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BEFORE THE WASHINGTON UTILITIES AND

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TRANSPORTATION COMMISSION

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4 In the Matter of the) Docket No. UT-003022
Investigation Into US WEST) Volume XXXVI
5 Communications, Inc.'s) Pages 5333-5502
Compliance with Section 271 of)
6 the Telecommunications Act of)
1996.)

7

_____)
In the Matter of US WEST) Docket No. UT-003040
8 Communications, Inc.'s)
Statement of Generally)
9 Available Terms Pursuant to)
Section 252(f) of the)
10 Telecommunications Act of 1996.)

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A workshop in the above matter was

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held on July 31, 2001, at 10:11 a.m., at 900 Fourth

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Avenue, Suite 2400, Seattle, Washington, before

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Administrative Law Judge ANN RENDAHL.

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The parties were present as

follows:

18

19 AT&T, by Rebecca DeCook, Steven
Weigler, Sarah Kilgore, and Letty S.D. Friesen (via
teleconference bridge), Attorneys at Law, 1875
20 Lawrence Street, Suite 1575, Denver, Colorado, 80202.

21

22 QWEST, by Lisa Anderl, Attorney at
Law, 1600 Seventh Avenue, Room 3206, Seattle,
Washington, 98191, Andrew Crain and Charles W. Steese
(via teleconference bridge), Attorneys at Law, 1801
23 California Street, 49th Floor, Denver, Colorado,
80202, and Kara Sacilotto (via teleconference
24 bridge), Attorney at Law, Perkins Coie, LLP, 607 14th
Street, N.W., Washington, D.C. 20005.

25

Barbara L. Nelson, CCR
Court Reporter

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1 WORLDCOM, by Ann Hopfenbeck,
2 Attorney at Law, 707 17th Street, Suite 3600, Denver,
3 Colorado, 80202.

4 XO WASHINGTON, INC., and ELI, by
5 Gregory J. Kopta, Attorney at Law, Davis, Wright,
6 Tremaine, LLP, 2600 Century Square, 1501 Fourth
7 Avenue, Seattle, Washington, 98101.

8 WAISP and YIPES, by Richard J.
9 Busch, Attorney at Law, Miller Nash, 4400 Two Union
10 Square, 601 Union Street, Seattle, Washington, 98101.

11 SPRINT, by Barb Young, Group
12 Regulatory Manager, 902 Wasco Street, Hood River,
13 Oregon 97031.

14 PUBLIC COUNSEL, by Robert
15 Cromwell, Assistant Attorney General, 900 Fourth
16 Avenue, Suite 2000, Seattle, Washington, 98164.

17 COVAD, by Megan Doberneck,
18 Attorney at Law, 7901 Lowry Boulevard, Denver,
19 Colorado 80230.

20 TRACER, by Arthur A. Butler (via
21 teleconference bridge), Attorney at Law, Ater Wynne,
22 601 Union Street, Suite 5450, Seattle, Washington
23 98101.

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1 JUDGE RENDAHL: Okay. Let's be back on the
2 record. Let's be on the record. We haven't started
3 yet. This is the investigation into US West
4 Communications' compliance with Section 271 of the
5 Telecommunications Act of 1996, and US West's
6 Statement of Generally Available Terms pursuant to
7 Section 252(f) of the Telecommunications Act of 1996,
8 in Dockets Number UT-003022 and UT-003040, before the
9 Washington Utilities and Transportation Commission.

10 Good morning, everyone. We're here for a
11 prehearing conference in this proceeding on the
12 morning of July 31st. And my name is Ann Rendahl.
13 I'm an Administrative Law Judge in this proceeding.
14 Let's go around the table, starting at my left, and
15 take appearances from the parties. It appears that
16 everyone here has already made an appearance, so if
17 you'd just state your name and who you represent and
18 if you have any witnesses with you, identify those,
19 as well, starting with Ms. DeCook. Welcome.

20 MS. DeCOOK: Thank you, Judge. Rebecca
21 DeCook, AT&T, and with me is Kenneth Wilson, as a
22 witness.

23 JUDGE RENDAHL: Thank you.

24 MS. DOBERNECK: Megan Doberneck, Covad
25 Communications, and Michael Zulevic will be showing

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1 up at some point today.
2 JUDGE RENDAHL: Thank you, Ms. Doberneck.
3 MS. YOUNG: Barb Young, with Sprint.
4 MS. HOPFENBECK: Ann Hopfenbeck, with
5 WorldCom.
6 MS. ANDERL: Lisa Anderl, representing
7 Qwest Corporation.
8 MR. CRAIN: Andy Crain, representing Qwest
9 Corporation. We also have Barry Orrel here, who will
10 be giving testimony later today.
11 JUDGE RENDAHL: Thank you.
12 MR. CROMWELL: Robert Cromwell, with Public
13 Counsel.
14 MR. KOPTA: Gregory Kopta, of the Law Firm
15 of Davis, Wright, Tremaine, on behalf of ELI and XO.
16 JUDGE RENDAHL: Thank you. And on the
17 bridge line?
18 MS. FRIESEN: Letty Friesen, with AT&T.
19 JUDGE RENDAHL: Thank you. I've heard that
20 Mr. Busch, representing Yipes Communications, may
21 call in, so -- but he doesn't appear to be on the
22 bridge line at this time.
23 The subject of our prehearing this morning
24 is to talk about future process here in the 271 SGAT
25 proceeding. And we're nearing completion of the

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1 fourth workshop. After the prehearing conference
2 this morning, we'll be discussing any follow-up
3 issues, remaining issues from the workshops held the
4 week of July 9th through the 18th. And the
5 Commission has joined the multi-state for purposes of
6 reviewing Qwest's PAP, but there will be process here
7 in Washington to review the PAP once the facilitator,
8 Mr. Antonuk, has issued his recommendations. So
9 there still remain issues to be dealt with by the
10 Commission here in Washington.

11 As far as I know, the OSS testing has not
12 yet been completed, although maybe there's
13 information about that. And so those issues need to
14 be addressed here.

15 So what I'd like to do is first have Qwest
16 inform the Commission as to what it believes remains
17 to be done here in Washington in the 271 SGAT
18 proceeding, and how Qwest wishes the remainder to be
19 done, and then we will go around the table and get
20 comments from the remaining parties about that. Mr.
21 Crain.

22 MR. CRAIN: Sure. First, to put this in
23 context, this 271 case is different from most cases
24 that the Commission hears, because the Commission
25 here is not actually making any final,

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1 legally-binding decisions. That's being done by the
2 FCC.

3 The Commission here is making a
4 recommendation to the FCC regarding whether or not
5 Qwest has met the checklist, the competitive
6 checklist in Section 271, and whether or not Track A
7 has been met and a couple of other issues.

8 Because of the unique nature of this
9 proceeding, the regular rules of civil procedure and
10 principles of due process don't necessarily apply. I
11 think our friends at AT&T said this best when we had
12 a dispute with them over discovery in our Montana 271
13 proceeding, where we appealed a decision by the
14 Montana Commission not to issue discovery. In their
15 brief, AT&T stated, Nothing within Section 271
16 permits the Commission to make any binding
17 determination regarding, at that time, US West's
18 right to offer long distance services. That function
19 has been accorded to the FCC. Moreover, nothing
20 within Section 271 or any statute requires the
21 Commission to provide US West with a hearing of any
22 sort coming to the Commission's -- in coming to the
23 Commission's recommendation.

24 They also later stated, There will be no
25 determination of any legal right, duty or privilege

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1 of US West as a result of this proceeding. Moreover,
2 there is no requirement for the Commission to hold a
3 hearing before coming to any conclusion regarding its
4 recommendation to the FCC.

5 The fact that the ordinary rules of civil
6 procedure apply don't mean that Qwest is suggesting
7 that we don't have processes to review the issues in
8 this docket. I think we've already gone through a
9 process in these workshops that has developed a much
10 more complete record than has been developed in any
11 other 271 proceeding across the country.

12 We also think that the Commission ought to
13 have proceedings to review the remaining issues in
14 the case, but we're making the statement about the
15 ordinary rules of civil procedure because the
16 Commission has the ability in this case to think
17 creatively and to fashion whatever proceedings it
18 decides to have to the facts at hand. It doesn't
19 need to follow traditional rules of you file
20 testimony, this happens, this happens.

21 That being said, there are, I believe, four
22 issues remaining to be decided in this case, or to be
23 considered. The first issue is change management,
24 which is something that came up in the last general
25 terms and conditions workshop. The way the change

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1 management process worked is it was part of general
2 terms and conditions, because it's referred to in
3 Section 12 of the SGAT, which relates to OSS.

4 We have a change management process and
5 have had one that has been operating for a couple of
6 years now, and based our testimony upon that process.
7 The CLECs then filed responsive testimony with
8 numerous suggestions in terms of how we can improve
9 that process. I sat down with our change management
10 people and we went through the testimony and I said,
11 Well, can we do this, and they said yes; can we do
12 that, and they said yes.

13 But the problem was that we got to the
14 point where we realized that while we're willing to
15 make a lot of concessions there and work to meet the
16 CLECs' needs, we can't work in the workshop to do
17 that. We can't actually make agreements in these
18 workshops in terms -- about how CICMP should be
19 handled, because -- CICMP is our name for change
20 management -- because the change management process
21 itself needs to make those decisions, and all of the
22 CLECs participating in the change management process
23 need to be part of those discussions.

24 As a result, we have taken those
25 discussions and made a proposal to the change

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1 management process, the change management body, about
2 how to revamp the change management process, and we
3 have started engaging in negotiations with the CLECs
4 regarding how to change our change management
5 process, and we're meeting with them for two days
6 every other week, and then we might have some side
7 calls, as well, but a lot of work is being done. I
8 anticipate that we will be able to satisfy The CLECs'
9 needs in those discussions.

10 My suggestion about how to handle the
11 remaining change management issue is that when we're
12 done with those negotiations and we have that process
13 completed, we file with this Commission the revised
14 change management governing documents. Other parties
15 can -- and then have a process where other parties
16 can comment upon those documents.

17 The change management process itself is
18 being evaluated in the ROC OSS test. There's
19 actually a whole separate test within the master test
20 plan that is dedicated just to change management,
21 where the vendors are going to be reporting on the
22 adequacy of our procedures, the adequacy of how we
23 follow them, the completeness of the change
24 management process. Basically, they are going to be
25 evaluating the change management process from

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1 beginning to end, so I don't feel like it's necessary
2 that further proceedings happen regarding change
3 management, but what I would suggest is that when
4 we're through with these negotiations, we will file
5 with this Commission revised change management
6 documents and we could have a comment period of the
7 parties.

8 The three remaining issues, then, after
9 that, I think can be handled in pretty much the same
10 way. Well, the same way among themselves. The first
11 is the Performance Assurance Plan, the QPAP. That is
12 currently being discussed in these -- what is it now
13 -- nine state workshops being run by Mr. Antonuk from
14 Liberty Consulting. All issues regarding the QPAP
15 have already been publicly addressed in workshops run
16 by the ROC. They are now going to be publicly
17 addressed in the nine-state proceeding, and all
18 issues will be dealt with there.

19 Once Mr. Antonuk's report comes out, which
20 is scheduled to be October 12, we would suggest that
21 there be a two-week period for people to file
22 comments. All parties file comments at the same
23 time, Qwest included, and that about approximately
24 seven days thereafter, the Commission hold a -- what
25 is sometimes called a legislative-style hearing,

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1 where the Commissioners hear presentations by all of
2 the parties regarding the adequacy of Qwest's
3 Performance Assurance Plan, and the Commissioners
4 have an opportunity to question people making those
5 presentations. And we would anticipate that that
6 hearing would take approximately half a day.

7 The next issue we have to decide is the --
8 we have been producing our data results on a monthly
9 basis. We went through a long, excruciating process
10 where we negotiated a complete set of performance
11 indicators, performance measures, and there are
12 approximately -- it depends how you count them.
13 There are either 50 or 400 or about 2,000, depending
14 on how you count. But it is as complete a set of
15 performance measures as any RBOC has in the country.

16 We are producing our results and posting
17 them publicly on our Web site every month. What we
18 would suggest regarding those results going forward
19 is that Qwest will start filing in this proceeding a
20 summary of its results and parties could then have an
21 opportunity to file comments regarding those, and
22 we'd do that on a periodic basis. We haven't
23 actually decided whether or not that would be every
24 month or every other month, but I anticipate it will
25 probably be every month.

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1 And then, at some point, we suggest that
2 the Commission handle this pretty much the same way
3 that we suggested they handle the QPAP, which is have
4 a filing date for Qwest to make a filing of its
5 results and explanations of its results, parties can
6 have two weeks to comment, and then have a
7 legislative-style hearing in front of the
8 Commissioners approximately a week thereafter. And
9 this could be done in the October time frame.

10 And then the third issue we need to
11 address, and the final issue we need to address, is
12 the results of OSS testing. The OSS test being run
13 by the ROC is, I believe, the most open and complete
14 test than has been run anywhere else in the country.
15 We spent a year developing the test itself,
16 developing the details of the test, and putting
17 together the performance measures and putting
18 together a 170-page master test plan that governs the
19 test.

