, Brett Leopold, Michelle Bourianoff,
4 Kevin Zarling, Steve Morris, Scott Porter, Mark
5 Johnson and Ben LeDoux.

6 MR. LEDOUX: That's K-e-n.

7 JUDGE THOMPSON: Okay. Thank you.

8 Very well. I received the draft schedule of
9 witnesses for the hearing yesterday. As you know, we
10 have five days set aside for hearing, and I am
11 flabbergasted by the number of witnesses we have on
12 this schedule.

13 And I can tell you right now that I do
14 not expect to hear cross-examination except on
15 factual disputes. Most of the testimony that I've
16 gotten through so far -- and I certainly haven't
17 gotten through all of it -- but most of it has
18 consisted of assertions of what the act requires and
19 what various FCC or court decisions require and very
20 little in the way of fact.

21 As far as I'm concerned, the argument as
22 to what legal authorities require or don't require,
23 you'll have an opportunity to brief this case, and I
24 don't expect to hear cross-examination on those
25 topics, okay?

1 Looking to Monday and in the GT&C
2 area --

3 MR. SAVAGE: Excuse me, your Honor.
4 This is Chris Savage. I have a question about what
5 you just said.

6 JUDGE THOMPSON: Very good.

7 MR. SAVAGE: Can I ask it now or should
8 I hold?

9 JUDGE THOMPSON: Ask it now.

10 MR. SAVAGE: Just to make my own
11 planning useful, a number of Charter's disputes of
12 SBC have to do with contract language. And our
13 positions aren't so much as, well, the act requires
14 this or that, but it's rather saying, you know, if
15 you read this language versus that language, the
16 following things are gonna happen in the real world.

17 JUDGE THOMPSON: Okay.

18 MR. SAVAGE: So I have envisioned
19 cross-examining some of the SBC people and, you know,
20 well, wouldn't you agree with me that under your
21 language, if this happens, you can do X, and that
22 will be a terrible thing kind of cross. Would that
23 be something you would be interested in hearing, or
24 am I wasting my breath and I should just write it up
25 in the brief?

1 JUDGE THOMPSON: I would suggest that
2 you limit that to the brief, because I think the
3 brief is an adequate way of presenting views of what
4 the results would be under different alternative
5 language.

6 MR. SAVAGE: That's fine, your Honor.
7 I'm happy to do that. I mean, it is sort of a
8 lawyerly-like thing. My only concern is the brief
9 might end up reading, you know, anyone who can read
10 English can see that under their language, X would
11 happen.

12 JUDGE THOMPSON: That's a good argument.
13 Nothing wrong with that.

14 MR. SAVAGE: If you like it, I'll write
15 it. That's fine.

16 JUDGE THOMPSON: That's fine. I think
17 that kind of argument is even easier to track through
18 the briefs than in cross-examination. But, you know,
19 I don't want to deny anyone cross-examination where
20 you feel you absolutely have to have it. But on the
21 other hand, if you absolutely have to have it, I'm
22 going to expect some Perry Mason moments.

23 MR. SAVAGE: Yeah. I have a bet with my
24 co-counsel that I'll be able to make at least, at
25 least one witness cry on the stand. I'm not sure

1 I'll win.

2 JUDGE THOMPSON: Who is this?

3 MR. SAVAGE: This is Chris Savage. I'm
4 sorry. I am a great believer in Perry Mason moments
5 as well.

6 MR. HALM: They don't call him Savage
7 for nothing.

8 JUDGE THOMPSON: You know, I used to sue
9 school districts, and I had teachers crying on the
10 stand all the time, and that's why I had to get out
11 of that business.

12 MR. SAVAGE: So you have a high standard
13 for interesting cross.

14 MR. MAGNESS: And, your Honor, this is
15 Bill Magness. Kind of an unrelated point. I may be
16 getting ahead of us. But it seems that given what
17 you've said -- and I think that was part of our
18 expectation -- that we may be able to combine a few
19 of these topic areas so that some of these witnesses
20 who show up like on GT&C and on price and on
21 definitions, they may just be able to go up one time
22 for the sort of larger topic area, like general terms
23 and conditions, for example.

24 If we break it up into, I guess, bigger
25 chunks, it's certainly gonna move a lot faster.

1 JUDGE THOMPSON: Well, I'm all in favor
2 of that.

3 MR. SAVAGE: There's another possibility
4 here, which is, although there are lots of us, I
5 suppose, trying to gang up on poor SBC and make their
6 life miserable, I wasn't anticipating, for example,
7 that Charter would cross-examine, you know, the other
8 non-SBC witnesses.

9 I was anticipating that Charter would
10 limit its cross-examination to SBC and probably vice
11 versa. Is that -- would that be your understanding?

12 JUDGE THOMPSON: That's absolutely my
13 understanding. I think that the participants need to
14 be grouped on either side of the rail by interest.
15 So SBC it seems to me is on one side, and the CLECs
16 are on the other side.

17 MR. SAVAGE: Where this is leading me is
18 that we might be able to cut through a lot of this if
19 SBC could undertake, you know, right now or pretty
20 soon, to say, you know, having read -- you know, pick
21 my -- having read Mike Cornelius's testimony and
22 hearing what you just said about what kind of cross
23 you're looking for, we really don't have anything for
24 him. That would be great. You know, I mean he's
25 probably available for cross, but if they're not

1 gonna cross him, I just want to tell him to stay at
2 work.

3 MR. MAGNESS: This is Bill Magness
4 again. Just to chime in on that point, I'd be happy
5 to make some representations about that as to some of
6 the SBC witnesses as well, because there's no point
7 in them -- I mean, unless, your Honor, you have
8 questions or staff has questions.

9 JUDGE THOMPSON: If I have questions or
10 my staff have questions, you know, we may not have
11 those questions ready by next week, because this is a
12 great deal of material to go through, and we have the
13 ability to submit written questions to the parties
14 and get responses that way.

15 MR. LANE: Judge, this is Paul Lane. Do
16 you anticipate -- and it's fine with us if that's
17 what you're thinking -- that you and the technical
18 staff, or whatever we're calling them, will be asking
19 questions of the witnesses?

20 JUDGE THOMPSON: I'm going to let my
21 staff function in whatever way they think they need
22 to to get this monster done and to make my life as
23 easy as it can possibly be, given that I've been
24 assigned to this case.

25 So they're the ones who understand the

1 technical details of this stuff, and if they feel
2 they need a particular piece of information, I'm
3 going to give them the leeway to seek that
4 information, given only that I don't want them to
5 deluge you guys with tons of data requests. That's
6 not the point.

7 But if there is a piece of information
8 that's necessary so that they can give me the right
9 advice and explain to me what it is that's actually
10 going on, then, yes, I will allow them to seek that
11 information.

12 MR. LANE: Including by questions at the
13 hearing? Which is fine. I'm just asking what the
14 plan is from your perspective.

15 JUDGE THOMPSON: Yes, I think I will
16 allow them to ask questions at the hearing.

17 MR. LANE: Would you anticipate that you
18 and they would be asking the majority of the
19 questions, or would you anticipate that the parties
20 will --

21 JUDGE THOMPSON: Based on what I've read
22 so far of the direct testimony, I have not had a lot
23 of questions.

24 MR. LANE: Okay.

25 JUDGE THOMPSON: You know? I mean, I

1 can say that the parties have done a good job in
2 setting out the points that are in dispute and
3 setting out what their positions are and setting out
4 the rationale for their position versus that of the
5 other side, and I guess the fact that this is kind of
6 a traveling road show that's been taken from state to
7 state perhaps has helped the parties to boil this
8 material down to what's strictly relevant. And
9 that's good. I don't anticipate having a lot of
10 questions. Okay?

11 MR. LANE: All right.

12 MR. SAVAGE: The only comment I'd make
13 on behalf of Charter is we certainly recognize --

14 JUDGE THOMPSON: And who are you?

15 MR. SAVAGE: This is -- I'm sorry. I
16 apologize. This is Chris Savage for Charter.

17 JUDGE THOMPSON: Because the reporter
18 can't know otherwise.

19 MR. SAVAGE: You're right, and I
20 apologize for that. The only point we would make is
21 that while we appreciate the effort that's gone into
22 the traveling road show, much of that effort has
23 centered on issues that don't have a lot to do with
24 us.

25 JUDGE THOMPSON: Okay. And that's -- I

1 understand that. And what I'm saying is to the
2 extent that you feel you absolutely have to
3 cross-examine certain witnesses, I'm going to give
4 you that opportunity. But if the cross-examination
5 that I hear is all about how you think the witness
6 misunderstands what the act requires, then I'm gonna
7 cut it short, because I think that's a matter for
8 briefing rather than a matter for cross-examination.

9 MR. SAVAGE: I understand that entirely,
10 your Honor. I just wanted to make sure that you were
11 aware that we had a different perspective on some
12 things, because, you know, we don't care about UNEs
13 or resale or colocation or any of that stuff.

14 JUDGE THOMPSON: Okay. And to the
15 extent you need cross-examination to present your
16 unique perspective to me, then, by God, you're gonna
17 have that chance.

18 MR. LANE: Your Honor, this is Paul Lane
19 with SBC. Do you anticipate that -- you know, I
20 guess in this case we have essentially separate
21 arbitrations with several different CLECs or CLEC
22 groups.

23 JUDGE THOMPSON: Exactly.

24 MR. LANE: And from our perspective,
25 what we're trying to avoid is a situation where they

1 get, you know, 80 percent of the cross time that's
2 allocated and we get whatever's left over. Do you
3 anticipate putting time limits on the cross of each
4 witness or of each area or what?

5 JUDGE THOMPSON: What I anticipate doing
6 is aligning the parties as interest groups and
7 divvying up the time by interest group rather than by
8 party.

9 So if Southwestern Bell is the only
10 interest group on one side of the question, then they
11 get all the time, and the CLECs who are the other
12 interest group will have to divvy up the time.

13 MR. SAVAGE: And, your Honor, this is
14 Chris Savage again. That was the point of my
15 comment, is that on certain matters, Charter may have
16 different interests in some sense than the other
17 CLECs.

18 JUDGE THOMPSON: Okay.

19 MR. SAVAGE: And it may not come up.
20 I'm trying review now --

21 JUDGE THOMPSON: You understand that
22 this is an evolving process and a party is always
23 free to make a motion as to why they need to be
24 treated differently for some reason in order to get a
25 fair shake. And I would expect to receive motions of

1 that sort. Okay?

2 MR. SAVAGE: Yes. Thank you, sir.

3 JUDGE THOMPSON: But I also have to, you
4 know -- I have a five-pound bag and I have 35 pounds
5 of arbitration, and I've got to squeeze it into my
6 five-pound bag. Do you see what I'm saying?

7 MR. SAVAGE: And, your Honor, I know I'm
8 probably not coming across like more of a pain in the
9 neck than I mean to. I'm just concerned that we not
10 be completely swept up in the CLECs -- we disagree
11 with SBC for pretty much all the same reasons. Thank
12 you. That's all.

13 JUDGE THOMPSON: I appreciate that.
14 Like I say, you'll get the opportunity to do the
15 cross you feel you absolutely have to have, and you
16 will have your brief where you can explain your
17 unique situation and how you are or are not like the
18 other CLECs, right?

19 And of course I'm gonna read every word,
20 and my technical staff is gonna read every word and
21 we're gonna cook up a decision for you --

22 MR. SAVAGE: Excellent.

23 JUDGE THOMPSON: -- on the time line if
24 it kills us.

25 Okay. Now, here's what I want to do.

1 I'm looking at the first topic, which is general
2 terms and conditions. What sort of factual disputes
3 do the parties see within that topic area?

4 MR. MAGNESS: Your Honor, this is Bill
5 Magness for CLEC Coalition. I think at least from
6 the traveling road show perspective, what we've found
7 is there are issues about particularly escrows and
8 deposits --

9 JUDGE THOMPSON: Okay.

10 MR. MAGNESS: -- where there is some
11 factual testimony concerning what parties'
12 experiences have been when they receive bills from
13 SBC, what it takes to review and audit those bills,
14 sort of process issues like that. I think those are
15 the primary ones I could identify for GT&C.

16 JUDGE THOMPSON: And I appreciate that.
17 Let me ask you this: With respect to those issues,
18 do you believe that the opportunity for rebuttal
19 testimony will give you an adequate opportunity to
20 present your view and to oppose the view presented by
21 the other interest group, which I assume is SBC?

22 MR. MAGNESS: Well, in rebuttal
23 testimony we certainly intend to dispute, you know,
24 what we're hearing from SBC on, you know, the way in
25 which they're countering --

1 JUDGE THOMPSON: That's where your
2 experts can say that everything their expert has said
3 is a lie or misunderstanding or miscalculated or --

4 MR. MAGNESS: We wouldn't say lie, but,
5 yeah.

6 JUDGE THOMPSON: We're all friends here.
7 You see what I'm saying?

8 MR. MAGNESS: No, no. I completely
9 understand, your Honor. I'm just telling you my
10 experience from, I guess, Texas, Kansas and Oklahoma
11 hearings on this is what tended to drive any sort of
12 cross-examination was questions that either SBC had
13 for us or us for them. And frankly, I think in the
14 last hearing it was more questions SBC had for us --

15 JUDGE THOMPSON: Okay.

16 MR. MAGNESS: -- about testimony
17 concerning how bills have been handled and when
18 things were received and that sort of thing.

19 Now, I -- I'll say that's certainly a
20 subject of rebuttal, and you should -- I would
21 imagine you'll see rebuttal testimony on that. And
22 if -- you know, we may just want to put it, you know,
23 that if you are satisfied that you have as fully
24 developed a record as you need on that, you know,
25 maybe the parties can work out not needing to do

1 cross on it.

2 JUDGE THOMPSON: Well, exactly. That's
3 kind of my point. This is baseball arbitration. I'm
4 gonna pick one view or the other for each issue. I
5 ain't gonna cut the baby, I'm not gonna invent my own
6 solution that none of the parties have presented.
7 I'm gonna pick either the SBC option or the CLEC
8 option on each disputed point.

9 So as far as cross-examination goes, I'm
10 guessing that we're not gonna get any of the
11 witnesses to admit that they lied when they wrote the
12 direct testimony. Maybe I'm wrong, but I'm thinking
13 we're not gonna get that. Now, they may have
14 testified differently in a different arbitration in a
15 different state, and you can capitalize, I guess, on
16 that to the extent you can. You see what I'm saying?

17 MR. MAGNESS: Sure.

18 JUDGE THOMPSON: I just want to make
19 sure that the time next week is not spent with stuff
20 that's not important and that's not going to be
21 significant in terms of the decision I've got to
22 make.

23 MR. SAVAGE: Your Honor, let me ask a
24 question about that. This is Chris Savage again. We
25 had what I think is some relatively small areas that

1 we would want to cross on some of the GT&C stuff.