20 That whole process took approximately --
21 well, actually, it took over a year, and we had
22 numerous workshops and many, many side conference
23 calls. The test itself is currently being run. The
24 current date for a final report is October 12. We do
25 acknowledge that that is contingent upon pretty much

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1 perfect performance and -- well, not perfect
2 performance, but that date is contingent upon all
3 things going as planned, and in other states and
4 other regions tests have been delayed several times.
5 So we anticipate or we do acknowledge that that
6 October 12th date could slip sometime in the future.

7 The ROC test itself is being run in a
8 completely open fashion. There are numerous calls
9 every week discussing every significant issue that
10 comes up in the ROC test where CLECs and Qwest and
11 state staffs address almost every issue that is of
12 any relevance to the test. There's a weekly TAG
13 call. The TAG is a group governing the test of
14 Qwest, CLECs, state staffs and other interested
15 entities. There's a weekly TAG call. We've had, I
16 think, over 65 of those now.

17 There is a weekly observation and exception
18 call. And the way that it works is that every issue
19 found by the vendors, the testers, everything that
20 could possibly be considered a criticism of Qwest
21 that could be contained in their final report, the
22 vendors have committed to disclosing those as what
23 are called observations and exceptions ahead of time.
24 And there's a public and open process to consider
25 those observations and exceptions, consider Qwest's

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1 responses to them. CLECs have the opportunity to
2 file responses, and AT&T has judiciously taken
3 advantage of that right. And there's an open meeting
4 every Tuesday afternoon to discuss those observations
5 and exceptions.

6 So by the time this testing is done and the
7 final report comes out, every single issue of any
8 import will have been publicly discussed in the ROC,
9 and CLECs and all interested parties will have had a
10 chance to weigh in on all of those issues. There
11 should be nothing new in the final report. The final
12 report will be a summary of what has been publicly
13 disclosed previously.

14 Therefore, what we suggest and how we
15 suggest the final report be handled is that you can't
16 set a date right now, but we would set a time frame
17 after the final report is issued, and we would
18 suggest that it be handled just like the data and the
19 QPAP is, that 14 days following the issuance of the
20 final report, all parties have an opportunity to file
21 comments, and then, seven days thereafter, have a
22 legislative-style hearing for people to present --
23 make presentations regarding the final report to the
24 Commissioners and for the Commissioners to question
25 people making presentations.

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1 I think that's pretty much everything that
2 we have to do going forward. It will end up being a
3 considerable amount of work, but I think if we work
4 creatively and think about what really needs to be
5 done, we can do it in a fairly efficient process.

6 JUDGE RENDAHL: Thank you, Mr. Crain. Just
7 a few questions. When does Qwest expect the CICMP
8 process to -- when do you expect to complete your
9 discussions with the CLECs on the CICMP process?

10 MR. CRAIN: I would anticipate that those
11 would be completed sometime in September. They're
12 actually going very well.

13 JUDGE RENDAHL: Okay, thank you. And you
14 said that there's a separate test in the master test
15 plan for change management. And is that test testing
16 -- going to test the change management process that
17 will result after the discussions with the CLECs, or
18 is it testing a current process?

19 MR. CRAIN: They have already done many
20 interviews and taken a lot of evidence regarding the
21 current process, and I believe in the ROC we've
22 already gotten at least one observation or exception
23 on the process. The KPMG has made very clear all
24 along that as we change these kinds of processes or
25 procedures, they will go back and re-review the new

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1 process. So my anticipation is that they will also
2 review the new process, as well.

3 JUDGE RENDAHL: And if they review the new
4 process following your discussions in September, do
5 you have a time frame for when -- how long do you
6 expect it will take KPMG to conduct the testing and
7 obtain results on that?

8 MR. CRAIN: You know, I don't know. I'd
9 have to look at the project schedule, although I
10 don't even know if that would be giving us that much
11 information. I would think that KPMG could do that
12 fairly quickly. I don't know if it's a matter of a
13 couple of weeks or if it would take a month, but I
14 don't think it would take an extended period of time.

15 JUDGE RENDAHL: Okay. You mentioned that
16 it's now a nine-state multi-state process. Besides
17 the state of Washington, what other state do you know
18 has joined?

19 MR. REYNOLDS: Nebraska.

20 MS. YOUNG: Nebraska.

21 JUDGE RENDAHL: Thank you.

22 MR. CRAIN: Nebraska. Thanks.

23 JUDGE RENDAHL: If your time frames that
24 you're suggesting, if the Commission were to -- if
25 the OSS testing were to be done and the final report

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1 issued by October 12th, which, as you've said, may be
2 optimistic, if the October, mid-October suggestion
3 for all of these reports to be done and information
4 to be available and then comments filed in two weeks
5 with the legislative-style hearing seven days later,
6 that, although I don't have a calendar in front of
7 me, that looks like it's early -- you know, the first
8 week of November type of hearing.

9 What sort of process, then, from the
10 Commission would you suggest? Some type of interim
11 order, like the Commission has issued on the other --
12 on the checklist items? You know, when I say order,
13 it's the Commission's recommendations to the FCC that
14 have been done in piecemeal, or do you then consider
15 the process to be complete, that the Commission can
16 then put together a complete recommendation with all
17 of the checklist items?

18 MR. CRAIN: I would anticipate that the
19 process would be complete at that point. The
20 Commission has been issuing -- I forget if they're
21 called interim recommendations, whatever.
22 Essentially, they're piecemeal recommendations
23 considering each checklist item as we complete the
24 workshop.

25 The reason that those interim

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1 recommendations are valuable is that Qwest can then
2 -- the Commission is addressing disputed issues in
3 those proceedings, and Qwest can then respond to
4 those disputed issues and make sure that it meets the
5 requirements the Commission sets forth.

6 With the final report and with the data and
7 things like that, the Commission wouldn't be then
8 ruling upon these kind of disputed issues. The only
9 issue then is what will the Commission's
10 recommendation be to the FCC. And my suggestion
11 would be that there is no need for any further report
12 at that point. What would happen then is when Qwest
13 files at the FCC, the Commission then files its
14 report, I believe, 20 days thereafter. So I don't
15 see any need or anticipate any need for reports on
16 these three proceedings.

17 JUDGE RENDAHL: Does Qwest have a
18 projection for when it is thinking of filing with the
19 FCC at this point?

20 MR. CRAIN: We will file with the FCC as
21 soon as we can after the test is finished. In other
22 words, if it finishes on October 12, we'll be filing
23 as soon as we can thereafter. If it finishes -- if
24 the test is extended for any reason, then we would
25 file as soon as we can after the new date.

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1 JUDGE RENDAHL: Okay. Thank you, Mr.
2 Crain. Let's turn now to AT&T. Ms. DeCook, if you
3 can discuss, similar to Mr. Crain, what you believe
4 to be the remaining issues that need to be discussed
5 and any proposed time frame for how the Commission
6 should resolve that, I'd appreciate it.

7 MS. DeCOOK: Okay. What I'd like to do is
8 make a couple preliminary comments on what Mr. Crain
9 said, and then ask Letty to address the CICMP
10 process, and since she's more familiar with that, I
11 think she can respond to your inquiries about that,
12 and then I'll pick up on QPAP and performance issues
13 after that.

14 JUDGE RENDAHL: Okay.

15 MS. DeCOOK: Just to start out with some
16 background, similar to what Mr. Crain did, I think
17 it's important to put AT&T's statements in context
18 that he referenced. Those were comments made before
19 we even embarked on this 271 review process in
20 response to Qwest filings about how this process
21 should be dealt with in the future.

22 And it is true that the Act does not
23 provide any specific mechanism for how the state
24 commissions should conduct their review. And at that
25 time, we had no guidance from the FCC on how that

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1 review should occur. However, since that time, the
2 FCC has been giving us guidance and has been pretty
3 clear that the state commission's role is to conduct
4 an extensive and exhaustive review and to create a
5 full and rigorous record of that review. And it's
6 clear from the FCC's orders in the 271 context that
7 they rely heavily on the state's review, their record
8 and their recommendations, and their findings.

9 So I think there's a lot more to what the
10 states should be doing than what Mr. Crain suggests.
11 And to suggest that due process does not apply once
12 the state commission decides to conduct an extensive
13 and rigorous review I think is foolish. I think you
14 have an obligation to give parties the right to due
15 process and to confront the evidence and to provide
16 you with the best record on which you can rely.

17 So with that sort of preliminary
18 background, I would ask Letty if she could discuss
19 what Mr. Crain said regarding the CICMP process and
20 what her recommendations and thoughts are with regard
21 to how that should proceed and when.

22 JUDGE RENDAHL: Ms. Friesen.

23 MS. FRIESEN: Thank you, Judge, Becky.

24 JUDGE RENDAHL: You'll need to speak up for
25 the court reporter. You're coming through, but just

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1 a little louder would be great.

2 MS. FRIESEN: Okay. Is this better?

3 JUDGE RENDAHL: Better, thank you.

4 MS. FRIESEN: As Becky noted, the FCC is
5 relying on the state commissions to conduct rigorous
6 investigation. Part of that investigation includes
7 that Qwest prove, by a preponderance of the evidence,
8 that it is in present compliance, actual present
9 compliance with its 271 obligations. And one of
10 those compliance pieces includes the CICMP process.

11 The FCC, in the SWBT, or the Texas 271
12 order, in paragraph 108, has defined five elements
13 that have to be met by the CICMP process. Now, what
14 Qwest has in the record today on its CICMP process
15 and the evidence that AT&T has put into the record
16 via the filing of some discovery responses and the
17 exception to Mr. Finnigan's testimony indicates that
18 the present CICMP process fails the FCC's test. It
19 isn't working.

20 What Qwest has done, they're saying to you
21 that we have to take this process back to CICMP and
22 out of the hands of the 271 process and the
23 Commission so that the CICMP folks can revamp it.
24 And AT&T doesn't necessarily have an issue with that,
25 but the problem that we have with taking it out of

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1 the confines of commission oversight is that the
2 process that's developed by a group of CLECs outside
3 the Washington Commission's purview is not
4 necessarily something that the Washington Commission
5 will be sufficiently advised upon or sufficiently
6 comfortable with compliance with the 271 obligations
7 of Qwest. And unless and until Qwest brings it back
8 and the CLECs that are participating in the
9 Washington process have an opportunity to discuss
10 with the Commission the 271 compliance of the
11 proposed CLEC process or lack thereof, then the
12 Commission can't conduct rigorous investigation.

13 The problem that we have created, or the
14 problem that Qwest has created for itself, is that it
15 wants to redesign its CICMP process. That process
16 has just begun in August, and I don't -- I don't
17 believe that they will be finished with redoing that
18 process by September. That remains to be seen.
19 Nonetheless, when they get the process redone, it
20 will be a promise of a process. It will not be
21 something that Qwest has implemented, it will not be
22 something that ROC has tested. And when and if ROC
23 gets an opportunity to go back and test it, then ROC
24 will have to present that information to the
25 Washington Commission, because ROC is not a

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1 substitute for the Commission's investigation. And
2 at that juncture, AT&T would hope that we can comment
3 in relation to whether or not CICMP meets its legal
4 271 obligations and that we will have an opportunity
5 to be heard by the Commission.

6 I think the FCC has made clear, and I don't
7 have those cites with me now, but it has made clear
8 that the CLECs have a due process right in the
9 context of 271, whether it be a workshop or whatever
10 kind of forum the RBOC is hosting. So I will provide
11 you with those cites to the due process regs.

12 But I don't think that until Qwest
13 completes the redesign of its CICMP process, then
14 implements that design, then has ROC test it, then
15 brings that back, will we be ready to comment on the
16 process. I don't think it makes any sense to comment
17 on a promise of a process in writing and then give
18 that to the Commission when the Commission will not
19 know whether, in fact, Qwest has actually implemented
20 the process, whether, in fact, the process, as
21 designed, actually works, whether or not, in fact,
22 the CLECs and those that participate, depending upon
23 how many do during the CICMP process, have actually
24 been able to participate in the very confined and
25 abbreviated time frame that Qwest is suggesting

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1 today.

2 That is, to get that thing done by
3 September, I think, is going to make it very
4 difficult for some CLECs to participate in the CICMP
5 process, and that's what I was hearing as I sat on
6 the initial CICMP organization call; that when Qwest
7 was trying to schedule CICMP meetings just about
8 every single week, that it was making it very
9 difficult for certain CLECs to participate.

10 So I would suggest the CICMP process needs
11 to take sufficient time such that it can get adequate
12 CLEC participation, I think that's going to last
13 beyond September, and then I think Qwest should have
14 to implement the CICMP process and that ROC should
15 have to test the implemented process to assure the
16 thing is working, and then we should file comments
17 and be heard on the issue.

18 So I would suggest that it's farther out
19 than September, and probably November, at some point.

20 JUDGE RENDAHL: Thank you, Ms. Friesen. I
21 have a question for you. You mentioned a reference
22 to the Southwest Bell Telephone Texas case. Do you
23 have a citation for that?

24 MS. FRIESEN: It's paragraph 108.

25 JUDGE RENDAHL: Thank you. Okay. Ms.

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1 DeCook.

2 MS. DeCOOK: Let me touch briefly on QPAP.
3 And I think it falls in a similar procedural quagmire
4 as the CICMP process, because it is being dealt with
5 in a forum where the Washington Commission is not
6 intimate -- they're participating, but there is no
7 record that's being created specifically for
8 Washington and no investigation for Washington, in
9 particular.

10 My understanding is that there were some
11 outside collaborative discussions on QPAP and that at
12 some point, after several months, Qwest put its final
13 offer on the table and then walked away and said,
14 We're not going to collaborate and negotiate anymore.

15 My understanding is that there are fairly
16 -- a fairly extensive number of critical issues
17 remaining that are instrumental to the effectiveness
18 of a QPAP-type of program being an effective
19 backsliding remedy, and so I think it's critical that
20 the Commission hear what remaining disputes exist and
21 make their own decisions about how those should be
22 resolved, and I think that should be done through a
23 workshop process and, rather than a legislative
24 process, because I don't think you get to fully flesh
25 out the positions of the parties and the nuances of

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1 the parties' positions through a legislative type
2 format.

3 And I have to admit that I don't know
4 enough about how the ROC process is going to work to
5 understand when that's going to be complete. I guess
6 my suggestion for all of these things is rather than
7 deal with them seriatim, that you had originally
8 contemplated that you would have another workshop at
9 some point down the road, and maybe we ought to just
10 take all of these matters up in that workshop, rather
11 than to schedule them separately on their own.

12 Let me deal with the performance and OSS
13 testing together, because that's how you've dealt
14 with them to date. We have had, probably at AT&T's
15 behest, extensive discussions on performance and how
16 that was going to be dealt with in Washington
17 previously. We started, I believe last June, in the
18 first set of workshops and the prehearing conference,
19 and at that time there were significant discussions
20 on how we were going to proceed. And I recall Qwest
21 was getting ready to introduce some performance data
22 into the record, and we had some discussions on the
23 record and off the record as to how to deal with
24 performance. And in particular, I recall Mr. Owens,
25 from Qwest, agreeing that Qwest would put its

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1 performance data in the record, but that parties
2 could confront that data, including whatever comes
3 out of the OSS test, at the conclusion of the OSS
4 test.

5 And he was asked by Mr. Wallis, by Judge
6 Wallis at one point when it would be appropriate for
7 the issue of performance, including the ROC test, to
8 be addressed, and he said, At the conclusion of the
9 ROC test. And that's in transcripts here in
10 Washington.

11 Orders were issued, Qwest filed a request
12 for clarification, and as a result of that filing,
13 the Commission issued an order, I think, Judge
14 Rendahl, you issued the order, in fact, if I remember
15 right, that said that Qwest could put its performance
16 data in the record, but parties were not required to
17 cross-examine on that data, and that the
18 confrontation of performance issues and performance
19 data would occur at the conclusion of the ROC test.

20 And that's how the parties have proceeded
21 since last June, and I don't see any reason for us to
22 change that process. I think to change it in the way
23 that Qwest is suggesting alters the procedure that
24 the parties agreed to, it alters the nature of the
25 game in the middle of it, rather than at the

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1 beginning of it, and I think it's inappropriate and
2 would deprive of us of a full and fair opportunity to
3 confront Qwest's performance of it at the appropriate
4 time.

5 To add to that, the FCC has been clear that
6 what they're looking for from the states is the most
7 current data. And they're looking for commercial
8 usage, to the extent that's available, and absent
9 commercial usage, then they'll rely on the ROC OSS
10 test results.

11 So I think a couple of things come out of
12 those statements by the FCC. First, you can't just
13 look at the ROC OSS test results and render
14 conclusions based on those. What the FCC has said is
15 the most probative evidence is commercial usage. To
16 the extent you have commercial usage, that usage
17 should be compared to the ROC OSS test results to
18 determine what the true picture is of performance in
19 Washington.

20 I think the other point that needs to be
21 made is that in order to do that, you can't do that
22 in a legislative format. You have to give the
23 parties the opportunity to present their data, to let
24 them explain it, to allow the parties to go back and
25 forth on understanding the differences in what Qwest

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1 -- how Qwest interprets the data versus how the CLECs
2 interpret the data. And I think we've gone through a
3 trial in Colorado that makes clear that that's
4 critical, because Qwest interprets data much
5 differently than the CLEC interprets their data.

6 So I think it's important for the
7 Commission to understand those differences and to
8 draw conclusions based upon an understanding of those
9 differences.

10 The other point that the FCC has made clear
11 is they want the most current data. And what they've
12 looked at in previous 271 cases is two to four months
13 worth of data prior to the filing of the application
14 at the FCC by the RBOC. If we start reviewing data
15 now, as Qwest suggests, depending upon how the test
16 goes, and I'm not confident it's going to end on
17 October 12th, you could be looking at data that
18 you're going to have to look at again somewhere down
19 the road, and it seems to me to be the most efficient
20 use of everybody's time and energy and resources to
21 do it all at once right before the application is
22 filed at the FCC by Qwest.

23 I think one other area that I can think of
24 that Mr. Crain didn't address is that during the
25 course of the workshops, and you'll probably hear

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1 some more of this in the next few days, Qwest has
2 made numerous changes to the SGAT and made promises
3 that these are going to cure problems that the CLECs
4 have raised that have resulted in Qwest making those
5 changes. And I think the only test of that is to
6 allow the SGAT to take action, to be implemented, and
7 for the parties to determine whether, in fact, those
8 changes are curing the problems that the CLECs have
9 raised.

10 I think you can only do that with time, and
11 I think the advantage of the fifth workshop is that
12 we can, if we encounter problems with Qwest's new
13 promises, we can raise issues with respect to those
14 SGAT provisions.

15 And then I thought of one other. With
16 respect to Commission orders that have come out
17 already, there are some provisions that have ordered
18 Qwest to make changes to its SGAT, make conforming
19 changes. And one of the things that we've
20 encountered is that the changes that Qwest has
21 proposed, there's disputes about whether they do, in
22 fact, conform to the Commission's orders, and I think
23 you can confront those issues at that point.

24 And one other example of that is that --
25 and you heard this in the workshops, as well -- Qwest

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1 has said that it's going to make changes to its tech
2 pubs and its IRRG, Interconnection Resource Guide,
3 I'm missing another R, but --

4 MR. WILSON: Retail.

5 MS. DeCOOK: Retail. But those
6 publications are in the process of being revised now,
7 and the fifth workshop could be a forum for us to
8 address any concerns we have about the changes that
9 have been made to those publications. So that's all
10 I can think of.

11 JUDGE RENDAHL: Okay, thank you. I have a
12 few questions for you, as well. In your discussion
13 of the QPAP, you said that there's no opportunity to
14 create a record in Washington. My understanding of
15 the multi-state process is that the parties file
16 documents in the individual state that they're also
17 filing in the multi-state. For example, we've
18 received all of AT&T's and WorldCom's and Covad's and
19 Qwest, other parties' comments so far to Qwest's PAP.
20 And my understanding is those comments need to be --
21 I mean, there is a record here in Washington that
22 those comments will be made a part of the entire 271
23 record, and to the extent that there are exhibits
24 that are admitted in the multi-state process, when
25 the time comes to review that here in Washington, my

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1 understanding is those would likely become exhibits
2 in Washington's docket. Would that be your
3 understanding?

4 MS. DeCOOK: I don't know. I think they
5 could. I don't see any reason why they couldn't. I
6 think my concern is more that it doesn't give an
7 opportunity for the Commission to ask questions and
8 to flesh out issues that it may have with the filings
9 that have been made by the parties. And I think
10 that's one of the benefits that the workshop forum
11 provides, is that it gives you an opportunity to ask
12 questions, it gives you an opportunity to hear the
13 parties discuss the issues, and I think -- my
14 impression is that that has helped staffs and
15 commissions to understand the nature of the disputes
16 a little better.

17 JUDGE RENDAHL: Now, you'd mentioned the
18 Colorado Commission. Maybe that was in context of
19 data review on the performance issues. Colorado is
20 reviewing the PAP separately; correct?

21 MS. DeCOOK: That's my understanding.

22 JUDGE RENDAHL: And have they gone through
23 a workshop process yet or are they reviewing it in
24 the way Qwest has requested here in Washington?

25 MS. DeCOOK: I'm not certain.

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1 JUDGE RENDAHL: Maybe, Mr. Crain, you can
2 weigh in on that, or others.

3 MR. CRAIN: Sure. The Colorado process was
4 that Colorado appointed a special master, Phil
5 Weiser, who's a professor at the University of
6 Colorado. Sorry, I need to turn this on. He used to
7 work for the DOJ. He met numerous times with the
8 parties and had numerous discussions with the parties
9 and, as a result of those discussions, made a
10 proposal about a -- of what kind of QPAP there ought
11 to be for Colorado.

12 The parties then all commented on Mr.
13 Weiser's report and it is currently being considered
14 by the Commission. All the comments and the report
15 are being considered by the Commission.

16 JUDGE RENDAHL: And was the process that
17 Mr. Weiser held similar to a workshop or was it more
18 of a informal discussion?

19 MR. CRAIN: It was similar to what I have
20 -- my understanding is how Texas dealt with most of
21 these issues, where Pat Wood, the chairman of the
22 Commission, sat down with the CLECs in one room and
23 tried to get them to reach certain -- or tried to
24 find out what their issues were, then he'd go over
25 and sit with SBC in the room and find out what their

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1 issues were and went back and forth. That is what
2 Mr. Weiser did. He had meetings with Qwest
3 separately and then he had meetings with CLECs
4 separately, and as a result of all those meetings, he
5 has issued his report about what the QPAP ought to
6 look like.

7 MS. FRIESEN: This is Letty Friesen. I'm
8 the Colorado lawyer, and I'd just like to add a few
9 things to what Andy has said. At no time did Mr.
10 Weiser allow the parties to confront one another or
11 talk to one another in regard to the QPAP. They had
12 to file what he called ex parte reports. He would do
13 his interview with the individual CLECs, and then the
14 CLECs would file ex parte reports.

15 It's my understanding to date that the
16 chairperson of the commission that's overseeing this
17 QPAP process has not allowed the parties to discuss
18 with one another or confront one another in any
19 fashion, so I think that the process is slightly
20 different than what Qwest is proposing in terms of
21 the legislative approach.

22 JUDGE RENDAHL: Okay. I'm just trying to
23 get clarification. Ms. Doberneck, did you have a
24 comment?

25 MS. DOBERNECK: You know, I think when I

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1 get to serve my series of comments generally about
2 the procedural, I can throw in the QPAP, or I can do
3 that now.

4 JUDGE RENDAHL: Why don't we do that, go in
5 sequence.

6 MS. DOBERNECK: Sure.

7 MR. CROMWELL: Judge Rendahl, I can tell
8 you that I got a call from the Colorado OCC, and
9 there was some hearing or something last week, I
10 don't know if it was a workshop or what process that
11 was. I just know that I exchanged voice mails and
12 e-mails with one of the Colorado OCC folks. There
13 was something last week.

14 MS. DOBERNECK: There was a procedural
15 order that came out after the parties -- what I
16 thought the, quote, unquote, final rounds of comments
17 on what I call the CPAP, C-QPAP, however you want to
18 call it. But after parties submitted their final
19 round of comments, then a procedural order was issued
20 requesting additional comments on, I think, probably
21 what the hearing commissioner considered the most
22 hotly debated issues surrounding the CPAP.

23 JUDGE RENDAHL: Thank you. Ms. DeCook,
24 just a few other questions. In your discussion of
25 the performance issues and how Washington has -- at

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1 this point, how we've dealt with performance and
2 performance data, my understanding, from your
3 discussion and Mr. Crain's discussion, is that AT&T
4 has been -- and other parties have been very much
5 involved in the observation process in the ROC
6 testing. And just how would confronting the final
7 ROC data here in Washington differ from any
8 participation you've had in the ROC process and the
9 observations?

10 Does that question make sense to you? I
11 mean, if AT&T has been integrally involved in looking
12 at the performance data and the PIDs or ROC, how
13 would that differ from confronting the ROC data in
14 final?

15 MS. DeCOOK: Well, a couple of comments.
16 My understanding of what has been taking place at the
17 ROC process is that the observations will identify an
18 issue that -- a performance issue that Qwest is not
19 satisfying. Then Qwest responds with their side of
20 the story. And I think it's in that context that
21 AT&T is filing comments, as to whether Qwest's
22 defense of their performance is legitimate,
23 appropriate, whatever.

24 The other context in which I understand we
25 have filed comments is, in some situations, Qwest has

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1 responded by saying we need to change the PID. And I
2 think AT&T has been outspoken about whether that's an
3 appropriate way to respond to a performance problem
4 and whether you change the PID or whether you comply
5 with the PID that everybody agreed with.

6 I think, getting to the point where you
7 have actual results, what I foresee is that there
8 could be some disputes about whether Qwest's
9 performance is, in fact, in compliance with 271 at
10 the conclusion of the test, and it could come up in
11 several ways. We could just agree with the results
12 determined by the ROC process, the functionality
13 test, which is taking place right now, where they're
14 actually looking at Qwest's performance under the
15 PID, we may dispute whether Qwest is accurately
16 reporting its performance under the PID, or we may
17 have some disputes that suggest that our commercial
18 usage in Washington is inconsistent with the results
19 determined by the ROC test.

20 I think one thing you have to keep in mind
21 is that the ROC test is measuring performance
22 throughout the region based upon hypothetical
23 scenarios of a pseudo CLEC. So commercial usage
24 encountered in Washington may be different, and I
25 think you would want to know that, as the Washington

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1 Commission, before you issue your ruling. So that's
2 how I see that you could have some disputes at the
3 end of the day with ROC test.