2 JUDGE THOMPSON: Okay.

3 MR. SAVAGE: And it boils down to this:

4 Our contention with respect to a couple of
5 provisions, escrow and assurance of payment --

6 JUDGE THOMPSON: Right.

7 MR. SAVAGE: -- that SBC is justifying
8 or trying to justify some fairly onerous stuff on
9 some fairly generic claims about how tough it is to
10 be an ILEC dealing with all these unreliable and, you
11 know, impecunious CLECs --

12 JUDGE THOMPSON: Okay.

13 MR. SAVAGE: -- and there were some
14 specific factual claims about that made in -- I can't
15 remember which witness it was. I think it was Quate,
16 but I'm not sure. But in any event, some fairly
17 specific claims made about that. And I had intended
18 to sort of press on that a little bit because, you
19 know, as a factual assertion --

20 JUDGE THOMPSON: Can't you say in
21 rebuttal, well, we're not impecunious and we always
22 pay our bills on time?

23 MR. SAVAGE: Well, we sure can, and
24 we've got a plan to --

25 JUDGE THOMPSON: Okay.

1 MR. SAVAGE: -- and we also plan to say
2 in rebuttal that we expect SBC's position is based on
3 the fact that there was a boom and then a bust and
4 that's great, but, you know, now that there was a
5 bust, that doesn't mean that the ones who are now
6 surviving are about to die.

7 JUDGE THOMPSON: Okay.

8 MR. SAVAGE: And if that's all you'd
9 want -- if that's all you want to hear on that and --
10 then I guess we wouldn't need cross on that either.

11 JUDGE THOMPSON: I just want to get as
12 much of this out of the hearing room as I possibly
13 can.

14 MR. SAVAGE: Well, that raises a
15 different question then, which is the timing didn't
16 really allow for meaningful written discovery on
17 their testimony.

18 JUDGE THOMPSON: Okay.

19 MR. SAVAGE: But that said --

20 JUDGE THOMPSON: But if you've done this
21 in three other states, what remains to be discovered?

22 MR. SAVAGE: Ah, but you see, we're not
23 part of the traveling road show.

24 JUDGE THOMPSON: Aha. You are?

25 MR. SAVAGE: Charter.

1 JUDGE THOMPSON: Charter. Okay.

2 MR. SAVAGE: We have many, many
3 thousands of customers right now today in the
4 St. Louis area. Have had for several years, but we
5 serve where we have -- we're affiliated with a cable
6 company and so it's tied to where we have -- where
7 our affiliates have cable systems.

8 JUDGE THOMPSON: Okay.

9 MR. SAVAGE: And so, again, our model is
10 different, we have -- you know, which is why we don't
11 need UNEs and all that good stuff. But we're an
12 established business with assets in an area, et
13 cetera, et cetera.

14 And I was wondering whether -- I mean,
15 again, if I could ask them some written questions, if
16 there could be some permission to simply treat their
17 answers to data requests as not having to be
18 authenticated, automatically in the record and
19 citable in a brief, then --

20 JUDGE THOMPSON: We can do that.

21 MR. SAVAGE: -- you know, then I could
22 simply ask them some questions, and I know I'd get
23 the answers post-hearing, but presumably I'd get them
24 prebrief, and that might save a lot of travel time.

25 JUDGE THOMPSON: How's everybody feel

1 about that?

2 MR. LANE: Your Honor, this is Paul Lane
3 with SBC. You know, we're under the same time
4 constraints as everybody else, and it's probably in
5 some respects more difficult for us because we have
6 essentially six or seven arbitrations we're
7 conducting simultaneously as well as what's happening
8 in other states as well.

9 Our witnesses and our company isn't in a
10 position to be both trying a case and answering
11 discovery requests. That's why when you set up the
12 schedule initially, you had a discovery cutoff in the
13 case.

14 The fact that Charter chose not to
15 submit discovery to us isn't a basis for them to do
16 it now while we're trying to conduct a hearing and
17 trying to write the briefs ourselves.

18 JUDGE THOMPSON: Fair enough. Fair
19 enough.

20 MR. SAVAGE: This is Chris Savage. I'm
21 responding to your direct request today to try to
22 eliminate cross. I'm trying to come up with a way to
23 do that.

24 JUDGE THOMPSON: I appreciate that.
25 Everyone's being very helpful and cooperative, and I

1 greatly appreciate that. Let me ask you this,
2 Mr. Savage: Who do you want to cross-examine?

3 MR. SAVAGE: Well, I confess that at
4 this instant I can't call up chapter and verse. I
5 want to cross-examine theoretically the SBC witness
6 who talks about the provisions as to escrow and
7 assurance of payment, and I think that's Ms. Quate,
8 but I'm gonna try and check right now.

9 JUDGE THOMPSON: Okay. When do you
10 think you will know for sure who you want to
11 cross-examine?

12 MR. SAVAGE: I would know for sure
13 frankly by tomorrow. As of the time I have completed
14 and we've put together our rebuttal testimony, I'll
15 then be in a perfect situation to say, okay, you
16 know, I think rebuttal is sufficient for that. I
17 really have some cross on the other.

18 JUDGE THOMPSON: All right. Very good.
19 Now, I know there are many other parties out there.
20 Let me hear from them.

21 AT&T, who do you want to cross-examine
22 on GT&C issues?

23 MS. BOURIANOFF: Your Honor, this is
24 Michelle Bourianoff for the court reporter. We have
25 a limited set of G's, T's & C's issues. They don't

1 involve escrow or deposit issues. I think they're
2 largely disputes over exactly what impacts a
3 particular contract language would be that we've
4 addressed sufficiently in testimony and can brief.
5 And so on G's, T's & C's I don't think we require any
6 cross-examination.

7 JUDGE THOMPSON: Bless you. CLEC
8 Coalition, who do you want to cross-examine?

9 MR. MAGNESS: Your Honor, based on the
10 direct --

11 JUDGE THOMPSON: And this is --

12 MR. MAGNESS: -- I don't know that I
13 would need to cross-examine -- the only one of the
14 SBC witnesses I'd want to reserve on until I see her
15 rebuttal is Ms. Quate just to see if there's any
16 additional factual allegations she's made in her
17 rebuttal that I haven't had a chance to rebut.

18 JUDGE THOMPSON: And this is?

19 MR. MAGNESS: Oh, I'm sorry. It's Bill
20 Magness with CLEC Coalition. Otherwise the rest --
21 and I'm looking sort of past GT&C into price,
22 definitions and resale, the rest of the Monday
23 topics. She's the only one on any of those topics I
24 think we may have questions for. And as I say, by
25 Friday I may know that I don't have anything for her

1 either.

2 JUDGE THOMPSON: Okay. Very good.

3 MR. LANE: Your Honor, this is Paul
4 Lane. May I just make a suggestion? Would it make
5 some sense to try to go through the topics that are
6 for Monday and allocate time over those topics and
7 then allow --

8 JUDGE THOMPSON: We're gonna get there,
9 but first I want to find out who everybody wants to
10 cross.

11 MR. LANE: Fair enough.

12 JUDGE THOMPSON: Then when I know how
13 many witnesses we have, then we'll talk about time,
14 all right? So MCI.

15 MR. MORRIS: Yes. Steve Morris with
16 MCI.

17 JUDGE THOMPSON: Who do you want to
18 cross-examine with respect to GT&C?

19 MR. MORRIS: Perhaps Quate.

20 JUDGE THOMPSON: And that's an if.
21 Quate maybe.

22 MR. MORRIS: Also if I could mention on
23 the GT&C list, there should be a third MCI witness,
24 Hurter, H-u-r-t-e-r, who submitted testimony on some
25 G's, T's & C's.

1 JUDGE THOMPSON: Let me write this in.
2 Hurter?

3 MR. MORRIS: Hurter, H-u-r-t-e-r.

4 JUDGE THOMPSON: Very good.

5 MR. MORRIS: And also there was a --
6 Hurter also submitted direct testimony on what I'll
7 call invoice issues, I-n-v, which I didn't see on the
8 list.

9 JUDGE THOMPSON: Why don't we handle
10 invoice issues under GT&C.

11 MR. MORRIS: That's fine because they're
12 related, yes.

13 JUDGE THOMPSON: Okay. Mr. LeDoux, who
14 do you want to cross-examine?

15 MR. JOHNSON: Judge Thompson, this is
16 Mark Johnson. Actually Mr. LeDoux, he's one of the
17 witnesses, but I'm counsel for Navigator. I
18 would -- if there's anybody I would want to cross, it
19 would be Quate, and that's on behalf of Navigator.

20 JUDGE THOMPSON: So you're a Quate
21 maybe?

22 MR. JOHNSON: Yeah. I think it would be
23 a probably, not a maybe.

24 JUDGE THOMPSON: Okay. And you're also
25 the attorney for Pager; is that correct?

1 MR. JOHNSON: That's right. Pager is,
2 in all probability, in the next couple of days going
3 to resolve its issues and will probably be dropping
4 out of the arbitration. But that's up in the air at
5 the moment, but that's just about to happen. But if
6 it doesn't, I don't think there's anything for Pager
7 and Phone, you know, that doesn't -- that isn't also
8 relevant to Navigator. So again, it would simply be
9 Quate.

10 JUDGE THOMPSON: Okay. Mr. Leopold,
11 tell me about Sprint.

12 MR. LEOPOLD: Your Honor, I think our
13 primary issue in the area of GT&C's is a critical
14 definition of the term end user.

15 JUDGE THOMPSON: Okay.

16 MR. LEOPOLD: It does involve, we
17 believe, some factual issues. And though SBC
18 does not list him in their proposed schedule on
19 G's, T's & C's, we suspect that witness Smith from
20 SBC has some pretty extensive testimony on that
21 definition, and I would envision cross-examination of
22 him at some point on that issue. If not during this
23 GT&C day, at some point. And I think that McPhee and
24 Quate also touch on that issue.

25 So it wouldn't be necessarily extended,

1 but there could be up to three witnesses that we
2 would talk to about that issue.

3 JUDGE THOMPSON: When you say not
4 extended, what kind of time span are you thinking?

5 MR. LEOPOLD: Well, depending on which
6 witness we took as the primary witness on that topic,
7 the primary witness would, I would think, not be more
8 than ten, ten minutes, something like that.

9 JUDGE THOMPSON: Very well. How about
10 WilTel, Mr. Porter?

11 MR. PORTER: Yes, your Honor. We -- I
12 anticipate that we won't need any cross. I think
13 we'll be able to address everything in briefing and
14 rebuttal testimony. I want to make sure you have for
15 your list too, we'll have two rebuttal witnesses who
16 you don't have on your list, last name Schwebke,
17 S-c-h-w-e-b-k-e.

18 JUDGE THOMPSON: Just a moment.

19 MR. PORTER: And the other one is
20 myself, Porter.

21 JUDGE THOMPSON: Okay. You're gonna be
22 a witness and a lawyer both?

23 MR. PORTER: No. I'm actually sitting
24 here on this call for our counsel who is on another
25 call, so I'm sitting in.

1 JUDGE THOMPSON: So what was the name of
2 the other witness? I'm sorry.

3 MR. PORTER: Schwebke, Mark Schwebke.
4 And it's S-c-h-w-e-b-k-e.

5 JUDGE THOMPSON: Very good. Okay. And
6 what topics?

7 MR. PORTER: Together it's gonna be --
8 are you talking about just G, T's & C's for now?
9 It's pretty much rebuttal testimony against all of
10 SBC's issues.

11 JUDGE THOMPSON: Okay. Very good.

12 MR. PORTER: And again, I don't
13 anticipate that we'll need to do any cross.

14 JUDGE THOMPSON: Okay. Thank you. For
15 any issue or just for GT&C?

16 MR. PORTER: I honestly anticipate
17 probably for no issue. I believe we'll be able to
18 address it all in rebuttal and by briefing.

19 JUDGE THOMPSON: Bless you.

20 MR. PORTER: Yes. Thank you, your
21 Honor.

22 JUDGE THOMPSON: Okay. And SBC, who do
23 you want to cross in the area of GT&C?

24 MR. LANE: Let me make one comment just
25 so it's clear.

1 THE REPORTER: Who is this?

2 JUDGE THOMPSON: This is Paul Lane.

3 MR. LANE: Yeah. I'm sorry. This is
4 Paul Lane for SBC. We've been having some
5 discussions with WilTel, and I'm -- just to preserve
6 it, we would probably object to any testimony that
7 they file at this point, and we just want you to be
8 aware of that. They didn't file any direct testimony
9 in the case.

10 JUDGE THOMPSON: Okay.

11 MR. LANE: So we may have an issue with
12 regard to that. And we can debate it later, but I
13 didn't want to --

14 JUDGE THOMPSON: I understand. And I
15 always tell the lawyers, you know, file away. File
16 whatever you want to file.

17 MR. LANE: Okay. With regard to cross,
18 I would expect a short cross for all of the witnesses
19 that are listed on GT&C. I don't expect that I would
20 have any on GT&C for Navigator or for Pager and
21 probably not for Wallace or Ivanuska, but for the
22 others I would expect that we would.

23 JUDGE THOMPSON: Okay. So that's, what,
24 about ten?

25 MR. LANE: Yes.

1 JUDGE THOMPSON: All right. And how --
2 how many days do you expect to devote to that?

3 MR. LANE: I would think that of the
4 four topics that we have scheduled for Monday for
5 GT&C, that we would probably have more on that than
6 on the others in terms of the amount of questions.

7 JUDGE THOMPSON: Okay. Very good.
8 Let's go to the next topic, which is --

9 MR. MAGNESS: Your Honor?

10 JUDGE THOMPSON: Yes. Who's this?

11 MR. MAGNESS: This is Bill Magness for
12 CLEC Coalition. While we're talking about the Monday
13 schedule, I wanted to make a note on the witness
14 availability issue. Mr. Falvey who is a GT&C witness
15 also has some testimony on interconnection and inter
16 carrier compensation. We were hoping we could have
17 all the questioning of him conducted when he is up
18 the first time because he's -- has a conflict in his
19 schedule, and we were hoping maybe he could testify
20 once and be done. So I just wanted to put that out
21 there as a possibility.

22 JUDGE THOMPSON: Remind us of that on
23 Monday and we'll see what we can do.

24 MR. MAGNESS: Okay.

25 MR. SAVAGE: Your Honor, this is Chris

1 Savage again with Charter.

2 JUDGE THOMPSON: Yes, sir.

3 MR. SAVAGE: We have a strong preference
4 if possible for two scheduling matters. One is, if
5 it would be possible to have both of our witnesses on
6 the same day, that would be very helpful for us. And
7 we'd like it not to be Monday if that's possible.

8 Again, we'll do what we need to do, but
9 if the total amount of cross is going to be as
10 limited as you are encouraging it to be, I was hoping
11 perhaps we could agree that Charter's witnesses would
12 appear on, you know, Tuesday or Wednesday.