4 JUDGE RENDAHL: Thank you. That ties into
5 my next question, which is you've mentioned that the
6 FCC has preferred to receive current data or two to
7 four months of current data. And my question to you,
8 is that commercial usage data or, you know, actual
9 performance data in a state, as opposed to -- you
10 know, following the ROC test? Is that what you were
11 referring to?

12 MS. DeCOOK: I think it's both. I think
13 they want -- you know, typically, the application
14 occurs shortly after, sometime after the test has
15 been completed, but there's also been a review of
16 commercial usage. So I think they want something
17 that's fairly concurrent both from a testing
18 standpoint and from commercial usage.

19 Now, you may get commercial usage that
20 spans more than two to four months, and it may be
21 relevant for purposes of trending. But they have
22 said, in terms of determining compliance, they want
23 to see the most recent data, rather than stale data.

24 JUDGE RENDAHL: Okay. Just so that I'm
25 understanding what you're saying, and I apologize if

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1 I appear dense, but when you talk about commercial
2 usage, that could include current data now, the
3 current AT&T experience now, even prior to completion
4 of the ROC testing, just in terms of actual what's
5 going on?

6 MS. DeCOOK: It could.

7 JUDGE RENDAHL: I guess I'm trying to
8 understand what you mean by commercial usage, the
9 term commercial usage, and how that might differ from
10 actual performance?

11 MS. DeCOOK: Well, I think they're
12 synonymous. I think the distinction I'm trying to
13 make is CLEC experience, their actual experiential
14 data versus the results from the ROC test. I think
15 you have to look at both of those and compare them to
16 get a real picture of what's going on in your state.

17 JUDGE RENDAHL: Okay, thank you. Okay.
18 Ms. Doberneck.

19 MS. DOBERNECK: I'll try to be brief,
20 because I do think AT&T pretty well covered the
21 waterfront. From Covad's perspective, there are a
22 few specific issues that I want to touch upon,
23 because there are things that we have particular
24 concern and/or interest about.

25 Starting with CICMP, I think Letty hit the

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1 nail right on the head when she said that the promise
2 of a process is just not sufficient to ensure that
3 CICMP won't be used as it has been in the past, to,
4 you know, pretty much trample on CLECs' rights under
5 their interconnection agreements. And I'm not -- you
6 know, this is not hyperbole. I think it's probably
7 very well-tread ground throughout these various
8 workshops that things, product notices, policies,
9 have come out through CICMP that have completely
10 undone rights for which CLECs negotiated under their
11 interconnection agreements.

12 So, from our perspective, we are simply not
13 willing to say or agree to anything that says, Well,
14 this is the way CICMP's going to work, that's
15 sufficient for purposes of this particular
16 Commission's review. So we would strongly object to
17 that position, as well as we want to see an
18 opportunity of how CICMP will actually work once it
19 is redesigned.

20 Related to that, and I think probably Letty
21 alluded to this, is that for the most part, and
22 certainly until very, very recently, the individuals
23 from Covad who did participate in CICMP were the
24 people actually using the processes, you know, order
25 administration, more technical people, and they do

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1 not look at CICMP from the same perspective that this
2 Commission and certainly me, representing Covad's
3 interest in this 271 process, look at CICMP.

4 So I think it's really critical to bring it
5 back before this Commission and to look at it from,
6 you know, that perspective, rather than from where we
7 stand as CICMP currently is going forward, because I
8 -- you know, our folks who participate just don't
9 have the same idea in mind. They look at it as how
10 will this really work on a day-to-day basis, versus
11 me looking at it from how does this impact Covad as a
12 company, the rights to which we're entitled under law
13 and contract.

14 The final point about CICMP is -- I think
15 Becky referred to this, which is a lot of things that
16 we have discussed in these workshops, tech pubs,
17 things like that, are all supposed to be run through
18 CICMP to sort of sync them up with changes that have
19 been made through the workshops, changes in the SGAT,
20 to ensure that they're consistent with what's been
21 agreed to and what CLECs' rights are under either the
22 interconnection agreement or the SGAT.

23 So I think we need to, to the extent we get
24 to CICMP and what happens with it and how we're
25 supposed to use it, you know, we need an opportunity

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1 to see if, in fact, on the representations that were
2 made in the workshops and how CICMP will be used to
3 correct certain documents, for example, actually
4 happens, and I know Mr. Zulevic has certainly
5 discussed this a lot and it is something of great
6 concern.

7 Turning to the QPAP, I think one of the
8 most important things that this -- or one of the
9 greatest ways by which this Commission would benefit
10 is by holding a hearing or a workshop on the QPAP
11 that this Commission is considering. And I certainly
12 don't say that to extend the process or, you know,
13 personally to add to my own workload, but when this
14 Commission is looking at the positions of the
15 parties, what the various parties are asking for,
16 it's imperative that the Commission realize that you
17 can argue for something without the opportunity to
18 explain why exactly it is that it's important.

19 For example, in our comments we submitted
20 on the QPAP in Washington, we discussed the audit
21 provisions, what we think needs to be included within
22 the scope of the audit. I can give some example, but
23 I think it helps the Commission to understand why I'm
24 arguing for a particular aspect to be included in the
25 QPAP and what our experience is that's dictating our

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1 request and why that request is reasonable. The
2 Commission can only understand and absorb that kind
3 of information if, in fact, the parties do have an
4 opportunity to set those out, because, just frankly
5 speaking, you can't convey all of that information in
6 written comments either within time constraints or
7 just, you know, simple ability to really convey it on
8 the written paper.

9 Let's see. The ROC OSS PIDs. I think,
10 sort of as Becky described it, I've always lumped in
11 the OSS testing and the PIDs together, and so my
12 comments are generally directed towards putting --
13 looking at those two things together.

14 Two points: One is that, not only in
15 Washington, but in several states, a lot of issues
16 have -- there's been an agreement in principle and
17 the confirmation of that agreement will be determined
18 by the OSS testing. For example, one of the things
19 we'd encountered is an inability to prequal or place
20 an order for a new Qwest voice customer. Certainly
21 the representation was made in this -- the last time
22 we were here that a fix had been put in place and
23 essentially we deferred it to the conclusion of the
24 OSS testing.

25 That's just one example, and it's happened

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1 several times on a number of different issues. And I
2 think CLECs are entitled to, you know, bring that
3 full circle, and to where we have that agreement and
4 with that understanding that we're entitled to
5 revisit the issue and make sure that whatever fix or
6 representation or agreement was reached actually is
7 implemented, and that's only documented through OSS
8 testing. And it's an issue that's been raised before
9 these commissions and this Commission, particularly,
10 so I think we need to close it out, so to speak,
11 before this Commission, or not, if in fact OSS
12 testing does not demonstrate that the agreement that
13 was reached actually was borne out in practice.

14 Finally, I think, when you're looking at
15 sort of the commercial usage, the performance data,
16 speaking just from Covad's perspective, while we've
17 had some involvement with the ROC, I can certainly
18 represent that our -- the scope of our comments or
19 the frequency of any comments that might happen in
20 the ROC has not been particularly extensive to date.
21 And I certainly would appreciate the opportunity,
22 when all is said and done and Qwest or KPMG has
23 produced the performance data, for example, under the
24 PIDs, to have an opportunity to directly challenge
25 that, because there are, from what we have done in

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1 the past and the data we've produced to this
2 Commission, I think there's a real difference of
3 opinion as to whether the performance data generated
4 through the ROC and by KPMG or even reported simply
5 by Qwest does not always match up with Covad's
6 experience, for whatever reason, and there could be
7 several different reasons.

8 I'm certainly not saying it's because Qwest
9 is not performing as it represents or attributing any
10 bad motive, but I think if you look at the most
11 recent 271 order, the Verizon Massachusetts, it's
12 pretty clear that the FCC looked specifically at
13 recent ILEC and CLEC data, because even after results
14 came through KPMG, that there were still disputes
15 over whether the performance was -- the reported
16 performance was measuring up to what CLECs
17 experience.

18 So I think, with all of that, it's
19 important that there be an opportunity, on an even
20 basis, same business rules, same data, that this
21 Commission can review and evaluate differentials and
22 performance.

23 JUDGE RENDAHL: Thank you. I just have a
24 couple questions for you, Ms. Doberneck.

25 MS. DOBERNECK: Sure.

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1 JUDGE RENDAHL: On the QPAP, I heard you
2 raise concern that there wouldn't be an opportunity
3 for Covad or CLECs to state their specific concerns
4 with the QPAP. Are you aware that the Commission's
5 participating in the multi-state?

6 MS. DOBERNECK: Yes, and we did -- what I
7 was getting to more, and I think this gets us back to
8 the Colorado PAP and the process that that went
9 through, because what's ultimately resulted is very
10 different from the QPAP that was submitted to the
11 seven states -- well, now the nine states for
12 purposes of review of that particular document, and
13 one of the benefits I saw from the way Colorado
14 approached it is I had an opportunity on behalf of
15 Covad, with witnesses or without, to identify
16 specific areas of concern, specific things that we
17 were very interested in, and while I tried to
18 incorporate that into our comments on the QPAP, you
19 know, there's a lot more context to flesh out the
20 Commission's understanding about the various elements
21 of the QPAP, because it's a fairly extensive
22 document, there's a lot of different issues that it
23 covers, and from the perspective of whether this is
24 going to be a mechanism to ensure that there's no
25 backsliding, you know, there's additional information

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1 that I think would be helpful for this Commission to
2 make its decisions beyond what's in the specific
3 written comments.

4 JUDGE RENDAHL: So you believe that once
5 Mr. Antonuk issues a report from the multi-state
6 process, that there should be more process here in
7 Washington than Qwest has proposed, that there should
8 be an actual workshop-style discussion before there's
9 a presentation to the Commissioners?

10 MS. DOBERNECK: I think that's appropriate.
11 And one thing -- the reason I think it's particularly
12 appropriate is that one of the things that you see
13 with the PAP is that it's geared towards, for
14 example, all CLECs. Well, all CLECs, you can't lump
15 Covad in with AT&T on a bunch of different issues.
16 And I, having not seen Mr. Antonuk's report --

17 JUDGE RENDAHL: Well, it's not been issued
18 yet. I mean, it's --

19 MS. DOBERNECK: Right, right. Yeah, I
20 know. It's still forthcoming, but there are very
21 individual CLEC-specific issues that I'm not certain
22 will be covered in that report. And to the extent
23 they are, I would like the opportunity to present
24 them to this Commission in workshop format or what
25 have you.

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1 JUDGE RENDAHL: Okay. And also, my last
2 question is whether you agree with Ms. DeCook's
3 comments on behalf of AT&T that the Commission should
4 not address the issues seriatim, as Qwest has
5 proposed, but to have one final fifth workshop that
6 would incorporate all of the remaining issues?

7 MS. DOBERNECK: I think probably
8 streamlining the process, and particularly given the
9 overlap between a number of the issues, I think that
10 makes sense. I would certainly just have it come
11 with the caveat that the more things we roll into one
12 final workshop, and I'm perfectly happy to do that,
13 it's easier when it's a single streamlined process,
14 is to have adequate time to provide the evidence, the
15 data, and the comments that would be necessary to
16 address the issue in the workshop.

17 JUDGE RENDAHL: Do you see any issues that
18 could be dealt with without a workshop, as Qwest has
19 proposed? If any were subject to the more
20 legislative-style hearing, which issues do you think
21 are more appropriately dealt with that way?

22 MS. DOBERNECK: Frankly, given experience,
23 I don't really see any of the issues that could be
24 dealt with in a context other than, say, a
25 workshop-style process, rather than a

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1 legislative-style hearing.

2 JUDGE RENDAHL: Okay, thank you. Ms.

3 Young.

4 MS. YOUNG: Yes. Always great to have
5 Becky go first, because she's so thorough. Thanks,
6 Becky.

7 MS. DeCOOK: Long-winded, you mean.

8 MS. YOUNG: I don't really have a lot to
9 add, other than I would support, I think, the fifth
10 workshop. When I look at the process that Qwest has
11 proposed, it takes Staff kind of out of the equation.
12 And I understand Mr. Crain's reasoning is that in
13 that we don't really have disputed impasse issues
14 that require Staff summary and then an order, initial
15 recommendation to be submitted, but I do think that
16 leaving everything to a presentation to the
17 Commissioners -- not that they aren't capable,
18 because they certainly are, of making decisions --
19 without a summary of what's going on, I think that's
20 of value to have that go on.

21 And I think, then, having a fifth workshop
22 would allow more of a Staff participation in between.
23 And I think that's of value. So I guess that would
24 be -- that would be my only concern.

25 Also, with regard to CICMP, I kind of share

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1 Covad and AT&T's concern. I know that I just
2 recently found out who was participating in the CICMP
3 process on behalf of Sprint, and they are operational
4 people, and that probably was appropriate to begin
5 with. But, certainly, with the way it's evolved,
6 it's important that policy issues are taken into
7 consideration, too.

8 I know Sprint is supporting the OBF change
9 management process in developing the new CICMP
10 process, and now that I'm working with our operations
11 folks, I'm a lot more comfortable with what's going
12 on there, but I share those concerns, also, with
13 regard to how that's being handled

14 JUDGE RENDAHL: Thank you, Ms. Young. Ms.
15 Hopfenbeck.

16 MS. HOPFENBECK: WorldCom supports the
17 recommendation that the remaining issues in this
18 proceeding be addressed in a workshop format, as
19 opposed to the legislative format that Mr. Crain
20 outlined.