13 And just -- but I just wanted to raise
14 that because you were talking about, well, now that
15 we're doing Monday's schedule, and so on Monday I'm
16 hoping that my folks can do some other things they
17 need to do on Monday.

18 JUDGE THOMPSON: That's all okay with
19 me, but like I say, we've got to get this all done in
20 the time we have allotted. And any time we take
21 people out of order, it tends to confuse things a
22 little bit.

23 MR. SAVAGE: And I was -- I was heading
24 the suggestion that GT&C would necessarily be the
25 first item on the agenda was one that SBC proposed

1 but was not -- I understand that you have asked folks
2 and they said here's an order that makes sense, so I
3 thought that was still open for discussion.

4 JUDGE THOMPSON: It is.

5 MR. SAVAGE: Okay.

6 JUDGE THOMPSON: Let's talk about price.

7 MR. JOHNSON: Judge, Mark Johnson here.
8 That term price is something that SBC came up with,
9 and I think some of us are curious what exactly they
10 mean by that.

11 JUDGE THOMPSON: Ask them.

12 MR. JOHNSON: Okay. Paul, what do you
13 mean by that?

14 MR. LANE: Mark, this is Leo Bub.

15 MR. JOHNSON: Hey, Leo.

16 MR. BUB: CLEC had pricing issues. I
17 know AT&T had like five or six, the Coalition had
18 five or six, you know, pricing issues. I can go
19 back. I don't recall that Navigator did, but I can
20 check.

21 MR. JOHNSON: Okay. I think we
22 understand now. Thanks, Leo.

23 MR. BUB: Sure.

24 JUDGE THOMPSON: Okay. I'm gonna start
25 with SBC this time. Who do you expect to

1 cross-examine in the area of price?

2 MR. LANE: I would expect each of the
3 CLEC witnesses that are listed, with the possible
4 exception of Mr. -- I'm not sure how his name is
5 pronounced.

6 JUDGE THOMPSON: Okay. So four then,
7 right? Is that correct?

8 MR. LANE: Yes, your Honor.

9 JUDGE THOMPSON: Very good. And how
10 about Charter? Who do you want to cross-examine in
11 the area of price.

12 MR. SAVAGE: We don't have any on that.

13 JUDGE THOMPSON: Very good. How about
14 the CLEC Coalition? Mr. Magness?

15 MR. MAGNESS: Bill Magness for the CLEC
16 Coalition. We weren't planning any on that either.

17 JUDGE THOMPSON: Bless you. Sprint.
18 Mr. Leopold.

19 MR. LEOPOLD: We don't have any issues
20 on price. I am going to, if I could, just loop back
21 to GT&C briefly. SBC had identified four Sprint
22 witnesses under G's, T's & C's. Actually three
23 originally. One was I think perhaps inadvertently
24 omitted, which we brought to their attention through
25 e-mail. That was Pete Swankey.

1 JUDGE THOMPSON: How do you spell that?
2 I don't have that on my list.

3 MR. MAGNESS: Yeah. One of them that
4 they do have listed is Hope Knox. And again, I
5 described a proposal that would allow Hope Knox to
6 have his testimony consolidated on perhaps Tuesday or
7 Wednesday in the SBC proposed schedule that went out
8 yesterday. He would be there Monday, late Tuesday,
9 and then show up again on Friday.

10 And his issues are really two: One has
11 to do with the propriety and necessity of the
12 out-of-exchange appendix, which is the general terms
13 and -- only general terms and conditions issue that
14 he touches upon.

15 And so I thought perhaps rather than
16 have him characterize it as a GT&C witness, SBC might
17 be able to cover any issues related to Sprint and the
18 out-of-exchange appendix wherever they occur in the
19 contract in, you know, one brief session perhaps on
20 Tuesday rather than Monday. So I just thought I
21 would highlight that.

22 MR. LEOPOLD: Paul and Leo, I don't know
23 if you've had an opportunity to see that note that I
24 sent last night or if you've had any thought on how
25 you'd like to handle that.

1 MR. LANE: I don't have to cross him on
2 GT&C on Monday if those things that relate to -- to
3 out of exchange, we can ask those when he's up for
4 that, is okay with us.

5 MR. LEOPOLD: Okay. Thank you.

6 MR. LANE: We'll cross him off the list
7 for GT&C.

8 JUDGE THOMPSON: Okay. AT&T.

9 MS. BOURIANOFF: Yes, your Honor.
10 Michelle Bourianoff for AT&T. I think depending on
11 Mr. Silver's rebuttal, we may have some
12 cross-examination for Mr. Silver. He does not say
13 much in his direct, but I quite frankly expect to see
14 more details in his rebuttal. And I apologize for
15 not knowing. This pricing issue is not --

16 JUDGE THOMPSON: That's okay. You
17 haven't seen his rebuttal yet.

18 MS. BOURIANOFF: Right. It's not one we
19 arbitrated in Kansas, so I don't know exactly what
20 he's gonna say in rebuttal.

21 JUDGE THOMPSON: Thank you. MCI.

22 MR. MORRIS: Maybe some questions for
23 Silver.

24 JUDGE THOMPSON: Okay. Let's see.
25 WilTel.

1 MR. PORTER: We likely won't have any
2 cross. And to make you happy, feel free to mark us
3 down to not do any cross at all probably on any of
4 these sections' issues.

5 JUDGE THOMPSON: On anything?

6 MR. PORTER: And this is Scott Porter,
7 WilTel.

8 JUDGE THOMPSON: Okay. Pager Company.

9 MR. JOHNSON: I wouldn't anticipate
10 anything. This is Mark Johnson. Sorry.

11 JUDGE THOMPSON: Okay. Navigator.

12 MR. JOHNSON: Mark Johnson. Again, I
13 wouldn't anticipate any.

14 JUDGE THOMPSON: Very good. Okay. So
15 that's price then. Let me see if I've got this
16 straight. SBC would expect to cross-examine
17 Rhinehart, Ivanuska, Price and Ricca; is that
18 correct?

19 MR. LANE: Yes, your Honor. Paul Lane.

20 JUDGE THOMPSON: And the other parties
21 may want to talk to Silver and may want to talk to
22 Quate; is that correct?

23 MR. SAVAGE: That's correct from
24 Charter's perspective, your Honor. This is Chris
25 Savage.

1 JUDGE THOMPSON: Okay. If I've got it
2 wrong, tell me. Let's go on to definitions.

3 MR. LANE: Your Honor, this is Paul
4 Lane. So let me be clear then. We would not be
5 planning on -- under G's, T's & C's, Christensen,
6 Hatch, McPhee. On those three issues they will
7 not -- we will not bring them in for the Monday
8 session. I just want to make sure that's --

9 JUDGE THOMPSON: That's my understanding.

10 MR. SAVAGE: Well, your Honor, someone
11 raised an interesting point, which is, what if, you
12 know, tomorrow afternoon we receive rebuttal
13 testimony from these folks, you know, replete with
14 factual assertions crying out for cross-examination.
15 It would be a shame if --

16 JUDGE THOMPSON: Then you're gonna have
17 to let everybody know as quickly as you reach that
18 conclusion that unfortunately you are going to need
19 to cross-examine that person.

20 MR. SAVAGE: That's fine. I just wanted
21 to raise that possibility now since --

22 JUDGE THOMPSON: I understand that.

23 MR. SAVAGE: I have nothing for
24 Mr. Silver, but --

25 JUDGE THOMPSON: I understand that.

1 This is kind of like exploratory surgery. You know,
2 late breaking developments can change. Okay. So
3 we're going to expect to see Quate and Silver on
4 Monday morning. And I don't know how you say this,
5 G-u-e-p-e.

6 MR. ZARLING: Guepe. Your Honor, this
7 is Kevin Zarling for AT&T.

8 JUDGE THOMPSON: Yes, Mr. Zarling.
9 Guepe, we'll expect to see Mr. or Ms. Guepe, correct?

10 MR. ZARLING: Mr. Guepe.

11 JUDGE THOMPSON: Mr. Guepe. We'll
12 expect to see Barber, right?

13 MR. SAVAGE: Yes, sir. Although I was
14 hoping we could agree to move him to Tuesday or
15 Wednesday.

16 JUDGE THOMPSON: Okay. You'd like him
17 on Tuesday or Wednesday. How about you, Mr. Lane, do
18 you have a problem with that?

19 MR. LANE: No, your Honor.

20 JUDGE THOMPSON: Very good. We expect
21 to see Cadieux for the CLEC Coalition, right?

22 MR. MAGNESS: Your Honor, Bill Magness.
23 And it is Cadieux, and he will be there.

24 JUDGE THOMPSON: Very good. And what
25 about Ivanuska, Mr. Lane? You indicated you wouldn't

1 have GT&C questions for Ivanuska?

2 MR. LANE: That's correct.

3 JUDGE THOMPSON: Okay. We will see
4 Falvey, right?

5 MR. MAGNESS: For the CLEC Coalition,
6 Bill Magness. Yes. And if he has questions, he'll
7 be there.

8 JUDGE THOMPSON: Mr. Lane, you have
9 questions for Falvey?

10 MR. LANE: Yes.

11 JUDGE THOMPSON: But not for Wallace?

12 MR. LANE: Correct. And again, I hope
13 that Falvey is there for each of his topics.

14 JUDGE THOMPSON: We'll see how it plays
15 out. We will expect to see Collins; is that right,
16 Mr. Lane?

17 MR. LANE: Yes, your Honor.

18 JUDGE THOMPSON: Price and Hurter?

19 MR. MORRIS: Yes. Those are MCI
20 witnesses, your Honor.

21 JUDGE THOMPSON: I understand. But he's
22 the one who wants to cross them.

23 MR. MORRIS: And I understand that. If
24 I could just interject for a moment. My
25 witnesses would expect to testify via telephone per

1 the discussion on one of the earlier conference calls
2 that we --

3 JUDGE THOMPSON: I'm willing to allow
4 that if nobody objects. If somebody objects, then
5 they're gonna have to be here physically.

6 MR. MORRIS: I assume Mr. Lane would
7 be -- is the only one crossing. So let me ask him if
8 that's acceptable with him.

9 MR. LANE: I'm not really wild about
10 telephonic cross. But let me do this: I will look
11 those over and of those three, if there's somebody
12 that I don't need to have there, I'll call you and we
13 can talk about it, all right?

14 MR. MORRIS: Okay. But sooner rather
15 than, please, rather than later, because none of them
16 have made travel plans on the assumption that they
17 could appear telephonically if they were needed.

18 MR. LANE: I mean, you know, I guess I'd
19 say they ought to try to get reservations.

20 MR. MORRIS: All right.

21 MR. PORTER: And your Honor, this is
22 Scott Porter with WilTel. On that same note --

23 JUDGE THOMPSON: Yes, sir.

24 MR. PORTER: -- we too for the two
25 rebuttal witnesses, we would be very happy to make

1 them available to SBC should they need to do cross,
2 but we would also love to be able to do that by
3 telephonic examination if possible.

4 JUDGE THOMPSON: I'm all in favor of
5 telephonic examination. But as I say, if somebody
6 objects and they want to have the witness here
7 because they think it's important that I see their
8 demeanor as they're getting them to admit they were
9 lying on direct, then, you know, that's their right.

10 MR. PORTER: And I understand that. And
11 I had another suggestion, too. We'd also be willing
12 to save time at hearing to even respond to written
13 questions post-rebuttal, if SBC had those, if they
14 wanted to take care of it that way. Just a
15 suggestion.

16 JUDGE THOMPSON: I don't know. You'll
17 have to ask SBC.

18 MR. PORTER: Yeah, and we'd be happy to
19 work with them.

20 MR. SAVAGE: Actually, your Honor --
21 this is Chris Savage again. I don't know that we
22 ever got a ruling from you on the issue of whether we
23 could submit written questions to SBC's witnesses.
24 And SBC said they didn't like it.

25 JUDGE THOMPSON: Then let me rule.

1 There is a discovery cutoff, and that's what that
2 means. It's the discovery cutoff.

3 MR. SAVAGE: Okay. Good answer. Thank
4 you.

5 JUDGE THOMPSON: That's all right.
6 Let's see where we are. We will not be needing to
7 see witness LeDoux; is that correct, Mr. Lane?

8 MR. LANE: That's correct, your Honor.

9 JUDGE THOMPSON: And we will not be
10 needing to see witness Schmick; is that correct?

11 MR. LANE: That's correct, your Honor.
12 I will say on Pager, I'm saying that we won't because
13 I'm expecting that Pager is gonna be out of the case.

14 JUDGE THOMPSON: But if they're not out
15 of the case, then you want to see Schmick?

16 MR. LANE: Yes.

17 JUDGE THOMPSON: Okay. So Mr. Johnson,
18 you will need to tell your witness Schmick -- and I'm
19 sorry, I don't know if that's a man or a woman --
20 that they will need to have a reservation just in
21 case.

22 MR. JOHNSON: I got it. Okay.

23 JUDGE THOMPSON: Okay. And we will
24 expect to see witness Burt, witness Knox, witness
25 Shipman and witness Swankey for Sprint; is that

1 correct, Mr. Lane?

2 MR. LANE: I don't think -- I thought I
3 agreed that any questions on Knox on GT&C we'd ask
4 when he came up at another time.

5 JUDGE THOMPSON: Very good.

6 MR. LEOPOLD: I also don't know -- and
7 she'll be available, but I suspect that the subject
8 matter of witness Shipman might, depending on the
9 sequence of witnesses, may be so thoroughly covered
10 with other witnesses that it may turn out that she
11 doesn't need to be cross-examined. But she will be
12 available.

13 Also I need to circle back. Mr. Lane
14 had indicated that they did not expect to have
15 Mr. McPhee available for G, T's & C's, but he was one
16 of the three that I had identified as touching on the
17 end user definition.

18 JUDGE THOMPSON: Well, we haven't gotten
19 to definitions yet. When we get to definitions,
20 we'll see who we need.

21 MR. LEOPOLD: It's in the GT&C section
22 as well.

23 JUDGE THOMPSON: Oh, I see. So you need
24 McPhee?

25 MR. LEOPOLD: Right.

1 JUDGE THOMPSON: Very good.

2 MR. LEOPOLD: Thank you.

3 JUDGE THOMPSON: Mr. Lane, you'll need
4 to bring Mr. McPhee, or Ms. McPhee. And Mr. Leopold,
5 I think it's up to Mr. Lane whether or not Shipman
6 will need to appear.

7 MR. LEOPOLD: She'll be there.

8 JUDGE THOMPSON: Very good. Paul, are
9 you gonna have questions for?

10 MR. LANE: As of now. If I decide that
11 I don't, I'll let Brett know.

12 JUDGE THOMPSON: Very good. Now, in the
13 area of price, we're going to see witness Silver and
14 not witness Smith; is that correct? Has anybody got
15 questions for Smith in the area of price?

16 MS. BOURIANOFF: Your Honor, Michelle
17 Bourianoff for AT&T. Based on Mr. Smith in his
18 direct did not address AT&T's pricing issues, so
19 based on what he addressed in his direct, we do not
20 have questions. If he were to expand his rebuttal --

21 JUDGE THOMPSON: I understand that.

22 MS. BOURIANOFF: Okay.

23 JUDGE THOMPSON: I understand that.

24 This can all change based on what happens in
25 rebuttal.

1 MS. BOURIANOFF: Okay.

2 JUDGE THOMPSON: But as of right now,
3 Silver but not Smith, correct?

4 MS. BOURIANOFF: Yes.

5 JUDGE THOMPSON: Okay. We're also
6 expecting to see Rhinehart, Ivanuska, Price and
7 Ricca; is that correct, Mr. Lane?

8 MR. LANE: Yes, your Honor.

9 JUDGE THOMPSON: What about LeDoux?
10 We're not expecting to see LeDoux; is that correct.

11 MR. LANE: That's correct, your Honor.

12 JUDGE THOMPSON: Very good. And in the
13 area of definitions, now, I've already heard that
14 Sprint wants to talk to McPhee.

15 MS. BOURIANOFF: Your Honor, before we
16 move to definitions, I have a question about
17 Mr. Rhinehart. He has to be there Wednesday and
18 Thursday for UNEs.

19 JUDGE THOMPSON: Okay.

20 MS. BOURIANOFF: And I was wondering if
21 it would be possible for SBC to address their pricing
22 questions to Mr. Rhinehart on Wednesday or Thursday
23 when he's here on another subject so he doesn't have
24 to travel on Sunday.

25 JUDGE THOMPSON: I don't know. Is that

1 possible, Mr. Lane?

2 MR. LANE: Yes, your Honor. Let me say
3 this to make sure there's not a problem. When we're
4 agreeing with somebody to move them, the lawyers
5 here, we've got them divided up by topic, and so I'm
6 assuming that there won't be any objection if we have
7 different lawyers from SBC cross that particular
8 witness, since he's going to be up on two topics at
9 the same time at the request of --

10 JUDGE THOMPSON: I can tell you right
11 now that absolutely that will not be a problem.

12 MR. LANE: Okay.

13 MS. BOURIANOFF: Yeah. We obviously
14 wouldn't have a problem anyway if that was up to us.

15 JUDGE THOMPSON: Okay.

16 MR. LANE: I don't have a problem with
17 Mr. Rhinehart's price questions being later.

18 JUDGE THOMPSON: And who was that
19 speaking?

20 MR. LANE: Paul Lane. I'm sorry, your
21 Honor.

22 JUDGE THOMPSON: You know, the reporter
23 keeps turning around and looking at me plaintively as
24 though I somehow know who's talking. So please, the
25 first thing out of your mouth ought to be, this is so

1 and so for so and so, and I think what she just said
2 was wrong, or whatever it is you have to say.

3 All right. Let's go on to definitions.
4 Does anyone need to cross-examine Smith?

5 MR. SAVAGE: This is Chris Savage for
6 Charter.

7 JUDGE THOMPSON: Yeah.

8 MR. SAVAGE: I don't have any need to
9 cross-examine any people on definitions, but I would
10 note that some of Mr. Barber's testimony that falls
11 within the GT&C category actually relates to
12 definitions and terms. And I don't know if whoever
13 puts --

14 JUDGE THOMPSON: We're gonna get around
15 to asking them, meaning SBC, who they want to
16 cross-examine with respect to definitions, and
17 they'll tell me if they want to talk to Barber.

18 MR. SAVAGE: I just wanted to be clear
19 that he has some stuff that probably fell in there
20 and they hadn't mentioned it on their chart.

21 JUDGE THOMPSON: I appreciate that.
22 Thank you very much. Now, only respond if your
23 answer is yes, okay? Anyone have any
24 cross-examination for Smith on definitions?

25 MR. LEOPOLD: Returning to the issue I

1 raised -- this is Brett Leopold for Sprint, your
2 Honor.

3 JUDGE THOMPSON: Yes, sir.

4 MR. LEOPOLD: I have cross-examination
5 for Smith.

6 JUDGE THOMPSON: On definitions?

7 MR. LEOPOLD: On the definition of end
8 user which is located -- again, his testimony on page
9 35 references --

10 JUDGE THOMPSON: That's all I need to
11 hear, Mr. Leopold. Your answer is a yes, so we will
12 expect to see Smith on Monday for cross-examination
13 by Mr. Leopold at least with respect to the
14 definition of end user, right? What about Quate?

15 MS. BOURIANOFF: Your Honor, may I
16 interject for one moment? I'm sorry. This is
17 Michelle Bourianoff.

18 JUDGE THOMPSON: Yes, ma'am.

19 MS. BOURIANOFF: I thought it might help
20 to clarify that I think for every CLEC except for
21 MCI, their definitions are located in general terms
22 and conditions, and so our issues about definitions
23 are actually teed up in the general terms and
24 conditions attachment and in the general terms and
25 conditions DPL.

1 I believe for MCI the reason there's a
2 separate definition subject teed up on this first day
3 is they actually have a separate attachment --

4 JUDGE THOMPSON: Okay.

5 MS. BOURIANOFF: -- of all definitions
6 in a separate DPL called definitions, which is what
7 Mr. Savage of Charter was referring to and
8 Mr. Leopold for Sprint. And so I think that's why
9 we -- some of the CLECs were saying that they have
10 issues or questions as to definitions but they will
11 be taken up in general terms and conditions because
12 that's how their issues are teed up in this
13 definition section.

14 JUDGE THOMPSON: Thank you for making
15 that clear. I appreciate that.

16 MR. BUB: Your Honor, this is Leo Bub.
17 That is correct.

18 JUDGE THOMPSON: Okay. So for all the
19 CLECs except MCI, have we already covered the
20 witnesses you're going to need for any definition
21 problems under G's, T's & C's? Yes or no.

22 MR. SAVAGE: Yes, sir. Chris Savage for
23 Charter. Yes.

24 JUDGE THOMPSON: Great. So let's just
25 talk about MCI and SBC then. So who, Mr. Morris, are

1 you gonna want to cross-examine?

2 MR. MORRIS: No one for Bell.

3 JUDGE THOMPSON: Fantastic. And who,
4 Mr. Lane, are you gonna want to cross-examine?

5 MR. LANE: Just the two MCI witnesses,
6 your Honor.

7 JUDGE THOMPSON: Very good. So we will
8 need to see Price and Ricca, and I think they were
9 both coming anyway, right? Yeah. Because they're
10 also under price. Very good. Let's move on to
11 resale.

12 MR. LEOPOLD: Your Honor, Brett Leopold
13 with Sprint.

14 JUDGE THOMPSON: Yes.

15 MR. LEOPOLD: Just to clarify, I only
16 need to talk to Smith once, and he's not listed in
17 the proposed list that SBC sent out as a GT&C
18 witness. If they present him earlier in the day
19 under G's, T's & C's, I can talk to him then and
20 won't need to talk to him in this later --

21 JUDGE THOMPSON: Okay. I just wrote him
22 in under GT&C.

23 MR. LEOPOLD: Thank you.

24 JUDGE THOMPSON: Very good. Now, with
25 resale, only respond if your answer is yes. I'm

1 talking to all of the CLECs. Is there anyone who
2 wants to cross-examine Christensen? What about
3 Quate? We're just talking resale now. What about
4 Silver? What about Smith?

5 MR. JOHNSON: Mark Johnson on behalf of
6 Navigator. I might have some questions for him.

7 JUDGE THOMPSON: Very good. So now we
8 see we only have the one SBC witness for resale.

9 Speaking now to SBC, only respond if
10 your answer is yes. Do you have cross-examination
11 for Price?

12 MR. BUB: Your Honor, this is Leo Bub.
13 Yes, we have some.

14 JUDGE THOMPSON: Lichtenberg.

15 MR. BUB: Yes, we have some.

16 JUDGE THOMPSON: LeDoux.

17 MR. BUB: We have some.

18 JUDGE THOMPSON: Very good. So let's
19 count the number of witnesses we're gonna have on
20 Monday. One -- and some of these, of course, are
21 appearing on multiple issues. Okay. We're gonna
22 have McPhee, right? Because I believe Sprint told us
23 they wanted to talk to McPhee. And we're gonna have
24 Quate and Silver and Smith, right? And Guepe and
25 Barber, except we want to do Barber Tuesday or

1 Wednesday, if possible; is that what I understand?

2 MR. SAVAGE: Chris Savage for Charter.

3 That's my request, yes, sir.

4 JUDGE THOMPSON: Well, let's leave
5 Barber off the Monday list. And Cadieux we're gonna
6 have on Monday, right? And we're gonna have Falvey,
7 and we're gonna have Collins and Price and Hurter.
8 And then we're gonna have Burt, and we're gonna have
9 Knox, and we're gonna have Swankey, right?

10 MR. LEOPOLD: Your Honor, Knox I think
11 we're moving to Tuesday.

12 JUDGE THOMPSON: Thank you for reminding
13 me. And then we're gonna have -- Silver's already on
14 the list, but he's gonna also be talking about price.
15 Rhinehart we're gonna do on Wednesday or Thursday; is
16 that right?

17 MS. BOURIANOFF: Yes, your Honor.
18 Michelle Bourianoff.

19 JUDGE THOMPSON: Okay. But we're gonna
20 have Ivanuska, correct? And we're gonna have Price
21 and Ricca. Okay. Then we're gonna have Price and
22 Ricca again looking at the definitions section.
23 We're gonna have Smith again for resale, Price again.
24 We're gonna add Lichtenberg, and then we're gonna
25 have LeDoux.

1 I think that's the full list for Monday,
2 right? Four issues and 16 witnesses. Okay? It
3 looks to me as four of these witnesses are SBC
4 witnesses, and so the other 12 would be CLEC
5 witnesses. Is that what everyone else has come up
6 with? No one's disagreeing, so I'm assuming that's
7 what everyone else is coming up with.

8 Now let's decide what amount of time
9 we're going to devote to each witness and each topic
10 here. Any suggestions? Are you all still there?

11 MR. SAVAGE: Yes.

12 MR. LEOPOLD: Yes.

13 MS. BOURIANOFF: Yes.

14 JUDGE THOMPSON: You're as stumped by
15 this conundrum as I am.

16 MR. LANE: This is Paul Lane with SBC.

17 JUDGE THOMPSON: Yes, Mr. Lane.

18 MR. LANE: My assumption was that we'd
19 be going for eight hours and that we ought to leave
20 two hours for questions from you and your staff. Is
21 that a good assumption? Each day.

22 JUDGE THOMPSON: I would be astonished
23 if I generate two hours worth of questions per day,
24 and my staff is also looking like they're not gonna
25 be talking that much. Why don't you guys just figure

1 you're gonna be using all the eight hours.

2 MR. MAGNESS: Your Honor, this is Bill
3 Magness with CLEC Coalition.

4 JUDGE THOMPSON: Yeah.

5 MR. MAGNESS: Just based on what we've
6 seen in other states on GT&C, I'd be astonished if
7 there was more than a few hours of cross for all
8 these witnesses. I mean, obviously I don't know what
9 SBC has in mind, and they're crossing 12 of the 16
10 witnesses, but just based on a number of issues in
11 the DPL, the nature of the issues and especially in
12 GT&C, the fact that so many of them are legal or, you
13 know, primarily legal --

14 JUDGE THOMPSON: And you know I'm gonna
15 get mad if I hear cross-examination about legal
16 issues.

17 MR. MAGNESS: That's what I understand.
18 That I just -- I would hate for us to go forward with
19 the schedule for Monday where we think we're only
20 gonna cover GT&C when --

21 JUDGE THOMPSON: And then we get done
22 early and we've got nothing to do?

23 MR. MAGNESS: And not prepared for the
24 next day. So I just say that, I guess, as a --

25 JUDGE THOMPSON: Well, you know --

1 MR. MAGNESS: If I could say one other
2 thing. I wanted to make the point too that if we can
3 agree that, you know, for example, we're just going
4 to have cross and redirect and that's the end of the
5 show, that would be -- that might help us estimate
6 time.

7 And then also if we could -- I think
8 maybe Mr. Johnson may have suggested this in an
9 e-mail to the group, that we preadmit all the
10 testimony and preswear all the witnesses so that when
11 they just get up there, you know, they're ready for
12 cross, that might also --

13 JUDGE THOMPSON: I think that would be
14 helpful. And we'll also forego the traditional
15 preliminary questions: Who are you, did you prepare
16 this, did you file this, would you say the same thing
17 today, if that's okay with everyone?

18 MR. MAGNESS: Bill Magness, CLEC
19 Coalition. That's certainly fine with us.

20 MR. SAVAGE: Chris Savage for Charter.
21 That's fine. The only value I've ever seen in that
22 after doing this for many years is occasionally one
23 corrects typos and that sort of thing. And if we can
24 just stipulate those in if we find any.

25 JUDGE THOMPSON: Bingo. Yes, we can.

1 I'm in favor of just admitting all the evidence in
2 one swoop as a preliminary matter before we even put
3 the first witness on, unless somebody has a problem
4 with that. And you can always make any objection you
5 want at the time.

6 MR. SAVAGE: Your Honor, on the question
7 of time for cross-examination, if I end up having any
8 cross-examination for Ms. Quate at all --

9 JUDGE THOMPSON: And this is?

10 MR. SAVAGE: This is Chris Savage
11 again -- I apologize -- for Charter. I would expect,
12 you know, at most a half an hour. I mean, that's --
13 I mean, I don't see any -- I would concur with
14 Mr. Magness. I don't see that G's, T's & C's --

15 JUDGE THOMPSON: Well, why don't we plan
16 this: Why don't we plan to devote Monday morning to
17 GT&C, and Monday afternoon we'll do price, definition
18 and resale. How does that sound?

19 MR. MAGNESS: Your Honor, Bill Magness
20 for CLEC Coalition. That sounds fine. We have --
21 given the number of names on the list, I know this
22 sounds very ambitious, but I don't know, maybe --
23 Michelle Bourianoff has been through a lot of these
24 too, but I still think we may be able to move into
25 interconnection the same day.

1 JUDGE THOMPSON: Really?

2 MR. MAGNESS: I mean, again, it depends
3 on how much cross SBC really has for these 12
4 witnesses.

5 JUDGE THOMPSON: The problem is this:
6 If all of these people need to be physically here
7 ready to go Monday afternoon because we're gonna
8 maybe get to them, we're going to inconvenience a
9 large number of people and cause unnecessary expense
10 to all the participants; isn't that correct?

11 MR. SAVAGE: This is Chris Savage for
12 Charter. I mean, from our perspective, if, gosh, we
13 get done at, you know, four o'clock or 3:30 on
14 Monday --

15 JUDGE THOMPSON: -- then we can go have
16 a beer and start again Tuesday. That's how I see it.

17 MR. SAVAGE: Could be. Or perhaps, you
18 know, huddle with our friends from SBC and try to
19 settle a few more things.