21 I'm not -- for the reasons that I'll add in
22 more detail a little bit later, I'm not as whetted to
23 that workshop being one workshop to address all
24 remaining issues. And one of the concerns that
25 WorldCom has is that if the OSS test results are not

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1 produced until sometime substantially later than we
2 get to the conclusion of the modifications to CICMP
3 and the QPAP process is completed, WorldCom is
4 concerned that that final workshop that contains so
5 many issues to be addressed may be such that it has
6 to be very hurried. And that goes along with Mr.
7 Crain's representations that Qwest will file with the
8 FCC very -- as soon as possible after the ROC issues
9 its result on the testing process.

10 So that WorldCom can envision a procedure
11 whereby there is a final workshop, or a workshop, not
12 necessarily a final workshop, but a workshop
13 established to address CICMP, to address QPAP, and to
14 address what we view as compliance issues, compliance
15 issues relating to previous orders that have been
16 issued by this Commission and to address concerns
17 over Qwest's fulfillment of commitments that have
18 been made during this process and have that kind of a
19 workshop happen before a workshop that would address
20 both the results of the OSS testing and a review of
21 commercial usage, current commercial usage
22 performance data, which WorldCom views as being
23 something that should occur together.

24 Okay. I don't have a lot to add to what's
25 been said about why the issues that we've identified

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1 should be addressed in a workshop process. I would
2 just make the following additional observations.

3 As to CICMP, CICMP has a role now, now that
4 we've completed this workshop process, I think we
5 have an understanding that CICMP's role is much
6 broader than what I think we believe CICMP was
7 initially formulated -- initially put together to
8 address. And CICMP, in its initial concept, from
9 WorldCom's perspective, was the process by which OSS
10 or changes to the operations support systems would be
11 discussed and implemented. It was a forum in which
12 the CLECs could make suggestions to Qwest and get
13 their perspective on what operation and support
14 system changes should be made, and then it was also
15 the process in which Qwest could present its proposed
16 operations support systems and parties could work
17 together to make sure they were on the same page on
18 that.

19 As we've gone through this process, CICMP
20 also has roles that are defined in the SGATs,
21 including it has a role in the amendment to the SGAT
22 process, it has a role -- Section 1.7 of the SGAT
23 talks about its role in its being the forum in which
24 new products are introduced to the CLECs. Section 7
25 of the -- .4.7 talks about its role in defining

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1 operational processes. It's got a role in being the
2 place where Qwest brings to the attention of CLECs
3 changes in technical publications and those kind of
4 things, and it's not clear to me that the ROC review
5 of CICMP will be a review of CICMP in all the roles
6 that I've enumerated. In fact, we believe that its
7 review will be narrower than CICMP's broad role, and
8 that, for that reason, it's very important that this
9 Commission bring CICMP back and review it as it
10 functions as a part of the SGAT.

11 On QPAP, WorldCom advocates a workshop to
12 address state-specific issues that we don't believe
13 are appropriately addressed in the
14 multi-state-specific proceeding. QPAP -- I mean, I
15 don't think we, at this point, can specifically
16 define what those are, because we don't know what
17 QPAP is going to look like at the conclusion of the
18 multi-state proceeding, but as it exists right now,
19 it's going to be important for this Commission to
20 look at the interrelationship between QPAP and, one,
21 the merger conditions that were put in place by this
22 Commission in approving the Qwest/US West merger, in
23 evaluating the relationship between QPAP and proposed
24 service quality rules that may have an impact on it,
25 and then, lastly, QPAP has a mechanism that is

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1 designed, from WorldCom's perspective, to compensate
2 for perverse incentives Qwest has to take steps that
3 keep the CLECs from competing with them effectively.
4 I think there's a state-specific factual
5 investigation that's appropriate to answer that
6 question, is it adequate to fulfill that goal.

7 And I think -- the reason why I think it's
8 state-specific is I think what's relevant to that is
9 this company's history of performance in the state of
10 Washington, both as to CLECs in delivering wholesale
11 service quality and I think retail service quality
12 may fit in there, state-specific, you know, revenues
13 may be considered in evaluating whether the penalties
14 in relation to the company's revenues in the state of
15 Washington are such that this Commission is
16 comfortable that backsliding is unlikely to occur.

17 I won't say anything more about
18 performance. I think that's been adequately
19 addressed by both Ms. Doberneck and Ms. DeCook.
20 Thank you.

21 JUDGE RENDAHL: Thank you. Just a
22 question. And maybe this is more appropriately to
23 you, Mr. Crain, a question raised by what Ms.
24 Hopfenbeck talked about. Do you know or are you
25 aware of KPMG's intentions whether it will issue a

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1 report on the ROC results waiting until the CICMP
2 test is complete, or will they issue a report and
3 then supplement it with a CICMP update?

4 MR. CRAIN: I don't know what their
5 intention is. Currently, the plan, the test plan and
6 everything allows for both of those to happen at the
7 same time. The schedule we're on for completing that
8 process allows them to do their evaluation before the
9 final test was issued. I anticipate that the CICMP
10 evaluation will be included in the final report.
11 It's possible they may actually issue an interim
12 report before that. If the test is delayed, they may
13 get done with the CICMP evaluation ahead of time and
14 submit an interim report, but my anticipation at this
15 point is it would be part of the final report.

16 JUDGE RENDAHL: Okay. So Ms. Hopfenbeck,
17 just so I'm clear about what your recommendations are
18 to the Commission, is that if the KPMG report is
19 delayed due to the CICMP issue or other issues, that
20 you would suggest that the Commission have a workshop
21 on the QPAP and any fulfillment of agreements,
22 compliance issues and any other performance related
23 issues, and then hold any -- whatever Commission
24 review of the CICMP and ROC testing as a separate
25 process?

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1 MS. HOPFENBECK: I think that would be an
2 appropriate way to handle it. I don't have strong
3 objections, should the Commission want to wait and
4 hold all the hearings at the end. I'm just concerned
5 that that's a lot to take on, and if we're in a
6 position where we're really rushed to get through
7 because the Commission's on a deadline for issuing
8 its recommendation to the FCC when that clock has
9 been tolled by Qwest filing, that's the only concern
10 and the only reason why I suggested that you might
11 want to break some of it out and handle it up front.

12 JUDGE RENDAHL: Okay, thank you. Mr.
13 Cromwell or Mr. Kopta, who wishes to go first?

14 MR. CROMWELL: Go right ahead, Greg. I'll
15 bat cleanup.

16 MR. KOPTA: Thank you. I guess we'll make
17 it unanimous with the other CLECs that have discussed
18 these issues and really agree with everything that's
19 been said so far. I think it makes sense to have a
20 fifth workshop that addresses all of these issues,
21 recognizing that it may be a little bit different
22 from the workshops we've had up to now.

23 Certainly, when the SGAT provisions have
24 been involved, it has been kind of a negotiation
25 session, let's see what we can work out, how much

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1 common ground we can work out. I suspect, with most
2 of these issues, if not with all of them, there won't
3 be a whole lot of common ground to be worked out.
4 Rather, it will be trying to flesh out positions,
5 understand where data comes from, what it means, but
6 still in a process that allows a full and fair airing
7 of the various issues, as opposed to making the
8 Commission labor through all of this on a paper
9 record.

10 And I want to stress the importance of
11 that, because, from our perspective, performance is
12 the be-all and end-all for this process. Certainly,
13 up to now, a lot of what's gone on has been
14 structured around looking at Qwest's SGAT. And
15 that's fine. I mean, we have a consolidated docket
16 that is reviewing both the SGAT and looking at their
17 compliance with Section 271, but we have an existing
18 interconnection agreement with Qwest, as does, I
19 believe, everybody else at the table. And there has
20 been precious little discussion about those
21 documents. Rather, the focus has been, at least from
22 a legal perspective, on the SGAT, what does the SGAT
23 say and what are the provisions in the SGAT, is Qwest
24 set up to comply with the SGAT, but little, if any,
25 discussion about the existing interconnection

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1 agreements.

2 I think the Commission emphasized from Day
3 One that it was going to look into that issue,
4 whether Qwest was currently complying with its
5 obligations that this Commission has already reviewed
6 and approved that are in effect, that do govern the
7 existing operations between CLECs in the state of
8 Washington and Qwest. And a review of performance
9 under those existing agreements is critical to the
10 Commission's understanding of whether Qwest, as
11 Section 271 requires, is providing services and
12 facilities that it's obligated to provide under the
13 Act and under the interconnection agreements.

14 And I think, rather than having competing
15 reports or competing information, the Commission, to
16 my mind, is not going to have much of a basis for
17 making a decision if Qwest files a report, the CLEC
18 says, Okay, here's our experience in the month, and
19 you've got two different sets of numbers. What is
20 the Commission going to do with that information? I
21 think unless there's an opportunity for the parties
22 to sit around the table to try and understand why
23 there's a disconnect, to the extent that there is, it
24 may be that there is data that can be agreed on, but
25 to the extent that there is a discrepancy, what's the

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1 source of the discrepancy? Is it a failure in
2 measurement, is it a difference in interpretation? I
3 think the Commission needs to understand to be able
4 to make the kinds of decisions that are presented for
5 resolution without simply having to guess why these
6 numbers are different or to try and judge credibility
7 and say, Well, we're going to accept this set of
8 numbers because we happen to believe that this party
9 has a better way of measuring or is inherently more
10 credible. I don't think that that's the basis on
11 which the Commission wants to make that kind of a
12 determination.

13 I'm not going to belabor any other of the
14 points that were made. We simply agree with what
15 other folks have said.

16 But there are a couple of other issues that
17 come to mind when we're talking about procedure. The
18 first is something that I think Becky alluded to,
19 which is the Commission has seriatim been issuing
20 workshop reports, decisions, both from the ALJ
21 presiding, as well as the Commission itself, and
22 required Qwest to modify its SGAT to comply with the
23 Commission's orders. Qwest has submitted language
24 that it believes is in compliance. And at least with
25 respect to the first workshop report, there were some

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1 comments from other parties as to whether that
2 language, in their view, meets the Commission's
3 requirements. And not surprisingly, there are some
4 disagreements.

5 At this point, there isn't a process for
6 resolving that. We've kind of, I guess, left it up
7 to the Commission to decide what contract language is
8 appropriate and what modifications need to be made,
9 and I'm not sure that the Commission wants to be in
10 that role.

11 The experience that I think of is the first
12 AT&T arbitration with then-US West in Washington.
13 The Administrative Law Judge issued a decision, there
14 were many, many, many issues, and tried to say, Okay,
15 parties go back and come back with language that
16 incorporates these decisions. That didn't work. And
17 what ended up as a result of that was a process
18 whereby it was essentially a mediated proceeding in
19 which the Administrative Law Judge presided over
20 negotiations with the parties to come up with
21 language that complied with the order, which, in and
22 of itself, raised some additional issues that needed
23 to be decided.

24 And I think short of that kind of a
25 process, there's really no way that the Commission

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1 can easily come up with compliance language that fits
2 what it has required, because, inevitably, there's a
3 better process when you have all the parties that
4 have been involved and trying to work on contract
5 language, which is what we've been doing for the past
6 year and a half, certainly not what the Commission's
7 been doing. And that's something that these parties
8 are better equipped to do than the Commission is
9 going to be equipped to do.

10 And certainly, to the extent that that
11 process results in any additional issues in terms of
12 clarifying the Commission's decisions, then that's
13 something that can be presented to the Commission to
14 the extent that it's necessary.

15 So I do believe that there needs to be some
16 additional process following each workshop, whether
17 that's on a workshop-by-workshop basis, whether it's,
18 okay, we're at the end, let's try and deal with all
19 the compliance issues and the SGAT all at one time.
20 I don't really see that there's a distinction there,
21 because it's all going to end up with a document that
22 is submitted to the Commission for its approval at
23 one point or another, which it can't be until it's
24 done. But I do think those additional processes need
25 to be put in place.

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1 And the last issue that I raise is
2 something that my recollection of the existing
3 procedural order is that there is still a 90-day
4 before submission to the FCC requirement that Qwest
5 provide the Commission with the package that Qwest
6 intends to file with the FCC 90 days before filing
7 it, so that the Commission can undertake whatever
8 final review it needs to make its determination.

9 I'm concerned with some of the comments
10 that have been made before in terms of putting the
11 Commission in a box and requiring a fast decision. I
12 think the Commission tried to avoid putting itself in
13 that box by requiring, at the end of this entire
14 process, all right, once we've got everything filed,
15 once we've gone through all of the workshops, then
16 there is a 90-day period in which the Commission's
17 going to have to make sure, okay, all the I's are
18 dotted and the T's are crossed, and whatever Qwest is
19 going to file with the FCC is presented to the
20 Commission so that the Commission can then render its
21 opinion to the FCC based on what Qwest actually filed
22 with enough opportunity to review that, as opposed to
23 the 20 days that's currently provided under the
24 statute.

25 There is a mountain of information that's

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1 been presented to date. Unless Qwest is going to
2 simply take the record that's been compiled before
3 this Commission and truck it to the FCC, then there's
4 going to be, of necessity, some either additional
5 information, some editing of the information,
6 something other than what has already been filed with
7 the Commission.