20 MS. BOURIANOFF: Well, your Honor, my
21 concern is this -- this is Michelle Bourianoff with
22 AT&T.

23 JUDGE THOMPSON: Yes, ma'am.

24 MS. BOURIANOFF: The way the schedule
25 has been laid out -- and this is something I was

1 gonna bring up when we get -- when we got to Tuesday,
2 and it ties into what Mr. Magness is talking about
3 here.

4 JUDGE THOMPSON: Yeah?

5 MS. BOURIANOFF: Network
6 interconnections and reciprocal compensation are --
7 along with UNEs, those, I think, are the three areas,
8 three broad areas in which there's the most issues
9 and the most disputes in this arbitration. I think
10 across the CLECs and with SBC and with what we're
11 seeing in other proceedings, those are the three
12 issues that have just the most disputes and that will
13 probably spend the most time on.

14 JUDGE THOMPSON: Okay.

15 MS. BOURIANOFF: And I don't know if it
16 really is realistic to think that we're gonna get
17 through all of the interconnection issues, all of the
18 inter carrier compensation issues and the billing
19 issues that SBC has lumped in with inter carrier
20 compensation in one long day.

21 And recognizing that, I think, is why
22 Mr. Magness suggested that if we get done early on
23 day one -- because it's our experience in other
24 states that general terms and conditions and resale
25 simply don't take as much time as issues like inter

1 carrier compensation.

2 JUDGE THOMPSON: Your point is very well
3 taken. So, yes, we will be prepared to start
4 interconnection issues then on Monday. All right?

5 Let's start talking, then, about
6 interconnection issues. All right. With respect to
7 the SBC witnesses, answer yes if you're gonna have
8 cross for the witness. Constable?

9 MR. ZARLING: This is AT&T. Yes.

10 JUDGE THOMPSON: Douglas?

11 MR. ZARLING: This is Kevin Zarling for
12 AT&T, and the answer is yes.

13 JUDGE THOMPSON: Hamiter.

14 MR. SAVAGE: Chris Savage for Charter.
15 Probably for Hamiter as well.

16 JUDGE THOMPSON: McPhee?

17 MR. SAVAGE: Yes.

18 JUDGE THOMPSON: Silver?

19 MR. ZARLING: As of today, not having
20 seen rebuttal for AT&T, I don't have any. So if we
21 have some, we'll try to let SBC know.

22 JUDGE THOMPSON: Who was that speaking,
23 by the way?

24 MR. ZARLING: That was Kevin Zarling for
25 AT&T.

1 JUDGE THOMPSON: Very good. And Silver
2 is gonna be there on Monday anyway. Okay. And
3 McPhee will also be there. So it looks like
4 Constable, Douglas, Hamiter, McPhee, Silver are all
5 gonna need to be there on Monday ready to go Monday
6 afternoon.

7 What about -- now, SBC, if you have
8 questions for the witness, say yes. Schell.

9 MR. LANE: Yes, sir.

10 JUDGE THOMPSON: Land.

11 MR. LANE: Yes, sir.

12 JUDGE THOMPSON: Kohly.

13 MR. LANE: Yes.

14 JUDGE THOMPSON: Falvey.

15 MR. LANE: Yes.

16 JUDGE THOMPSON: LeDoux.

17 MR. LANE: Yes.

18 JUDGE THOMPSON: Schmick.

19 MR. LANE: I'll put him as a yes.

20 JUDGE THOMPSON: Yes. If you don't
21 settle, right?

22 MR. LANE: Yes, if we don't settle.
23 Yeah, that's a caveat.

24 JUDGE THOMPSON: Judge Thompson, Mark
25 Johnson. I'm sorry. Maybe this has been understood.

1 But if we are silent, but knowing a witness is gonna
2 be there, we've not waived the opportunity to cross,
3 have we?

4 JUDGE THOMPSON: Well, if the witness
5 isn't gonna be there --

6 MR. JOHNSON: No, I understand. But if
7 we know that a witness is gonna be there.

8 JUDGE THOMPSON: No. I'm not taking
9 notes on who says they've got cross.

10 MR. JOHNSON: That's all I have. Thank
11 you.

12 JUDGE THOMPSON: All I want to know is
13 who needs to be there.

14 MR. JOHNSON: Okay. Thank you.

15 MR. BUB: And it's also understood that
16 if we're going through this and say, like, for
17 example, we decide we don't have anything for
18 Mr. Schell, you know, I'll call Mr. Zarling and let
19 him know that.

20 JUDGE THOMPSON: Absolutely. Or even an
21 e-mail copied to everybody.

22 MR. BUB: Okay.

23 JUDGE THOMPSON: Thank you. Then we
24 would also expect to have available Monday afternoon
25 Constable, Douglas, Hamiter, McPhee, Silver, Schell,

1 Land, Kohly, Falvey, LeDoux and Schmick, subject to
2 all of the caveats that have been expressed by the
3 various parties. All right? And this is NIA. What
4 is NIA?

5 MR. SAVAGE: Network interconnection
6 architecture.

7 MR. MAGNESS: Your Honor, this is Bill
8 Magness for CLEC Coalition. I don't think that there
9 is a need -- and SBC can certainly disagree if they
10 think there is -- that there's a need to divide NIA,
11 NIM, which is network interconnection methods, and
12 ITR into three separate groups. I think we can get --

13 JUDGE THOMPSON: What is ITR?

14 MR. SAVAGE: Interconnection trunking
15 requirements, your Honor. This is Chris Savage with
16 Charter.

17 JUDGE THOMPSON: Thank you.

18 MR. MAGNESS: It seems like since there
19 is so much commonality of witnesses, rather than
20 trying to get some of the same witnesses up there
21 several times, if we can do interconnection in all
22 one chunk, it's gonna be a whole lot more efficient.

23 JUDGE THOMPSON: That sounds good to me.

24 MR. BUB: Your Honor, this is Leo Bub
25 from SBC. We think that makes a lot of sense too.

1 The only caveat that we have is -- and remember, we
2 broke this up by DPL so that there was a separate NIA
3 DPL, a separate NIM DPL and a separate ITR DPL, if we
4 have some of those broken up by different lawyers.
5 So if it's okay with everybody --

6 JUDGE THOMPSON: You can double-team the
7 witnesses, yes.

8 MR. BUB: I'm sorry?

9 JUDGE THOMPSON: You can have multiple
10 lawyers shooting questions at the witness.

11 MR. BUB: And as long as that's
12 understood, we're okay with consolidating
13 interconnection into one group.

14 JUDGE THOMPSON: Okay. Good.

15 MR. MAGNESS: Your Honor, it's Bill
16 Magness with CLEC Coalition. I just think we should
17 require that they have to tag each other like in a
18 wrestling match.

19 JUDGE THOMPSON: Yeah. Everyone has to
20 be wearing running shoes, too. All right. So we're
21 already gonna have Hamiter, McPhee and Silver there.
22 What about Cornelius, SBC? Do you have questions for
23 Cornelius?

24 MR. BUB: Yes, your Honor. We have a
25 few.

1 JUDGE THOMPSON: Falvey.

2 MR. BUB: Yes.

3 JUDGE THOMPSON: Land.

4 MR. BUB: Yes.

5 JUDGE THOMPSON: Price.

6 MR. BUB: I believe so.

7 JUDGE THOMPSON: Ricca.

8 MR. BUB: Yes.

9 JUDGE THOMPSON: Burt.

10 MR. BUB: Yes.

11 JUDGE THOMPSON: What about Schmick?

12 Jumping down to ITR. Are you gonna have any
13 questions for Schmick? And I think -- yeah,
14 Schmick's already gonna be there for NIA.

15 MR. BUB: Yeah.

16 JUDGE THOMPSON: So basically what I see
17 is that every interconnection agreement witness
18 needs -- interconnection-issue witness needs to be
19 there Monday afternoon ready to go. All right?

20 MR. SAVAGE: Your Honor, this is Chris
21 Savage for Charter. This gets to what I was hoping
22 earlier, which is that the Charter witnesses could
23 avoid Monday. And given the volume of material to be
24 covered on this, I'm hoping we can get an agreement.

25 JUDGE THOMPSON: It is all right with me

1 if the Charter witnesses avoid Monday if that's all
2 right with everybody else.

3 MR. SAVAGE: Is that all right with SBC,
4 that both of my witnesses can arrive on Tuesday?

5 MR. BUB: Chris, that's fine.

6 MR. SAVAGE: Okay. Great. Because I
7 think most of the discussion is gonna be with Mike on
8 the ITR stuff assuming that you will take to heart
9 the same thing I'm taking to heart about cross on
10 GT&C stuff.

11 JUDGE THOMPSON: I'm sure we all
12 recognize these are real people with real lives and
13 we will be as careful as we can to meet their time
14 requirements as to when they can be, when they would
15 like to be here and when they would not like to be.
16 I'm thinking I don't want to be here at all, but that
17 seems to be out of the question.

18 MR. SAVAGE: Your Honor, just to be
19 clear. This is Chris Savage again with Charter.
20 That my current plan is to have both of my witnesses
21 available starting on Tuesday, and then, I guess, if
22 we don't get to them, they'll carry over to
23 Wednesday, but that would be -- is that all right
24 with you, Leo, or whatever SBC lawyer responsible for
25 them is?

1 MR. BUB: Yes.

2 MR. SAVAGE: Okay. Excellent. Thank you.

3 JUDGE THOMPSON: Very good. Now, let's
4 talk about intercompany compensation and billing,
5 including clearing house and recording.

6 MR. LEOPOLD: Your Honor, this is Brett
7 Leopold representing Sprint. I wanted to note that
8 Sprint witness Pete Swankey has testimony on numerous
9 of the interconnection issues, and I think SBC
10 inadvertently left him off on a list of witnesses
11 that they'll have cross for. So I would plan on
12 having him available in that interconnection time
13 frame as well.

14 JUDGE THOMPSON: Very good. I will add
15 Swankey in there. So he will be here starting Monday
16 afternoon; is that correct?

17 MR. LEOPOLD: Yes, your Honor.

18 JUDGE THOMPSON: Very good. Thank you.
19 Okay. Turning now to intercompany compensation.
20 We're gonna start that on Tuesday after we finish
21 interconnection, right? And we would anticipate that
22 probably to be after lunch on Tuesday, or do you
23 think we'll get to it sooner?

24 MR. MAGNESS: Your Honor, Bill Magness,
25 CLEC Coalition. I think if we -- well, I hate to

1 guess, but I would guess that we may get it done
2 early afternoon.

3 JUDGE THOMPSON: Early afternoon. Okay.
4 So after lunch. I say this just for the -- you know,
5 witnesses are gonna want to know when they need to be
6 there, witnesses hate being there when they're not
7 actually on the stand because it's like, you know,
8 they've got other stuff they could be doing. You
9 know how that goes.

10 Okay. CLECs, tell me if you expect to
11 have cross for the SBC witness whose name I'm going
12 to read. Constable.

13 MR. ZARLING: This is Kevin Zarling with
14 AT&T. You know, as of today, yes.

15 JUDGE THOMPSON: Okay. That's all
16 you've got to say is yes. I don't even need to know
17 who says it. Well, the reporter would like to know,
18 I guess, who says it. Douglas.

19 MR. ZARLING: Yes.

20 JUDGE THOMPSON: And you were?

21 MR. ZARLING: Zarling again.

22 JUDGE THOMPSON: Very good. Hamiter.

23 MR. ZARLING: Kevin Zarling again. Yes.

24 JUDGE THOMPSON: McPhee.

25 MR. ZARLING: Kevin Zarling again, and

1 yes.

2 MR. MAGNESS: Bill Magness for CLEC
3 Coalition. Yes.

4 JUDGE THOMPSON: Read, R-e-a-d. Going
5 once, going twice. Okay. Witness Read need not
6 appear. Silver. Witness Silver need not appear.
7 Smith. Looks like there's no questions for witness
8 Smith on intercompany compensation. Unfortunately
9 some of them may have to be here that day anyway for
10 the interconnection issues.

11 Now, SBC, let me know if you think
12 you're gonna have questions for the following CLEC
13 witnesses whose names I'm going to read. Guepe.

14 MR. BUB: Yes.

15 JUDGE THOMPSON: Schell.

16 MR. BUB: Yes.

17 JUDGE THOMPSON: And who's this
18 speaking?

19 MR. BUB: I'm sorry, your Honor. This
20 is Leo Bub.

21 JUDGE THOMPSON: Very good.

22 MR. BUB: Apologize.

23 JUDGE THOMPSON: That's all right.
24 Falvey.

25 MR. BUB: Yes, sir.

1 JUDGE THOMPSON: Kohly.

2 MR. BUB: Yes.

3 JUDGE THOMPSON: Krabill.

4 MR. BUB: Yes, I believe so.

5 JUDGE THOMPSON: Ricca.

6 MR. BUB: Yes.

7 JUDGE THOMPSON: LeDoux.

8 MR. BUB: Just a few, your Honor.

9 JUDGE THOMPSON: Burt.

10 MR. BUB: Yes.

11 JUDGE THOMPSON: Maples.

12 MR. BUB: Yes.

13 JUDGE THOMPSON: Swankey.

14 MR. BUB: Yes.

15 JUDGE THOMPSON: Should Swankey be part
16 of this list?

17 MR. SAVAGE: Yes, your Honor, he should.
18 Your Honor, this is Chris Savage again with Charter.
19 Jumping ahead but I have a reason. The next time I
20 think one of my witnesses appears as having testimony
21 is on Friday, and that's Mike Cornelius for a 911
22 issue.

23 JUDGE THOMPSON: Okay.

24 MR. SAVAGE: I would like to request
25 that -- it's a very -- I'm not sure there would be

1 any cross with respect to it, but I'd like to request
2 that if there is --

3 JUDGE THOMPSON: Yeah.

4 MR. SAVAGE: -- SBC raise that when we
5 get to them on Tuesday or maybe shift over to
6 Wednesday morning.

7 JUDGE THOMPSON: Well, Leo or Paul, are
8 you expecting to have cross for Cornelius on the
9 E-911 issue?

10 MR. BUB: If I do, I'm okay doing it at
11 the same time we do the cross-examination of
12 Mr. Cornelius in the interconnection section.

13 JUDGE THOMPSON: Okay. Very good. So
14 I've made a notation that we will examine him if
15 necessary on Tuesday with respect to E-911. Okay?