8 Certainly, Andy can correct me if I'm
9 wrong, but I would be surprised if Qwest simply
10 wholesale took the entire record and didn't do
11 anything else in submitting whatever it's going to
12 submit to the FCC. Obviously, whenever there's any
13 additional material, whether there's any editing of
14 material, then there is occasion for judgment. And
15 this Commission, before rendering its opinion to the
16 FCC, needs to have the opportunity to evaluate
17 whatever that material is that Qwest is going to
18 submit to the FCC.

19 So I do think that we shouldn't lose sight
20 of the fact that the procedural order, as it exists
21 right now, does include a mechanism whereby the
22 Commission does have an additional review period
23 before Qwest files with the FCC to make sure that
24 everything is as it believes it to be.

25 JUDGE RENDAHL: Let's be off the record for

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1 a moment.

2 (Recess taken.)

3 JUDGE RENDAHL: Let's go back on the
4 record. Be back on the record, and we'll be hearing
5 from Mr. Cromwell, assuming, Mr. Kopta, you're
6 finished with your comments?

7 MR. KOPTA: I'm finished. Thank you.

8 JUDGE RENDAHL: Okay. Thank you. And I
9 don't have any questions for you, Mr. Kopta. I'm
10 sorry.

11 MR. KOPTA: Darn.

12 JUDGE RENDAHL: Running out of questions
13 now. Mr. Cromwell, and then I understand Mr. Crain
14 has some responsive comments he wishes to make.

15 MR. CROMWELL: Good morning, Judge Rendahl.
16 This actually, surprisingly, worked out very well,
17 because as I outlined my comments here this morning,
18 I pick up with the supplemental interpretive and
19 policy statement issued in UT-970300 on March 15th of
20 this last year, 2000.

21 The third from the last bullet point on
22 page three, US West's actual 271 application to the
23 FCC must be filed in Washington State before US West
24 files it with the FCC. In the Commission order that
25 adopted that interpretive and policy statement at

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1 paragraph 41, discussing concluding adjudication,
2 I'll just read the last sentence, US West must file
3 its, quote, unquote, final Section 271 application to
4 the FCC in Washington State at least 90 days before
5 US West plans to file it with the FCC, unless the
6 Commission sets a shorter time based on the extent of
7 remaining issues and the Commission's perceptions of
8 remaining evidentiary and process needs.

9 I guess my predicate question is what need
10 is there, if any, to diverge from the Commission's
11 existing orders? We can certainly discuss the
12 rationales for doing so, but I think that we need to
13 have that discussion.

14 I guess the second question that was posed
15 to me by Mr. Crain's presentation this morning is
16 whether Qwest intends to ignore the Commission's
17 orders in that regard. Certainly, what he said this
18 morning led me to that conclusion.

19 I concur with the prior statements that
20 some form of fifth workshop or some other process
21 like one is needed. If I can, you know, step back
22 and build an analogy for a second, we're building a
23 house here. We've got OSS and testing, we've got the
24 QPAP over here and we've got the SGAT over here.
25 It's like we're building a foundation, a roof, and a

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1 set of walls for a house on site, but no one's put
2 them together yet. We don't even know if the walls
3 fit the foundation or if the walls will hold the
4 roof.

5 And for that reason, I think that it's
6 incumbent on this Commission to examine what occurs
7 if, for example, the QPAP that will, in theory,
8 result from Mr. Antonuk's recommendations, if he
9 follows the model used by Mr. Weiser in Colorado,
10 he'll have the issues identified and he'll propose
11 resolutions to them. And based upon that, Qwest
12 could develop a QPAP that would comport with Mr.
13 Antonuk's recommendations.

14 What would happen if we applied that to
15 July's OSS data? Would it result in penalties? If
16 so, how much? I think these are -- in Colorado,
17 they're considered mock reports, in terms of Mr.
18 Weiser's recommendations. I think it would be very
19 valuable for this Commission to examine what happens
20 when we try and put this house together, when we pull
21 all these disparate elements that we've been talking
22 about serially, but separately. What happens when
23 you actually bring it all together. Is the thing
24 going to work.

25 Part of what Qwest has argued here in the

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1 past is that they have learned from the other states'
2 experiences and their OSS, their PAP, everything else
3 is so well informed by the experiences of other
4 states that we don't need to look at these things,
5 you know, it will all be fine, which is a variation
6 on the trust me argument.

7 I think that we should learn from the
8 mistakes that occurred in other states. In this
9 instance, what is instructive is New York's
10 experience with Verizon. Similarly, the OSS was
11 tested and was completed and failed when it was hit
12 with commercially-significant volumes of traffic.
13 Will that happen here? I don't think there's anyone
14 that can, in all honesty, sign an affidavit that
15 would tell you yes or no, because we don't know.

16 I think what I would recommend is that
17 there be some sort of fifth workshop or other
18 opportunity for parties to take back these disparate
19 elements, to bring them to the Commission, and to
20 examine their interrelation.

21 Conceptually, I think another way the
22 Commission could look at this would be like a cost
23 study. You know, in energy cases or telecom, when
24 they occur, if you're looking at rate of return and
25 your company presents a cost study, you can file a

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1 data request or the Commission can issue a bench
2 request asking for a rerun with different assumptions
3 built into that. I think that could be very
4 instructive.

5 What happens when Qwest's QPAP filed with
6 the multi-state proceeding is run against three
7 months of OSS data? What do the results look like?
8 How does that differ from what Mr. Antonuk's
9 recommendation, if it's different from what Qwest
10 filed? Could be what results would come from that.
11 I think that kind of very real world data would be
12 very helpful to this Commission making its decision.
13 So in that sense, I feel that there would be
14 significant value in bringing these interrelated
15 issues back together into one set and examining them,
16 particularly as others have mentioned under
17 commercial usage or commercially significant volumes
18 of orders.

19 As to the adjudicative hearing, I think
20 there's still some question of what to do with
21 unresolved issues identified as noncompliance by
22 Commission order in the SGAT. Those issues are
23 certainly outstanding from the Commission's first
24 workshop order. There will presumably be similar
25 noncompliant issues identified by the Commission's

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1 final orders subsequent to the second, third and
2 fourth workshops and fifth, if we have one.

3 It's my understanding that Qwest has made
4 changes to their SGAT, it's along the way, to resolve
5 some of those issues of noncompliance found by the
6 Commission. I can't tell you whether they've done
7 that for all of them, 80 percent, 20 percent, 10
8 percent. I think that at the end of this road, there
9 will still be issues of noncompliance with the SGAT
10 identified by the Commission, issues of noncompliance
11 that essentially find that Qwest is not meeting its
12 obligations under the federal law.

13 It would seem to me that the adjudicative
14 hearing process outlined by the Commission in its
15 order adopting the interpretive and policy statement
16 would be a good opportunity to take those kind of
17 final, unresolved issues, those kind of final
18 arguments on other contested issues that are out
19 there and present them to the Commissioners in a
20 hearing process.

21 One thing that we've all sort of ignored
22 through this is the Commissioners' interest in
23 hearing the matter. And I don't know to what degree
24 they may have expressed interest or extreme distaste
25 for facing this, but it's certainly been my

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1 experience that the questions from the bench during
2 contested hearings often are quite helpful in
3 focusing the issues that the parties are addressing.

4 It's real easy for us to go back and forth
5 in an adjudicative process and cross-examine their
6 witnesses and they do the same to us and we get in
7 our mind frame about, you know, what we see the
8 issues as, and it's been my experience in every
9 hearing before the Commissioners, that they see an
10 issue that we haven't. And I don't know if that will
11 happen here, but to the degree in my few years of
12 experience with this Commission is instructive, it's
13 happened every other time I've put a major case in
14 front of them, so I don't see why this case would be
15 any different.

16 So in sum, I think the record developed for
17 the Commissioners would be well served by some fifth
18 workshop or other -- certainly not a
19 legislative-style presentation -- process that allows
20 us to bring all these issues together and test their
21 ability to work together.

22 JUDGE RENDAHL: Okay. Thank you very much.
23 Mr. Crain.

24 MR. CRAIN: Sure. First of all, the 90-day
25 issue that's in the current procedural order, I was

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1 there when that ruling was made, I participated in
2 that discussion, and I remember very clearly what the
3 decision was. The 90-day procedural -- the 90-day
4 adjudicative process, as it was just called, was in
5 the original procedural order that was issued in
6 1997. We suggested that a series of workshops be
7 held, rather than a formal hearing, and the
8 Commission's ruling was basically, We're not going to
9 take that piece of -- that 90-day process out of the
10 procedural order, but we're going to review it at the
11 end to see if it's necessary. And that's what -- I
12 think that's reflected in the order.

13 That's what we're talking about. One of
14 the issues I think we need to address now, is that
15 necessary. And basically, what they were saying then
16 was we are ensured that this is going to be a
17 complete process where all the issues are really
18 going to be delved into in detail, because we've
19 never done this before. Now they have, and I think
20 there is no doubt, I don't think there could be any
21 doubt that all of the issues have been delved into in
22 excruciating detail here on every checklist item.

23 In terms of how to handle the rest of the
24 case, change management. Change management is being
25 dealt with in the change management process. It's

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1 also being completely reviewed by the vendors in the
2 ROC. I don't anticipate there are going to be any
3 significant issues remaining after we're done with
4 the negotiation process and I don't think that
5 there's any reason right now that a separate
6 proceeding ought to be set to review the change
7 management process. We'll file the change management
8 documents when we're done, people can file comments.
9 I think that's a reasonable way of handling that one.
10 Data review. We welcome data review. We
11 want to do it, we want to do it now. There's no
12 reason to wait till the end of the test to start
13 looking at people's data. In terms of the is our
14 data correct or is their data correct issue, one of
15 the things that I have heard is being proposed by at
16 least -- I've heard that other state commissioners
17 are looking at whether or not we should retain
18 Liberty to do that through the ROC process, and
19 that's actually a process we would welcome and we
20 would support, where Liberty would be able to look at
21 their data, our data, get us in a room together, if
22 necessary, and see whose data is correct and do that
23 kind of -- and that is really excruciating work in
24 terms of trying to figure out why one person's data
25 is different. So we anticipate that that will be

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1 handled through the ROC process.

2 In terms of how we're performing and how
3 that looks, that is something I believe the
4 Commission would want to hear itself. It is not
5 suited for a workshop process. It's not something
6 that we're going to sit around and try to resolve
7 differences and delineate where we can reach
8 agreement and where we have impasse issues. That's
9 not necessarily an appropriate thing for a workshop
10 process.

11 It's more appropriate for presentations to
12 the Commissioners themselves, so that they can look
13 at that data, they can see how we're performing. And
14 you're right, they probably will want to ask
15 questions, and I think that is a very appropriate way
16 of handling that.

17 The FCC does want to look at the most
18 recent months and most current data. There's going
19 to be an inevitable time lag for any filing. The
20 Commission is going to have some kind of proceedings
21 to review our data. Additional data will probably
22 come in between that time and the time we file with
23 the FCC, even if it's a couple of days worth or a
24 month's worth. Almost every filing that -- actually,
25 every filing that has been made by BOCs at the FCC

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1 has contained new data and isn't just the data that
2 was most recently reviewed by the state commission.

3 So we need to start looking at that now, we
4 need to have the Commissioners start hearing that
5 information now. There's no reason to wait till the
6 end. And we welcome that being evaluated, and we
7 just want that process to get moving.

8 In terms of the QPAP, state-specific issues
9 are being addressed in the Antonuk process, and
10 parties are -- have been asked to file comments
11 regarding state-specific issues. CLECs and other
12 parties have had numerous chances of presenting all
13 of their issues on the QPAP. We had the ROC process
14 with workshops, which created the document that we
15 have filed with Mr. Antonuk.

16 All CLECs have had numerous opportunities
17 during those workshops to file comments, to make oral
18 presentations, to talk through the issues with us
19 with all the state staffers in the room, and I think
20 that that was a complete and sufficient process. Now
21 you add the Antonuk process on top of that and it is
22 way beyond complete and sufficient, and add another
23 -- yet another workshop process after that is really
24 reaching, I think, absurd levels.

25 The nine-state process is looking at the

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1 entire QPAP, it is evaluating all issues, including
2 state-specific issues. There's no reason to have an
3 extensive workshop process after that.

4 And then the OSS test issues, we do feel
5 the most appropriate way to handle that is to have
6 readouts to the Commissioners themselves. They are
7 going to want to hear that personally, I think. Once
8 again, it's not suited to a workshop process, where
9 we -- what's not going to happen is we sit around and
10 say, Well, do you think they tested enough. No,
11 let's go back and do it again. Basically, we're all
12 going to be discussing the results of the test and
13 making presentations on what we consider the
14 important issues on the results of the test. So it's
15 not suited to a workshop process, and it's much more
16 suited to a presentation style process.

17 And in short, the Commission can be
18 creative in terms of how it deals with these issues.
19 It doesn't need to hold formal hearings. But,
20 nevertheless, this process that the Washington
21 Commission has gone through and the process that
22 Qwest is proposing for the additional process is
23 giving all parties ample opportunity numerous times
24 to raise issues, to air all of their issues. All of
25 the issues, I believe, have been and will be

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1 thoroughly discussed, and it will be at the end the
2 most complete, the most open process than any other
3 -- and more complete and more open than any other
4 Commission has held across the country.