16 MR. BUB: But that he won't have to
17 appear on Friday.

18 JUDGE THOMPSON: All right.

19 MR. SAVAGE: Thank you very much. This
20 is Chris Savage. I appreciate it.

21 JUDGE THOMPSON: Now, what about OE-LEC?
22 First, what is that?

23 MR. SAVAGE: We were wondering that
24 ourselves, your Honor. Chris Savage. I'm sorry.

25 MR. MAGNESS: Bill Magness, CLEC

1 Coalition. It's out of exchange. It's a specific
2 issue concerning the extent to which calls can be
3 terminated out of, I guess, those SBC's exchange
4 areas. And I think it's specifically teed up in the
5 testimony of those witnesses identified.

6 JUDGE THOMPSON: Does this have to do
7 with transporting, say, wireless minutes to, say, a
8 small rural LEC somewhere?

9 MR. BUB: No, your Honor. This is more
10 where a CLEC is operating in another ILEC's
11 territory, say, a CLEC operating in Sprint and then
12 they want to exchange calls, local calls that they
13 have in the Sprint exchange with some of SBC
14 customers. So it's a special flavor of
15 interconnection.

16 JUDGE THOMPSON: A different thing.
17 Very good. Okay. Thank you for that clarification.
18 So CLECs, who expects to have cross for Mr. McPhee,
19 or Ms. McPhee?

20 MR. SAVAGE: Chris Savage for Charter.
21 We may. We've actually settled our OE-LEC appendix
22 issue with them, but there is some GT&C-related
23 OE-LEC things that we can do here or we could do
24 earlier.

25 JUDGE THOMPSON: Okay. What about

1 Kohly?

2 MR. MAGNESS: Your Honor, Bill Magness
3 for CLEC Coalition. We may have some questions for
4 Mr. McPhee on OE-LEC. I think we would be happy to
5 take them up with Mr. McPhee when he's being crossed
6 on inter carrier compensation.

7 JUDGE THOMPSON: Very good. Leo or
8 Paul, do you expect to have questions for Kohly?

9 MR. BUB: Yes, your Honor.

10 JUDGE THOMPSON: And Knox?

11 MR. BUB: Yes.

12 JUDGE THOMPSON: Okay. So all three of
13 those witnesses are gonna be -- necessarily will need
14 to be here. We can ask them the questions at a more
15 convenient time obviously, you know, when they're up
16 for something else, but all of them are necessary.

17 MR. BUB: Yeah. This is Leo Bub. Just
18 so you know, in parentheses behind each of our
19 witnesses, if they do have a limitation like, for
20 example, Scott McPhee, he needs to be finished by
21 noon on Thursday because he has a -- you know, other
22 commitments and plane to catch. And we also have a
23 similar restriction with Smith. He's here Monday
24 through Wednesday. Weydeck's only available Tuesday
25 and Wednesday. So that's what those parentheticals

1 mean.

2 JUDGE THOMPSON: We'll do our best.

3 MR. BUB: Thank you.

4 MR. MAGNESS: And, your Honor, Bill
5 Magness for CLEC Coalition. On that note, just one
6 of those I wanted to add. It wasn't reflected on the
7 list here. Mr. Land for CLEC Coalition needs to be
8 done if we can by perhaps noon Tuesday.

9 JUDGE THOMPSON: Okay.

10 MR. MAGNESS: So if we can do what we
11 need to do with him. He's only on interconnection
12 issues, so hopefully that won't be a problem.

13 JUDGE THOMPSON: I'm going to require
14 the lawyers to keep track of these things. You know
15 your witnesses' special needs so, you know, remind us
16 during the hearing.

17 MR. BUB: Yes, sir. I just want it
18 noted.

19 JUDGE THOMPSON: Okay. I'm just trying
20 to get a rough idea of who's gonna be here when, and
21 then we can start divvying up the time. So let's
22 look at Wednesday where we start the UNE issue.

23 MR. LEOPOLD: Your Honor, before we move
24 to that, I -- this is Brett Leopold with Sprint.

25 JUDGE THOMPSON: Yes, sir.

1 MR. LEOPOLD: I'd like to go back to
2 Sprint witness Knox on the out-of-exchange appendix.
3 I'd like that to be the only time that Mr. Knox
4 appears at the hearing, and at that time I would
5 suggest SBC could cross on his narrow GT&C issue
6 which also relates to the out-of-exchange issue.

7 And he also appears as the only CLEC
8 witness on the numbering appendix, which is currently
9 listed as the last topic on Friday. And when he gets
10 up there, it looks like that could be in a Tuesday
11 time frame, I'd like him to be cross-examined on both
12 the out-of-exchange appendix and the numbering
13 appendix at that time if SBC could accommodate that.

14 JUDGE THOMPSON: Certainly fine with me.

15 MR. BUB: Your Honor, this is Leo Bub.
16 We could accommodate that. That would be fine with
17 us.

18 JUDGE THOMPSON: Very good. Okay.
19 Let's talk UNEs. We're expecting UNEs to take all
20 day Wednesday and go on into Thursday; is that
21 correct? Seems like a pretty big issue based on what
22 I've seen. So --

23 MR. LANE: I'm wondering if we'll have
24 any questions, your Honor, if none of the questions
25 are supposed to deal with legal issues.

1 JUDGE THOMPSON: Just facts. Only the
2 facts, ma'am.

3 MR. MAGNESS: Your Honor, this is Bill
4 Magness, CLEC Coalition. I think Mr. Lane raises a
5 good point. There's a -- a lot of the issues
6 concerning UNEs are, you know, related to
7 interpretations of their latest orders and such.

8 We do have some questions that are -- we
9 believe are factual for three of the SBC witnesses.
10 We can identify those as you tick them off.

11 JUDGE THOMPSON: Very good. Well, let's
12 go through that then. Starting with the SBC
13 witnesses, so this is directed to the CLECs. If you
14 have a factual cross-examination question for the
15 witness whose name I'm going to read, say yes and
16 identify who you are so the reporter will know.

17 What about Chapman?

18 MR. MAGNESS: For CLEC Coalition, Bill
19 Magness, we expect to, yes.

20 JUDGE THOMPSON: Very good. Christensen.
21 Hatch.

22 MS. BOURIANOFF: Your Honor, Michelle
23 Bourianoff. Maybe.

24 JUDGE THOMPSON: Okay. Smith. Silver.

25 MR. MAGNESS: Bill Magness for CLEC

1 Coalition. Yes.

2 JUDGE THOMPSON: Weydeck.

3 MR. MAGNESS: Bill Magness, CLEC

4 Coalition. I'll say maybe.

5 JUDGE THOMPSON: Okay. And these are
6 gonna be factual, right?

7 MR. MAGNESS: Just for planning
8 purposes. Yes, because Mr. Weydeck, I think, is, if
9 I recall correctly, more on the network side, and
10 there were some factual issues we had there.

11 JUDGE THOMPSON: And when I say fact, I
12 don't mean fact like isn't it true that the FCC says
13 you have to do this? To me that's a legal question.

14 MR. MAGNESS: No, sir. I understand
15 that. Yeah. I think that's why the witnesses we've
16 selected are ones who have discussed more about
17 what's been happening factually concerning certain
18 ordering network process-type issues that -- and as
19 you noted earlier, I mean, I think if we see rebuttal
20 and these things are fully flushed out and developed
21 and we don't need that cross, we will not do it, I
22 can assure you.

23 But our experience has been that there
24 are some issues that are kind of moving in real time
25 that are fact-related that we may want to cross on.

1 JUDGE THOMPSON: Very good. All right.
2 I hope everyone will alert all of us as it appears to
3 you necessary to add a witness or drop a witness out,
4 okay?

5 What about -- now, I'm asking SBC, let
6 me know if you're gonna have fact-based cross-examination
7 questions for any of these CLEC witnesses.
8 Rhinehart.

9 MR. LANE: Your Honor, this is Paul Lane
10 for SBC. I'll say yes to all of them but I --

11 JUDGE THOMPSON: Very good. Then we'll
12 just say all of them need to be here Wednesday
13 morning ready to go, okay?

14 MR. MORRIS: Your Honor, I have -- this
15 is Steve Morris with MCI. And I have a couple of
16 witnesses. One is on Wednesday, Paul Collins, who is
17 also slated for Monday and Thursday. And I was
18 trying to work it so that he could appear like on one
19 day and take care of all of his issues if that's
20 acceptable with SBC.

21 JUDGE THOMPSON: Well, if we get off on
22 to UNEs when he's here Monday, we may not finish the
23 other business that we have slated for Monday. You
24 see what I'm saying? Is that gonna be a problem?

25 MR. MORRIS: Say that again.

1 JUDGE THOMPSON: Well, I mean, we all
2 want to accommodate the witnesses as much as we can,
3 but if SBC is gonna examine Mr. Collins as to UNEs on
4 Monday, then perhaps that will be so extensive that
5 we may not finish the business we already have
6 planned for Monday. You see --

7 MR. MORRIS: Yeah. What I was
8 suggesting, instead of him coming on Monday, perhaps
9 he could come on Wednesday.

10 JUDGE THOMPSON: Okay.

11 MR. MORRIS: Because he's not the
12 principal UNE witness anyway.

13 JUDGE THOMPSON: Well, how extensive,
14 then, Mr. Lane, do you expect your cross for
15 Mr. Collins on GT&C to be, if you're able to answer
16 that?

17 MR. LANE: I'm guessing. I don't mind
18 doing his GT&C on Wednesday if that would help out.

19 JUDGE THOMPSON: Great. I'll put him
20 down for Wednesday, and I'll cross him off my Monday
21 list okay.

22 MR. MORRIS: Okay. And likewise, I have
23 another witness, Lichtenberg, who's also slated for
24 Monday, but which he then has stuff Thursday and
25 Friday. I don't know if it's better to take it up

1 when we get to Thursday or Friday or take it up now.

2 JUDGE THOMPSON: Well, now's fine. You
3 only want Lichtenberg to appear once; is that right?

4 MR. MORRIS: Yes.

5 JUDGE THOMPSON: Okay. And do you have
6 a preference as to when?

7 MR. MORRIS: I haven't heard back from
8 her so no, I don't. But again, I'm just --

9 JUDGE THOMPSON: I see that Lichtenberg
10 is only down for resale on Monday.

11 MR. MORRIS: Yes.

12 JUDGE THOMPSON: Why don't we just let
13 SBC ask their resale questions of Lichtenberg on
14 Thursday or Friday? How's that?

15 MR. BUB: That would be fine with us,
16 your Honor.

17 MR. MORRIS: Okay. Thank you.

18 JUDGE THOMPSON: Very good. So that
19 witness will only have to appear one time, and I will
20 cross them off my Monday list. See, the Monday list
21 is getting shorter.

22 MR. JOHNSON: Judge Thompson, Mark
23 Johnson on behalf of Navigator. At this point
24 Mr. LeDoux would be on a panel -- is up for Monday,
25 Tuesday and Wednesday. I would -- I don't know

1 whether SBC would want him on Thursday as well.

2 JUDGE THOMPSON: I don't know. Do you?

3 MR. JOHNSON: His testimony may not be
4 that extensive ultimately. And if he could be there
5 for just one day, that would be helpful.

6 JUDGE THOMPSON: What do you think, SBC?
7 I'm sure they'll cooperate to the extent that they
8 can. Okay. Is there any possibility, do you think,
9 that we'd be able to start UNEs on Tuesday afternoon?

10 MS. BOURIANOFF: Your Honor, this is
11 Michelle Bourianoff with AT&T. I would be surprised
12 if we could start UNEs on Tuesday afternoon, but I
13 would think we could get done with UNEs in one day.

14 JUDGE THOMPSON: Since we're limiting
15 ourselves to fact-based questions, right?

16 MS. BOURIANOFF: Yes, I mean --

17 JUDGE THOMPSON: Okay.

18 MS. BOURIANOFF: -- and Bill or Mark
19 Johnson, someone else who was involved in some of the
20 other states, correct me if I'm -- if you think I'm
21 wrong.

22 JUDGE THOMPSON: What do you guys think?

23 MR. MAGNESS: This is Bill Magness with
24 CLEC Coalition. I think if we got started first
25 thing in the morning, it's possible we can get

1 through in a day. I was thinking, Michelle, about, I
2 guess, the last time we ran through this was Kansas,
3 and it took a little over a day just because of the
4 number of issues, but I don't think it's out of the
5 realm of possibility certainly.

6 JUDGE THOMPSON: Okay. Let's talk
7 Thursday. It's understood we'll finish UNEs on
8 Thursday if necessary, but we will certainly start
9 colocation Thursday morning. Am I right? Evidently
10 I am since no one's jumping in to tell me that I'm
11 not.

12 Okay. Let me hear from the CLECs if
13 you're expecting to have cross for any of these SBC
14 witnesses. Pool.

15 MS. BOURIANOFF: Yes. Michelle
16 Bourianoff.

17 JUDGE THOMPSON: Okay. Silver. None
18 for Silver. And Smith, and as you know, Smith has to
19 be finished on Wednesday, so you're gonna have to ask
20 your colocation questions of witness Smith earlier.
21 Is anyone expecting to have any cross-examination for
22 Smith on colocation? Evidently not. Well, that's
23 helpful.

24 Now, SBC.

25 MS. BOURIANOFF: Your Honor, I'm sorry.

1 I might have. With regard to the power metering
2 issue, I might have a few questions of witness Smith.

3 JUDGE THOMPSON: Okay. Very well.

4 Well, you're gonna have to ask them earlier, then, in
5 the proceedings if possible.

6 MS. BOURIANOFF: Okay. I could do that
7 on Wednesday if we have time.

8 JUDGE THOMPSON: Okay. Good. Does that
9 work for you, SBC?

10 MR. BUB: Yes, because he won't be there
11 Thursday.

12 JUDGE THOMPSON: Okay. Well, I guess we
13 better get him while he's there.

14 MR. BUB: We can have him available
15 Monday through Wednesday, so if they wanted --

16 JUDGE THOMPSON: Okay. And it looks
17 like he's on the Monday list. I haven't put together
18 the Tuesday list yet, but it looks like it's most of
19 the people. Well, no. I don't know that he's gonna
20 be necessary on Tuesday. But certainly have him
21 there Monday, and if we need to keep him Tuesday,
22 we'll do that. All right?

23 Okay. Now, SBC, tell me who you want to
24 cross-examine. Henson?

25 MR. BUB: Yes.

1 JUDGE THOMPSON: Cadieux?

2 MR. BUB: Yes.

3 JUDGE THOMPSON: Krabill?

4 MR. BUB: Yes.

5 JUDGE THOMPSON: Price?

6 MR. BUB: Yes.

7 JUDGE THOMPSON: Fox?

8 MR. BUB: Yes.

9 JUDGE THOMPSON: Okay. So all of those
10 people need to be here, then, Thursday morning to be
11 cross-examined with respect to colocation. Now let's
12 talk OSS. And what is OSS?

13 MS. BOURIANOFF: Your Honor, Michelle
14 Bourianoff. It stands for operation support system.

15 JUDGE THOMPSON: Okay. CLECs, tell me
16 who you want to cross. Christensen? Evidently not.
17 Silver? Smith? Okay. Doesn't look like any of them
18 are gonna be crossed on OSS.