5 JUDGE RENDAHL: Thank you, Mr. Crain. Your
6 suggestion that states are going to be retaining
7 Liberty to do the data review or comparison, is Qwest
8 making a request formally to the different states to
9 do this? What's the process that's proposed for
10 that?

11 MR. CRAIN: It's an issue that is in its
12 infancy, and it may be -- I anticipate that there are
13 state commissioners looking at it who will make a
14 formal proposal to the ROC, but if not, we can make
15 some kind of formal proposal, as well.

16 JUDGE RENDAHL: When you say it's in its
17 infancy, is this something that Qwest has been
18 discussing with the other CLECs or is it just
19 something it's been thinking on its own?

20 MR. CRAIN: It was thinking on our own, and
21 other people have come up with the idea at the same
22 time. And I anticipate a lot is going to happen in
23 the next couple of weeks regarding that.

24 JUDGE RENDAHL: Okay. Given that that
25 might impact further process in this state, I guess I

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1 would request that, to the extent that that is the
2 process that Qwest and the CLECs choose to follow or
3 -- you know, to my knowledge, it has not been
4 formally, you know, presented here in Washington,
5 I've not seen anything in paper on that by Qwest, so
6 this is entirely new --

7 MR. CRAIN: As soon as --

8 JUDGE RENDAHL: -- an entirely new issue to
9 myself and maybe to others around the table today.
10 So to the extent that that impacts, you know, what
11 the further process would be here in Washington, I
12 think it's imperative for Qwest and anyone else who's
13 interested in that process to let the commissions
14 know timing and how that might work out as soon as
15 possible.

16 MR. CRAIN: And we certainly will do that.

17 MS. DeCOOK: Your Honor, I just have a
18 question about that. It's curious to me. I've not
19 heard of this. I don't know that any CLEC has been
20 confronted on this question, but I did hear Mr. Crain
21 say that others have been in discussions with it.
22 I'm curious as to whether that's Liberty or Mr.
23 Antonuk that they've been having these discussions
24 with?

25 MR. CRAIN: I don't know. I've just heard

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1 that -- actually, all I heard was that Bob Roe raised
2 it as an issue and a proposal. That's all I've
3 heard.

4 JUDGE RENDAHL: Okay. Well, since it's an
5 unknown to almost everyone here at the table, I think
6 we can't do much with it now, but my request is if it
7 becomes reality, that Qwest and anyone -- any other
8 party who finds that to be an appropriate process, to
9 bring that to this Commission's attention as soon as
10 possible so that we can factor that in when making a
11 determination about future process here in
12 Washington.

13 MR. CRAIN: And we certainly will do that.

14 JUDGE RENDAHL: Thank you. So Mr. Crain,
15 you don't believe any of the issues needs to be dealt
16 with in a workshop process, in particular the QPAP
17 and the OSS testing results and data review?

18 MR. CRAIN: Yes, that is accurate. I don't
19 believe any of those are appropriate for workshop
20 process, and I don't think the workshop process would
21 be very fruitful in addressing those issues.

22 JUDGE RENDAHL: Okay. And to follow up on
23 a comment made by Ms. Hopfenbeck about the CICMP
24 process, and I may be incorrect as to whether it was
25 Ms. Hopfenbeck, there was a suggestion made that

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1 changes to the CICMP involved, that the CICMP has a
2 role, not just for OSS, the OSS process, but also it
3 has a role in the SGAT and various other places, and
4 a suggestion that there might need to be a workshop
5 to look at changes to SGAT sections on CICMP itself.
6 And I'm wondering what Qwest's thoughts are on that
7 particular point.

8 MR. CRAIN: There's only one -- well, there
9 are paragraphs in the SGAT that refer to the CICMP
10 process, and those have actually all been -- I
11 believe all been negotiated and addressed in the
12 separate checklist item workshops, with one sole
13 exception. And that sole exception is the -- there's
14 one paragraph in Section 12 in which Qwest says, We
15 will maintain a CICMP process. And I don't think
16 that that particular paragraph has been addressed,
17 but all the issues relating to that paragraph --
18 well, that's the only remaining issue that --
19 remaining section of the SGAT that refers to CICMP
20 that I believe hasn't been addressed in the
21 workshops.

22 JUDGE RENDAHL: Okay. Do you have any
23 further comments on future process? I think there
24 may be some comments around the table before we
25 close. Ms. Hopfenbeck, did you have --

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1 MS. HOPFENBECK: I just wanted to address
2 your last question on the CICMP and -- because it was
3 my observation that CICMP needed to come back here,
4 and that's because while it's true that the
5 provisions that reference CICMP have been closed,
6 they've all been closed subject to, you know,
7 condition on the understanding that the CICMP process
8 would be adequate to address those important issues.

9 And by those important issues, they're the
10 kinds of issues that Ms. Doberneck raised, which is
11 there's been -- in almost every workshop, the CLECs
12 have raised a concern about Qwest's practice of
13 unilaterally changing the terms and conditions under
14 which they must do business with it. And two,
15 concern about delays that they've experienced in
16 providing products because of an inadequate amendment
17 process for their interconnection agreements.

18 Those two issues are very important to
19 WorldCom, in particular, and without a review of
20 CICMP to see that there are processes in place to
21 address those concerns, we don't believe Qwest can be
22 found to be in compliance.

23 JUDGE RENDAHL: Okay, thank you. Is there
24 anything else before -- anything else on future
25 process before we're done with our prehearing

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1 conference? Ms. Strain.

2 MS. STRAIN: I wanted to just ask a couple
3 more questions about the -- I think it was Ms.
4 Doberneck and perhaps Ms. DeCook were talking about
5 the Colorado process and talking about for looking at
6 the QPAP, and looking at what the process was that
7 Qwest proposed here and your concerns with it.

8 Was the concern that there would not be
9 table time or face time with the commissions, or with
10 the Washington Commission, in particular, or with the
11 Staff on the aspects of the PAP, or was the issue
12 that you liked the Colorado process and the process
13 here that involved a written record and responses and
14 interaction between the parties was not what you
15 wanted?

16 MS. DeCOOK: Well, speaking for AT&T, I
17 think the concern I was trying to address is that I
18 -- I think it's difficult in a multi-state forum to
19 present your issues to individual commissions. And I
20 think it's an important part of the process to be
21 able to voice your issues directly to the
22 decision-maker, so that they can understand your
23 concerns, ask questions. They may have questions of
24 their own, particularly this Commission, as they get
25 confronted with a record that they weren't involved

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1 directly. And as Mr. Cromwell suggested, they may
2 have their own issues, their own concerns relative to
3 Washington issues that have come across their desks
4 over the years.

5 So I think having the right and the
6 opportunity to present your issues directly to the
7 decision-maker is important to AT&T.

8 JUDGE RENDAHL: Ms. Doberneck.

9 MS. DOBERNECK: Yeah, I would echo what
10 Becky said. From my perspective, what was very
11 appealing about the Colorado process, I mean, you
12 couched it as face time, but from my perspective, it
13 was an opportunity -- basically, they're all impasse
14 issues, so to speak. Qwest had its proposal, I
15 disagreed, and it was an opportunity to speak
16 directly to the individual making the recommendation
17 and fleshing out my side of the impasse issue and how
18 and why or why not Qwest's proposal did not
19 adequately address it.

20 So it was an opportunity to explain my
21 position and the reasonableness of it, and why
22 something that on its face might appear to address it
23 did not, in fact, do so.

24 MS. STRAIN: And so your concern, I guess
25 both of you, your concern is that you would not have

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1 time to present your witnesses and/or your discussion
2 and your viewpoints to the Washington Commissioners
3 themselves or to Judge Rendahl or what -- I just -- I
4 want to just be sure I understand what your concern
5 is and what -- if you ruled this world, how would you
6 want -- how would you set this up so that you felt
7 like you had the forum that you wanted?

8 MS. DOBERNECK: I suppose, I think,
9 probably what Barb is talking about. And the way we
10 proceeded thus far is that Staff and Judge Rendahl or
11 Judge Wallis have been instrumental in accumulating
12 the facts, reviewing the evidence, and making a
13 recommendation and, you know, in essence,
14 facilitating the Commissioners' decision and giving
15 them a summary.

16 Ultimately, I suppose it doesn't matter to
17 me whether it's Staff, Judge Rendahl, or the
18 Commissioners, per se, so long as I have the
19 opportunity to create the record to say why Covad
20 needs what it does and why the QPAP doesn't address
21 it. So I don't have a specific preference, per se,
22 and I'm happy to go along with however the process
23 has been working or how we've been proceeding thus
24 far.

25 JUDGE RENDAHL: Ms. DeCook.

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1 MS. DeCOOK: Just a comment from AT&T's
2 perspective. The workshop has been established to
3 deal with public interest, and Staff and Judge
4 Rendahl are participating in that workshop. The QPAP
5 is one of the prongs, one of the issues that needs to
6 be addressed as part of that public interest
7 determination, and I think what Qwest is asking you
8 to do is take it outside of that public interest
9 workshop and treat it differently, and I don't really
10 think that's the way to go.

11 I think there's no reason to change your
12 workshop process on public interest at this point,
13 and should just be a portion of that workshop and
14 finished whenever QPAP comes before you.

15 MS. STRAIN: Now, the multi-state workshop,
16 won't that involve the process that you're talking
17 about, where you present your positions to people in
18 a room and they're hearing it and it's not just
19 paper? Isn't that -- I mean, you know, we're looking
20 at I think eight full days of some kind of process
21 and workshops for that multi-state proceeding. Is
22 that -- does it involve that or is it --

23 MS. DOBERNECK: I have not -- we have not
24 participated in the multi-state, so I'll defer to
25 AT&T. And I'd just simply say QPAP is a little bit

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1 different than the other checklist items, so I'm not
2 certain.

3 MR. CRAIN: And if I could address that,
4 the answer's yes. That process is providing
5 everything that people have talked about here, which
6 is development of a record where all of their issues
7 are presented and discussed and a report is put
8 together, just like the results of this kind of
9 workshop or any other Washington workshop have been
10 done. The only issue is who's writing it, and in
11 this case, it's John Antonuk is writing the report.
12 That's the only difference between the process there
13 and the process here.

14 And to add -- I mean, when you talk about
15 the Colorado process, I think we need to make clear,
16 the Colorado process was what they did instead of the
17 12-state negotiations and workshops on the QPAP that
18 took months and months and months that we
19 participated in, and then the John Antonuk process,
20 as well. So that was a replacement for those two
21 pieces of what is going to be done here, and what's
22 being done here is, I believe, much more thorough
23 than that, although that was a completely sufficient
24 process.

25 JUDGE RENDAHL: Mr. Kopta.

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1 MR. KOPTA: I might clarify that a little
2 bit, in that it won't be clear until the prehearing
3 conference on Friday exactly what process is going to
4 be used in the multi-state. The way that the
5 schedule was set up by Mr. Antonuk was that Qwest
6 would file its QPAP, then other parties would have an
7 opportunity to respond, and then there'd be a
8 prehearing conference to decide what additional
9 process was going to be used. So it's a little up in
10 the air at this point. Certainly, we will advocate
11 that the process that Andy just described would be
12 used.

13 But the concern that we have, and I think
14 it is shared by others here, is that Mr. Antonuk,
15 with all due respect, has not lived and dealt with
16 these issues in Washington over the past few years.
17 There have been various attempts, starting with
18 initial arbitrations to develop service quality
19 standards, remedies for nonperformance, there was a
20 rule-making that started and was terminated, there is
21 a settlement agreement in the merger docket. All of
22 these things have given Staff a certain background in
23 the kinds of issues that are relevant to deciding
24 what kind of performance assurance would be
25 appropriate for Washington.

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1 Mr. Antonuk does not have that kind of a
2 background. So while certainly he will do his best
3 to develop a record, I believe he won't come at it
4 with the same perspective as Commission Staff or this
5 Commission will with a background and the
6 understanding of past events, as well as, you know,
7 Qwest's history in the state of Washington.

8 So I think the concern that we have is that
9 that piece of the component of whether the
10 Performance Assurance Plan is appropriate for
11 Washington, by necessity, is just not going to be
12 there.

13 JUDGE RENDAHL: Okay. Let's be off the
14 record for a moment.

15 (Recess taken.)

16 JUDGE RENDAHL: Okay. Let's go back on the
17 record. Mr. Weigler, Ms. Hopfenbeck, and then Mr.
18 Crain.

19 MR. WEIGLER: Steven Weigler, for AT&T.
20 First, as far as what the workshop process has
21 created thus far in the QPAP, I would like to state
22 that I think the record created by the facilitator
23 speaks for itself on what happened in the QPAP
24 workshops. And to paraphrase, it wasn't at all a
25 complete process. Thus we have come to what we call

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1 the Antonuk process, where, presumably, and we're
2 having a prehearing conference on what exactly is
3 going to happen on August 3rd, but presumably we will
4 have some kind of presentations by both parties to a
5 neutral facilitator, and then that person will create
6 a report.

7 Although if you review the record, that is
8 -- you review the record on what happened in the last
9 prehearing conference with Mr. Antonuk, that is not
10 what Qwest agreed to do and that's not what Qwest
11 requested. Qwest said that they want to present the
12 whole thing, lock, stock and barrel, and Mr. Antonuk
13 says that either meets the public interest test or
14 doesn't.

15 I'm hearing different things from Mr.
16 Crain, and I think that's because there's been a lot
17 of -- when everyone filed our comments, I think
18 reality is we're going to have to go piece-by-piece
19 into that issue.