19 SBC, tell me who you would like to
20 cross. Collins? And we're doing Collins on
21 Wednesday as I understand. So Collins?

22 MR. BUB: At this point, yes, your
23 Honor. But I think on this subject we'll take a real
24 hard look and see if any of it's necessary.

25 JUDGE THOMPSON: Okay.

1 MR. BUB: I think for now we should put
2 him down for yes. This is Leo Bub.

3 JUDGE THOMPSON: Yes, Leo. Thank you.
4 And Lichtenberg, we're only doing Lichtenberg on
5 Thursday and Friday. Do you expect to have cross for
6 Lichtenberg?

7 MR. BUB: Yes, for some on resale, so
8 yes, let's put him down for a yes.

9 MR. MORRIS: Yeah. And preferably
10 Thursday. And this is Steve Morris for MCI.

11 JUDGE THOMPSON: Preferably when did you
12 say?

13 MR. MORRIS: Thursday for Lichtenberg.
14 Yes, to have all of her testimony taken care of on
15 Thursday.

16 JUDGE THOMPSON: That would be great.

17 MR. MORRIS: Because she's split up
18 between Monday, Thursday and Friday.

19 JUDGE THOMPSON: Yeah. We've already
20 said she doesn't need to appear Monday.

21 MR. MORRIS: Right.

22 JUDGE THOMPSON: We'll try to get her
23 done Thursday.

24 MR. MORRIS: Right.

25 JUDGE THOMPSON: Okay. LeDoux. Leo,

1 are you gonna have questions for LeDoux?

2 MR. BUB: At this point, yes.

3 JUDGE THOMPSON: Okay. Very good. Now
4 we've gotten to Friday. Do you think there's any
5 chance we're gonna start the Friday issues on
6 Thursday? Are we gonna be done with colocation and
7 OSS?

8 MS. BOURIANOFF: Your Honor, I think
9 it's possible. I don't think -- I think the CLEC
10 said they didn't have any cross of SBC's OSS
11 witnesses, and there was only -- only FCC colocation
12 witness we identified on colocation was Pool on
13 Thursday because Smith will have to be done earlier
14 in the week.

15 JUDGE THOMPSON: Okay.

16 MS. BOURIANOFF: I think it is possible.

17 JUDGE THOMPSON: Let's see how many
18 Friday witnesses we have, and then we'll see which
19 issues we should have ready to go Thursday afternoon
20 just in case.

21 CLECs, who expects to cross-examine
22 witness Atwal? Anyone?

23 MR. LEOPOLD: Your Honor, this is Brett
24 Leopold for Sprint. We might have cross-exam for
25 Atwal, although we would certainly take a hard look

1 at this subject with SBC to see if we could -- if it
2 would be possible to mutually waive cross.

3 JUDGE THOMPSON: Very good. What about
4 Henson? SBC, questions for Henson?

5 MR. BUB: At this point, yes. This is
6 Leo Bub.

7 JUDGE THOMPSON: Okay. Gates?

8 MR. BUB: And also for Mr. -- for Gates,
9 too.

10 JUDGE THOMPSON: Well, Leo, while you're
11 speaking, what about going down to the next issue.
12 Price?

13 MR. BUB: Yes, for the xDSL issues?

14 JUDGE THOMPSON: Yes, sir.

15 MR. BUB: Yes.

16 JUDGE THOMPSON: Tenerelli?

17 MR. BUB: Yes.

18 JUDGE THOMPSON: Lichtenberg.

19 MR. BUB: Yes.

20 JUDGE THOMPSON: Okay. And Lichtenberg
21 we're doing, as I recall, Thursday, if possible.

22 Okay. What about CLECs? Anyone for
23 questions for Chapman on the xDSL issue?
24 I'm hearing none. Chapman need not appear it looks
25 like, unless we're gonna do 911. Anybody gonna have

1 questions for Chapman on the E-911 issue? Doesn't
2 look like it. McPhee? Quate? Silver?

3 MR. SAVAGE: Your Honor, you went a
4 little too quickly for me. This is Chris Savage with
5 Charter. Our tiny little E-911 issue is almost more
6 like a GT&C issue, and so it has to do with a certain
7 definition as to when something will happen.

8 JUDGE THOMPSON: Right.

9 MR. SAVAGE: And so to the extent -- I
10 think our issue is addressed by Ms. Quate, but what I
11 propose is that I be permitted to ask if I have any
12 questions about that on the appropriate SBC witness
13 back in the GT&C time, because I think they're all --

14 JUDGE THOMPSON: Sure. So you just want
15 to ask that question Monday when Quate's gonna be
16 here anyway?

17 MR. SAVAGE: Yeah. And it may be
18 Mr. McPhee, but he's gonna be here Monday anyway as
19 well.

20 JUDGE THOMPSON: Okay. Great.

21 MR. LANE: All right. So Ms. Quate
22 won't need to be there on Friday. That will be a big
23 help.

24 JUDGE THOMPSON: That's exactly right.
25 Okay. Now, SBC, are you gonna have any questions for

1 Cornelius on E-911?

2 MR. LANE: Your Honor, Paul Lane with
3 SBC. Did you do Silver for E-911?

4 JUDGE THOMPSON: I didn't hear anyone
5 say they wanted to talk to Silver.

6 MR. LANE: All right.

7 JUDGE THOMPSON: So as far as I'm
8 concerned, none of them -- none of these SBC E-911
9 witnesses need to be there on Friday.

10 MR. BUB: And then -- this is Leo Bub.
11 And McPhee, to the extent there are E-911 questions
12 from Charter, they would be handled earlier in the
13 week like Monday?

14 JUDGE THOMPSON: On Monday with GT&C.

15 MR. SAVAGE: This is Chris Savage with
16 Charter. And we would agree that whatever E-911
17 questions you might have for Mike Cornelius that we'd
18 do them on Tuesday.

19 JUDGE THOMPSON: Right. So now I'm
20 asking if they're gonna have any.

21 MR. BUB: Yes. And Tuesday's fine.

22 JUDGE THOMPSON: Very good. Okay. So
23 then at the end of the day Thursday, why don't we
24 make sure that Atwal, Henson, Gates, Price and
25 Tenerelli are available. And Lichtenberg's gonna be

1 available Thursday anyway, all right? In case we get
2 to start those issues.

3 MS. BOURIANOFF: And, your Honor, it
4 sounds like there won't actually be any E-911 issues
5 taken up on Friday, because whatever there might be
6 questions for are gonna be addressed --

7 JUDGE THOMPSON: -- on Monday and
8 Tuesday.

9 MS. BOURIANOFF: Right.

10 JUDGE THOMPSON: Ain't that great.
11 Okay. Who's gonna have questions for Dysart on
12 performance measures? Anyone? Doesn't look like it.
13 Okay. Let my take a moment here to get my list
14 organized.

15 MR. MAGNESS: Your Honor, Bill Magness
16 with CLEC Coalition. While you're doing that, I just
17 want to note mainly for SBC, we would appreciate it
18 if anything on colocation for Mr. Cadieux maybe be
19 handled when he is on the stand earlier on UNES. He
20 needs to be there for GT&C and UNES earlier in the
21 week, and we were just hoping maybe we could let him
22 go after he's done with UNES by covering any colo
23 questions then.

24 JUDGE THOMPSON: That's fine with me.
25 Is that all right with you, SBC?

1 MR. BUB: What day did -- this is Leo
2 Bub. What day were you looking at, Bill?

3 MR. MAGNESS: Leo, whatever day you need
4 to end up having, that would be the last time Ed
5 would need to be on except for colo.

6 JUDGE THOMPSON: I don't even see him on
7 the list for UNES.

8 MR. BUB: He's under Rhinehart, so we
9 would add him at that point for colocation as well.

10 JUDGE THOMPSON: Okay.

11 MR. MAGNESS: I guess I'm just saying,
12 he should have been on the list for UNES, and we had
13 corrected that by e-mail, but he's definitely a UNE
14 witness. And if all the rest of his questions could
15 be handled then, we'd really appreciate it so he
16 could be excused.

17 MR. BUB: Okay. We're okay with that.

18 JUDGE THOMPSON: Thank you. Okay. Now
19 let's look at -- so you don't need to hear from
20 Dysart on performance measures.

21 Okay. What about SS7/LIDB/CNAM?
22 Constable.

23 MR. MAGNESS: Your Honor, Bill Magness
24 with CLEC Coalition. I wanted to note we had also
25 submitted by e-mail that we're gonna have a rebuttal

1 witness on performance measures, that's Mr. Sauder,
2 S-a-u-d-e-r, from Birch for the CLEC Coalition.

3 JUDGE THOMPSON: Okay. And SBC, you're
4 gonna have questions for Sauder?

5 MR. LANE: It's possible. Paul Lane,
6 your Honor, for SBC. It's impossible to know because
7 he didn't file any direct. So I'm gonna say yes, but
8 I don't know.

9 JUDGE THOMPSON: You're right. How
10 could you know. Okay. Sauder needs to be there on
11 Friday until we hear differently. What about
12 Constable? Anyone have questions for Constable on
13 SS7? Evidently not. Witness Constable need not
14 appear on Friday.

15 OSDA. Anyone have questions for witness
16 Yoest? Evidently not. Witness Yoest need not
17 appear.

18 Numbering. Anyone have questions for
19 witness Chapman?

20 MR. LEOPOLD: Your Honor, this is Brett
21 Leopold for Sprint. We might have a question or two
22 for Chapman, and I would suggest that I'll ask that
23 earlier in the week because SBC will be speaking with
24 Mr. Knox about numbering and out-of-exchange appendix
25 earlier in the week. And it looks like Chapman will

1 be there at roughly the same time for UNEs. So if I
2 have numbering questions, I'll remind SBC and the
3 Judge of that and pick that up earlier in the week
4 would be my proposal.

5 JUDGE THOMPSON: Okay. Well, given all
6 these special requests with respect to various
7 witnesses, it's exceedingly difficult for me at this
8 point now to say, well, here's how many minutes
9 you're gonna get.

10 So what I'm gonna do is export that work
11 to the parties. Why don't you all talk among
12 yourselves and let me know by e-mail no later than
13 Friday morning how you propose to divvy up the time.

14 MR. SAVAGE: Your Honor, this is Chris
15 Savage for Charter. Could I request noon on Friday
16 for a specific reason? We're all gonna be spending a
17 bit of time tomorrow getting our --

18 JUDGE THOMPSON: Noon is fine.

19 MR. SAVAGE: Okay. Once we've all got
20 our rebuttal ready, it might aid those discussions is
21 what I was thinking.

22 JUDGE THOMPSON: Absolutely.

23 MR. LANE: Your Honor, Paul Lane with
24 SBC.

25 JUDGE THOMPSON: Yes, sir.

1 MR. LANE: Let me ask, to guide the
2 parties' discussions, is it fair to say that your
3 overall direction would be that the amount of time is
4 to divide -- to be divided equally with SBC on the
5 one hand and to CLECs on the other?

6 JUDGE THOMPSON: Absolutely.

7 MR. LANE: All right.

8 JUDGE THOMPSON: Absolutely.

9 MR. MAGNESS: Bill Magness with the CLEC
10 Coalition. I'd suggest perhaps we -- the parties
11 maybe convene a call at say eleven on Friday to work
12 through that.

13 JUDGE THOMPSON: That would be fine.

14 MR. MAGNESS: I mean, I don't know that
15 we need, Judge, you or -- to be on it certainly. It
16 just might be helpful for the parties to talk that
17 through. And I don't think it will be that hard. So
18 hopefully we can get you your input by noon if we
19 talk an hour before then.

20 JUDGE THOMPSON: That sounds good to me.

21 MR. LEOPOLD: Your Honor, this is Brett
22 Leopold with Sprint, and I also would suggest that
23 there will be issues where we are, you know, although
24 we're dealing with similar topics, we are dealing
25 with nine different contracts that do have some

1 unique contract provisions, so there will be issues
2 where there will justifiably be potentially more
3 combined CLEC time than that allotted to SBC.

4 That may not be the norm, but I don't
5 think that it will be strictly a case where it will
6 always -- it should always be dictated 30 minutes for
7 SBC and equivalent time divided among all the CLECs.
8 It probably won't fall that way perfectly.

9 JUDGE THOMPSON: That's fine. You --
10 you guys are the ones who know those points, right?
11 I don't know those points. And I assume that as you
12 work together to divvy up the time, you will make
13 those points known, and I'm hoping that you will
14 reach a consensus on how to divvy up the time.

15 If there are any conflicts or disputes
16 remaining by noon on Friday, then I expect you to
17 present them to me and I'll tell you how it's gonna
18 be.

19 MR. JOHNSON: Judge Thompson, Mark
20 Johnson. Now that we've gotten through all the
21 witnesses, my witness for Navigator, Ken LeDoux, is
22 scheduled for four of the five days. And I don't
23 know if Ken is still on the phone, but if it were
24 possible that Ken can tell us one or two days that he
25 would prefer to be there, we could just for his

1 convenience get him done in a day.

2 MR. LEDOUX: Ken LeDoux for Navigator.
3 If we could shorten it up to three days, I'd
4 appreciate it. Because I've got a lot of business
5 issues. But we could see if maybe Thursday's issues
6 could be handled one of those previous days.

7 MR. JOHNSON: Well, I was just thinking
8 it may be possible to limit it to one or two days.
9 That would certainly be helpful.

10 MR. LEDOUX: That would be great. I
11 don't know if the record reflects that's possible,
12 but probably the less days is optimal.

13 JUDGE THOMPSON: I will leave that to
14 you guys to work out, remembering that as you do
15 multiple issues with a witness, that's going to
16 affect the amount much time, right?

17 MR. JOHNSON: I raised it at this point.
18 Perhaps I should have raised it earlier. But a
19 number of accommodations have already been made.

20 JUDGE THOMPSON: That's right. And
21 we're gonna make all the accommodations we can. All
22 I'm saying is where we do an accomodation that means
23 we're doing multiple issues with that witness's
24 appearance, it necessarily will affect the amount of
25 time that is being given to the cross-examiner.

1 In other words, if SBC is examining
2 Mr. LeDoux on a single issue, there may be a certain
3 number of moments provided. But if they've got to do
4 ten issues, they're gonna get more time, right?

5 MR. JOHNSON: Absolutely.

6 JUDGE THOMPSON: That's just fair.
7 That's the way it has to be. Okay? So as always,
8 I'm exporting the difficult work to you, so I expect
9 to hear from you Friday on how you propose to divvy
10 up the time. And any particular disputes that
11 remain, I hope you will tee up for me at that time,
12 okay?

13 MR. JOHNSON: Yes, sir.

14 MR. LANE: Your Honor, this is Paul Lane
15 with SBC. Can we talk about the brief for a moment?

16 JUDGE THOMPSON: We can talk about
17 anything you want. That was gonna be my next
18 question was, is there anything else the parties want
19 to talk about? So what do you want to say about the
20 brief, Paul?

21 MR. LANE: I'd like to get some
22 understanding of what you're looking for in terms of
23 length.

24 JUDGE THOMPSON: Persuasive and succinct
25 and tightly focused argumentation telling me why SBC

1 has to win. That's what I'm looking for.

2 MR. BUB: Because we're good guys.

3 MR. LANE: I assume that's what you're
4 looking for from SBC.

5 JUDGE THOMPSON: That's what I'm looking
6 for from everybody as to why your party wins. I'm
7 reluctant to set page limits, and I'll tell you why:
8 Because I want to export -- I don't want you
9 cross-examining on these legal points, and that means
10 you have to have the opportunity to talk about it in
11 your brief, right?

12 So, you know, I'm gonna say this: Take
13 as much space as you feel you need. How's that?

14 MR. LANE: That's great. Thank you.

15 JUDGE THOMPSON: You write it. I
16 promise I'll read it.

17 MR. SAVAGE: You know, your Honor, the
18 one thought that occurs to me given what you have
19 said about cross-examination.

20 JUDGE THOMPSON: Yes?

21 MR. SAVAGE: And I -- I -- I raise this
22 with certain trepidation. But the question is
23 whether you think it would be helpful to interpose
24 any sort of reply brief between June 7th and
25 June 17th? On the theory that if a lot of what -- a

1 lot of the attack on our position, for example, from
2 SBC is gonna be in their brief saying why we're
3 wrong.

4 And I may be able to anticipate that in
5 my brief. But I'm wondering whether it might not
6 make sense to make a provision, you know, for a week,
7 you know, June the 14th or June the something.

8 JUDGE THOMPSON: Okay. Well, let me
9 look here at the procedural schedule.

10 MR. SAVAGE: I was looking at it and I
11 didn't see one.

12 JUDGE THOMPSON: There isn't one. I see
13 post-hearing briefs on June 7th, final Arbitrator's
14 report on June 17th, ten days. If you want, you
15 know, another flurry of paper in the interim, that's
16 okay with me.

17 MR. SAVAGE: Well, once, your Honor, may
18 be putting it too strongly, but I was thinking maybe
19 if -- my calendar shows June 7th as a Tuesday, and
20 perhaps we could, even by Monday, the 13th?

21 JUDGE THOMPSON: Monday, the 13th would
22 work.

23 MR. SAVAGE: I don't know if the other
24 parties think it's a good idea or not. I'm just
25 anticipating seeing a bunch of stuff from SBC that --

1 you know, I'm counting on them to be more clever than
2 I can anticipate. That's all.

3 MR. MAGNESS: Your Honor, this is Bill
4 Magness for CLEC Coalition. Just an idea. In Texas
5 the Commission permitted reply briefs in the most
6 recent round, but they had a ten-page limit on it,
7 and it's extremely limited.

8 JUDGE THOMPSON: I was gonna say, we're
9 gonna have page limits on the reply briefs.

10 MR. MAGNESS: Yeah. I think the -- you
11 know, certainly -- I guess the theory is one round of
12 briefing certainly encourages everyone to say
13 everything they need to say and not sandbag, and
14 given how tight your deadline is on the back end of
15 reading those briefs, it seems like we really need to
16 encourage that.

17 But I certainly agree with counsel that
18 it may be good just to have a few pages at the end
19 to, you know, if there are any things that just have
20 to be responded to.

21 MR. SAVAGE: This is Chris Savage again
22 for Charter. I appreciate that. I mean, my sense is
23 since a lot of the issues that we have with SBC fall
24 into the, you know, our contract language is better
25 than their contract language kind of category, there

1 won't be a lot of cross on it. Of course we'll
2 explain why we're right.

3 But in the absence of cross -- and right
4 now I think some of the testimony -- I may be
5 surprised tomorrow -- but if some of the testimony
6 from SBC is a little thin about why they think
7 they're right, my concern is --

8 JUDGE THOMPSON: Let me just say that I
9 will allow a ten-page reply brief from each party on
10 Monday, the 13th. Now, when I say that, I wonder if
11 SBC would not need more space since they're lined up
12 against all of you guys.

13 MR. SAVAGE: Your Honor, can I make a
14 different suggestion on the page limit?

15 JUDGE THOMPSON: What's that?

16 MR. SAVAGE: Which would be, rather
17 than -- why don't we say that perhaps the parties are
18 entitled to one page per issue.

19 JUDGE THOMPSON: Don't we have like
20 7,000 issues here?

21 MR. SAVAGE: Well, no, no. Premier
22 issues. But I'm trying to be fair both to myself, my
23 client and SBC, in that if I've got -- you know, if
24 I've got 20 issues -- I mean, we can go three-quarters
25 of a page per issue. I mean, some of it may only be

1 a paragraph. But I think you're right, if SBC's got
2 8,000 issues to respond to, ten pages is crazy for
3 them. But if I've got 30 issues to respond to, I'm
4 not sure 10 pages is realistic.

5 JUDGE THOMPSON: Well, then, why don't I
6 just say this --

7 MR. LANE: Your Honor, this is Paul Lane
8 with SBC. There's over 700 issues. I mean, I
9 thought that was the reason that we went to a single
10 round of briefs: Everybody was supposed to put
11 theirs in up front, make their best argument --

12 JUDGE THOMPSON: That's exactly why we
13 did that. I mean, at some point --

14 MR. SAVAGE: We'll take ten pages rather
15 than nothing. I think --

16 JUDGE THOMPSON: At some point enough
17 has been said. Mr. Williams?

18 MR. WILLIAMS: My suggestion would be to
19 limit any reply briefs to address topics that were
20 not addressed previously.

21 JUDGE THOMPSON: Nathan Williams, who's
22 staff counsel on my advisory staff, suggested that
23 reply brief be limited to issues not addressed
24 previously; is that correct?

25 MR. WILLIAMS: Right. In other words,

1 if you hadn't anticipated it and you wanted to
2 respond to some argument made, that would be it.

3 MR. SAVAGE: Your Honor, Chris Savage
4 for Charter again. 15 pages even, followed by, you
5 know, if SBC needs, you know, 30 because it's got so
6 many things it's dealing with -- I'm not trying to be
7 unreasonable with anybody. I'm just trying --

8 JUDGE THOMPSON: I understand that. Let
9 me ask you this question: In the ten days between
10 June 7th and June 17th, am I even going to be able to
11 read all of the first round of briefs where we
12 haven't put a page limit?

13 MR. LANE: Your Honor, that was the
14 reason that SBC -- the precise reason to limit the
15 briefs.

16 MR. LEOPOLD: Your Honor, this is Brett
17 Leopold with Sprint. I think it's unlikely we'll
18 need a supplementary reply brief, and I just hope
19 that we can comprehensively address the issues based
20 on what we've seen in direct and in the DPLs and the
21 hearing.

22 JUDGE THOMPSON: Yeah. I'm starting to
23 think no reply brief at this point. We can address
24 this question again at the end of the hearing if
25 anyone has anything additional they want to say at

1 that time, and we'll give you a final ruling then,
2 okay? How's that? Is anybody still there?

3 MS. BOURIANOFF: Yes.

4 MR. LANE: Fine, your Honor. Paul Lane,
5 SBC.

6 JUDGE THOMPSON: Very good. And is
7 there anything else the parties have or any party has
8 that we need to address at this time?

9 MR. BUB: Your Honor, this is Leo Bub.
10 Would it be helpful for me to take another whack at
11 updating this draft schedule? Because I did print it
12 out, and I missed -- as has been pointed out in the
13 call and some e-mails coming to me from the various
14 parties, I missed some people.

15 And I tried to take notes about who, you
16 know, didn't have to appear on certain days, and I
17 could try to take a whack at that and send it all
18 out.

19 JUDGE THOMPSON: That would be great.

20 MR. BUB: And if other people had
21 different notes, you know, we can, you know --

22 JUDGE THOMPSON: I expect you guys to
23 work together to get me on Friday a final list of who
24 I'm gonna see when, what issue they're gonna do and
25 how many minutes people are gonna have for cross,

1 okay?

2 MR. SAVAGE: Your Honor, this is Chris
3 Savage for Charter again. I apologize, but I got cut
4 off at the tail end of the discussion about what was
5 going to happen, if anything, with replies. And I
6 took that as SBC telling me what they thought of the
7 idea but ...

8 JUDGE THOMPSON: What I said was we
9 would address that question again at the end of the
10 hearing and get a definitive ruling at that time.

11 MR. SAVAGE: Excellent. Thank you, sir.

12 MS. BOURIANOFF: Your Honor, Michelle
13 Bourianoff. There was one other issue I wanted to
14 raise, and it might be more appropriate that we
15 discuss this also at the end of the hearing when we
16 discuss the final word on the reply briefs.

17 But I was wondering if at the end of the
18 hearing we could get some guidance on the appeals to
19 the Commission that are scheduled at the end of June.

20 JUDGE THOMPSON: On the what? Excuse
21 me?

22 MS. BOURIANOFF: I think there's an
23 appeal to the Commission, a hearing for an appeal to
24 the Commission.

25 JUDGE THOMPSON: Oh, yeah. If you don't

1 like what I do?

2 MS. BOURIANOFF: I just wanted to know
3 if we could get any guidance as to --

4 MR. SAVAGE: Your Honor, we'll be
5 defending what you do against SBC.

6 JUDGE THOMPSON: Just call me names. I
7 don't know. June 24th are comments on the final
8 Arbitrator's report. That is your opportunity to
9 give succinct, pithy, written discussion of what I
10 did wrong. Okay?

11 MS. BOURIANOFF: Right.

12 JUDGE THOMPSON: And what has to be
13 changed. And then on the 29th we have an oral
14 argument. This is just one day in front of the
15 Commission where you get an opportunity to convince
16 them that they have to change something that I did,
17 okay? And this will be your chance to respond to
18 their questions.

19 I'm not expecting them to be at the
20 hearing next week. I've been discouraging them from
21 coming. But you understand that they sign my check,
22 and I can't say no. So if a Commissioner wanders in,
23 then they're gonna be there.

24 MS. BOURIANOFF: And I understood that,
25 and I appreciate that, your Honor. I was just

1 wondering if between now and the time -- and I'm
2 sorry I used the word appeal instead of argument.

3 JUDGE THOMPSON: No, that's okay.

4 MS. BOURIANOFF: Argument, if it would
5 be possible to get any guidance as to how that
6 argument would actually be structured. We went
7 through this process in Oklahoma.

8 JUDGE THOMPSON: How did you do it in
9 Oklahoma?

10 MS. BOURIANOFF: We appealed a lot less
11 issues than SBC did, and we each lost about the same
12 number, but SBC appealed a lot more. But we didn't
13 actually know how much time or the order or anything
14 until we showed up for that oral argument. So I was
15 wondering if --

16 JUDGE THOMPSON: Oh, I see.

17 MS. BOURIANOFF: -- you might be able to
18 provide any input or provide us any guidance as to
19 how that argument might actually be structured.

20 JUDGE THOMPSON: We may be able to have
21 a telephonic prehearing conference before that
22 argument where procedural details can be hammered
23 out.

24 MS. BOURIANOFF: Okay. That would be
25 great. Thank you. I appreciate that.

1 JUDGE THOMPSON: I'm assuming that I
2 will still be on the case in the sense that --

3 MS. BOURIANOFF: Whether you want to or
4 not, you'll still be on the case.

5 JUDGE THOMPSON: Yeah. Exactly,
6 exactly. They're not gonna let me go on vacation,
7 you know, after I do the final Arbitrator's report.

8 MR. MAGNESS: Your Honor, Bill Magness
9 with CLEC Coalition. Two other points, one on the
10 brief. I was just gonna suggest that maybe ahead of
11 time if we could agree that the structure of the
12 brief would follow the structure of the hearing, it
13 may make it easier for everyone to --

14 JUDGE THOMPSON: In terms of order of
15 topics you mean?

16 MR. MAGNESS: Yes, sir. Just to follow
17 through the transcript. You know, it's certainly not
18 something I'm wedded to, but it seems like it might
19 make it easier for you and staff and everyone to
20 follow, since it kind of follows the flow of the
21 hearing.

22 JUDGE THOMAS: Well, that's certainly
23 sensible, but I don't want to restrict anybody in
24 terms of how they feel like they need to present
25 their client's case.

1 MR. MAGNESS: Okay. The other question
2 was whether you anticipated any opening statements or
3 closing statements at the hearing.

4 JUDGE THOMPSON: I really don't -- you
5 know, the opening statement kind of tees up the
6 issue, and I think we all know why we're here and
7 what we're doing. Is there anyone who feels they
8 need to have an opening statement? Is there anyone
9 who feels they need to have closing argument?

10 MR. SAVAGE: Your Honor, Chris Savage
11 for Charter. I expect not, but that's something that
12 maybe is appropriately left for when we're all done.

13 JUDGE THOMPSON: Okay. Well, you know,
14 if when we come in on Monday you feel like you need
15 to make an opening statement, let me know then, and
16 we'll let everybody else scream and yell about it and
17 we'll see what happens.

18 MR. SAVAGE: Same thing about the
19 closing arguments?

20 JUDGE THOMPSON: Same thing with that.
21 When we get to the end, if we have any time and you
22 want to hammer that nail a few more times, I guess we
23 could do that.

24 MR. SAVAGE: I'm not expecting it, sir.

25 JUDGE THOMPSON: I could give your

1 closing argument right now: SBC is wrong, everything
2 they say is wrong, give us what we need, right?

3 MR. SAVAGE: That's close. They're
4 wrong because they're an evil monopoly trying to
5 control everything.

6 JUDGE THOMPSON: Well, I left that out.
7 And I could probably do theirs too, so, you know.

8 MR. SAVAGE: I suspect so.

9 JUDGE THOMPSON: Okay. Anything else we
10 have to talk about today? Because I'm ready to go to
11 lunch. Hint, hint.

12 MR. MAGNESS: This is Bill Magness for
13 CLEC Coalition. I have nothing further, your Honor.

14 JUDGE THOMPSON: Very good. Now, one
15 last thing. I would be inclined to start Monday at
16 nine rather than eight, simply because I think on the
17 first day there's going to be some issues of getting
18 myself pulled together for it. Is that gonna work
19 out for everyone?

20 MR. BUB: That's fine, your Honor.

21 JUDGE THOMPSON: Okay. So see you at
22 9:00 Monday. And I expect to hear from you Friday at
23 noon, okay?

24 MR. SAVAGE: Yes, sir.

25 JUDGE THOMPSON: Very good.

1 MS. BOURIANOFF: Thank you.

2 JUDGE THOMPSON: We are adjourned.

3 Thank you.

4 WHEREUPON, the recorded portion of the
5 prehearing conference was concluded.

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