20 Regardless, even if Mr. Antonuk does come
21 up with a report, public interest -- and I filed a
22 brief on this or comments on this in Washington -- is
23 part of the public interest test. And only
24 Washington can determine if the QPAP, and even what
25 Mr. Antonuk recommends or doesn't recommend, only

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1 Washington can determine if the QPAP, as part of the
2 public interest, which is a checklist item, is
3 appropriate for the state of Washington. And that's
4 why AT&T believes that this needs to be at least
5 reviewed in Washington, and preferably with the
6 opportunity for people like Mr. Cromwell and other
7 CLECs and other parties that have interest to either
8 tell you -- present arguments to the Commission
9 either why it's appropriate, the QPAP is appropriate
10 for that prong of the public interest test or that
11 QPAP isn't appropriate.

12 But the FCC, I think, is relatively clear,
13 and the arguments get kind of technical, and that's
14 why I will defer to my brief on this that I filed a
15 couple days ago, but it is part of the checklist item
16 and this Commission needs to address it.

17 JUDGE RENDAHL: Thank you. Ms. Hopfenbeck.

18 MS. HOPFENBECK: I just wanted to set the
19 record straight on what WorldCom, at least, has
20 filed. Mr. Crain has represented that the
21 multi-state would provide a forum for CLECs to have
22 state-specific issues considered that relate to the
23 QPAP.

24 WorldCom has filed a lot of comments
25 raising generic issues, issues on the QPAP that would

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1 exist in every state that's considering that QPAP.
2 We have not addressed state-specific issues. We
3 haven't addressed how the QPAP relates to rules that
4 exist in Washington, and we haven't done that for two
5 reasons.

6 One is that we understood, when the
7 Commission made its decision to join, that the
8 Commission always intended to consider state-specific
9 issues in some kind of later process, and two, given
10 the Washington Commission's -- I mean, even if they
11 hadn't done that, given the lateness of the decision
12 and the fact that the person at WorldCom who's doing
13 that process for the multi-state only had one day
14 between getting that order and going into workshops
15 in Colorado and public interest, I don't think we
16 even could have addressed state-specific issues. So
17 I just say that. I don't -- it's not being addressed
18 yet. I don't see how it could conceivably be
19 addressed in there, for the reasons that Mr. Kopta
20 raised.

21 JUDGE RENDAHL: Mr. Crain.

22 MR. CRAIN: Couple things. First of all,
23 there is only one issue in the QPAP. It is do we
24 meet the public interest requirement or do we not.
25 That is the central issue there. We made a proposal,

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1 probably a year ago now, that was essentially the
2 Texas QPAP, TCAP or PAP, or whatever you want to call
3 it, the Texas plan. We went through negotiations for
4 months with the CLECs through the ROC process and
5 changed that to meet their needs. Now the question
6 is is this sufficient.

7 In terms of Washington-specific issues, I
8 think there's a lot of agreement here that these
9 things ought to be presented to the Commissioners
10 themselves, and that is exactly what we have
11 proposed, and we proposed that it should be done in a
12 presentation-style format, because the
13 negotiation-style format has already taken place.

14 JUDGE RENDAHL: Okay. I think that --
15 unless, Ms. Strain, you have additional questions?

16 MS. STRAIN: Oh, no.

17 MR. KOPTA: Learned her lesson.

18 JUDGE RENDAHL: I think -- I thank you all
19 for your thoughtful comments on our future process
20 here in Washington. And again, Mr. Crain, if you
21 have any information on that additional suggestion,
22 that would be helpful.

23 MR. CRAIN: I will.

24 JUDGE RENDAHL: At this point, let's be off
25 the record and adjourn for lunch.

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1 (Lunch recess taken.)

2 JUDGE RENDAHL: Well, let's be back on the
3 record after our lunch break. We're going to discuss
4 microwave collocation terms and conditions. And the
5 last information we had from the regular workshop, I
6 believe there was language from AT&T and language
7 from Qwest that was still in disagreement. I'm
8 wondering if there is a complete set of microwave
9 collocation language that is available at this time?

10 MS. FRIESEN: This is Letty Friesen. The
11 last exhibit that AT&T produced was marked, I think,
12 as Exhibit 812, and that was AT&T's revised proposal,
13 which I think is probably as complete as it gets.

14 JUDGE RENDAHL: I know that Qwest also had
15 a -- that is -- okay, Exhibit 812 is Ms. Bumgarner's
16 exhibit. Let's be off the record.

17 (Discussion off the record.)

18 JUDGE RENDAHL: Let's be back on the
19 record. While we were off the record, we determined
20 that Qwest's proposed changes to the SGAT section on
21 microwave collocation were marked as Exhibit 812, and
22 AT&T's proposed changes were marked Exhibit 958.

23 Qwest has circulated what it purports to be
24 the agreed-to changes between AT&T and Qwest
25 following the workshop, and I will mark that as

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1 Exhibit 813, and this will be a July 31, '01 proposed
2 changes to SGAT Section 8.2.4.9. And Ms. Bumgarner,
3 why don't you go ahead and explain the changes
4 indicated in the document.

5 MS. BUMGARNER: Okay. The first change is
6 in the first Section, the 8.2.4.9, the highlighted
7 language in the third line, where we had agreed to
8 add the words "on or for" on or inside the Qwest
9 premises.

10 And then the next change that was agreed to
11 is in the third section on that first page,
12 8.2.4.9.2, and this was the discussion around the
13 interval within the 15 days, and we added a
14 clarification that said "unless the CLEC requests a
15 later date." So those were the only two changes that
16 we had made at the previous workshop.

17 JUDGE RENDAHL: Okay. We have an AT&T
18 witness that's new to us today, so before we go to
19 AT&T for comments, I'm going to have Mr. Beveridge
20 stand.

21 Would you state your name and spell your
22 last name for the record, please?

23 MR. BEVERIDGE: My name is Greg Beveridge,
24 Gregory J. Beveridge, and my business address is 188
25 Inverness Drive West, Englewood, Colorado.

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1 JUDGE RENDAHL: Thank you. And could you
2 spell your last name?

3 MR. BEVERIDGE: Yes, my last name is
4 B-e-v-e-r-i-d-g-e.

5 JUDGE RENDAHL: Thank you.
6 Whereupon,

7 GREGORY J. BEVERIDGE,
8 having been first duly sworn, was called as a witness
9 herein and testified as follows:

10 JUDGE RENDAHL: Okay. Thank you. Okay.
11 Comments from AT&T on this proposal or other AT&T
12 proposals on microwave collo?

13 MR. WILSON: Ken Wilson, for AT&T. I think
14 that the only change that we had discussed, but I
15 think we had determined to forgo it, and the current
16 language was the discussion on the payment for the
17 site visit. I think it's still AT&T's opinion that
18 the FCC has said that site visits in the context of
19 collocation should not be charged, but I think other
20 parties in this proposal have decided to forgo a
21 dispute on that issue in order to get this proposal
22 approved and operational, so I think we withdrew on
23 it.

24 I think the changes that Qwest has made
25 were some of those we had agreed to in the last

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1 meeting here, so on its face, I don't see anything
2 that we discussed additionally that needs to be
3 changed.

4 MS. FRIESEN: Could I ask for just a few
5 clarifications, since I'm not looking at Exhibit 813?

6 JUDGE RENDAHL: Go ahead, Ms. Friesen.

7 MS. FRIESEN: Margaret indicated that in
8 Section 8.2.4.9 that Qwest had accepted the "on or
9 for" addition of AT&T. Did Qwest refuse to accept
10 the addition of duct and conduit and building also
11 found in that same paragraph?

12 MS. BUMGARNER: No, those changes were
13 already in the previous exhibit that we had, which
14 was the Qwest 812, I believe. Those were reflected.
15 This was the changes in addition to that, adding the
16 words that we had agreed to last time.

17 MS. FRIESEN: Okay. Thanks for the
18 clarification. And I think that Ken's statements are
19 accurate. What the disputed issue is relates to
20 whether or not they should be charging for site
21 visits. And as I recall Qwest's testimony, the
22 alleged reason they charged for those is because
23 every time they have a site visit, they have to
24 invite a structural engineer.

25 While AT&T disputes that and disputes that

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1 those charges should be there in the first instance,
2 we are going to reserve for future time, whenever we
3 need to consider microwave collocation, that issue
4 for AT&T's purposes. Because, as I recall, and if
5 Mr. Butler is on the line, Mr. Butler and his group
6 that is currently using microwave collocation in
7 Washington has accepted those charges.

8 MR. BUTLER: Yes, that's correct.

9 MS. FRIESEN: Okay. So I guess it's AT&T's
10 position, then, with respect to this language, rather
11 than take it to impasse, AT&T will just reserve the
12 right to argue about those charges at a later date in
13 a BFR-type process to the extent that we have to
14 engage in microwave collocation in Washington, if
15 that's acceptable to the Judge.

16 JUDGE RENDAHL: That's fine. I think AT&T
17 obviously has its own interconnection agreement with
18 Qwest, and if it chooses to adopt this microwave
19 collo provision, then, you know, it's up to AT&T to
20 decide how it wants to work out those arrangements
21 with Qwest.

22 Are there any other comments on this -- on
23 the microwave collocation language in what's been
24 marked as Exhibit 813? Okay. So at this point, it
25 appears that there are no other issues on microwave

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1 collocation that need to be addressed.

2 MS. BUMGARNER: Okay.

3 JUDGE RENDAHL: And that the language is
4 agreeable, for the most part, to all the parties.

5 Thank you all for discussing microwave collocation in
6 this workshop on short notice and dealing with the
7 issues.

8 MS. FRIESEN: Your Honor, this is Letty
9 Friesen. I'll be dropping off the phone at this
10 time. Thank you for allowing me to participate.

11 JUDGE RENDAHL: Okay. Before you drop off
12 the phone, is there any objection to admitting
13 Exhibit 813?

14 MS. FRIESEN: No objection.

15 JUDGE RENDAHL: It will be admitted.

16 MS. FRIESEN: Is there a question I could
17 run down Rick Wolters on?

18 JUDGE RENDAHL: I think the question --
19 let's be off the record.

20 (Discussion off the record.)

21 JUDGE RENDAHL: Let's be back on the
22 record. We now have Mr. Busch joining us at the
23 table representing --

24 MR. BUSCH: Washington Association of
25 Internet Service Providers.

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1 JUDGE RENDAHL: And are you also here today
2 for Yipes?

3 MR. BUSCH: Yes, I am.

4 JUDGE RENDAHL: But not on this particular
5 issue?

6 MR. BUSCH: Not on this issue.

7 JUDGE RENDAHL: Okay. Thank you. Okay.
8 Go ahead, Mr. Busch or Ms. Anderl.

9 MS. ANDERL: Thank you, Your Honor. Qwest
10 and the WAISP have been in discussions since the
11 petition to intervene was granted, and we believe
12 that we have resolved WAISP's concerns sufficiently
13 for their purposes. At this point in time, their
14 intent is to withdraw from the proceeding. And I can
15 let Mr. Busch confirm that, and then we are going to
16 want to just simply ask Your Honor what type of a
17 memorialization of that agreement you would like to
18 see on the record, if any.

19 JUDGE RENDAHL: Okay. Mr. Busch.

20 MR. BUSCH: Thank you, Your Honor. Qwest
21 has addressed the issues that we've raised to our
22 satisfaction, and at this point we would like to make
23 a motion to withdraw the testimony of Mr. Reimer and
24 Mr. Miller, and also to withdraw our intervention
25 from this docket.

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1 JUDGE RENDAHL: Okay. I believe -- your
2 motion will be granted. In terms of how it will be
3 memorialized, I will be issuing some kind of a notice
4 to the parties as to how we will go about the
5 withdrawal of that, of the testimony and exhibits and
6 the withdrawal of the intervention, but at this
7 point, it's granted, and I will let you all know
8 about the terms.

9 MS. ANDERL: And Your Honor, Ms. Simpson's
10 testimony in this round, this workshop only, would
11 then be withdrawn, as well, since the only purpose
12 that her testimony served was to rebut the
13 allegations presented by Mr. Busch's client.

14 JUDGE RENDAHL: Okay,

15 MS. ANDERL: Thank you.

16 JUDGE RENDAHL: And that withdrawal is
17 accepted, as well. So thank you very much for
18 working on those issues, and I'm glad to hear that
19 you resolved them amicably.

20 The next issue that we need to turn to is
21 AT&T's motion on confidentiality on the 272 Internet
22 posting issue. Having reviewed the motion and the
23 response and the comments of the parties at the last
24 workshop, I'm going to deny the motion, because I do
25 believe that Qwest has met its burden for

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1 demonstrating confidentiality, that it has made -- it
2 has posted the information that the FCC has required
3 it to post, and that it is not required to post the
4 additional information that AT&T has requested. So
5 at this point, I'm denying the motion of AT&T
6 concerning confidentiality.

7 The only other issue I have here is Qwest
8 has filed another lite version of its SGAT, and that
9 came in on the 24th of July, after we had ended our
10 last workshop. And I'm wondering if this is intended
11 to be an exhibit in this proceeding or how Qwest
12 intends the Commission to handle this document.

13 MS. ANDERL: If memory serves, we were
14 asked by either Commission or Commission Staff
15 whether we could file a new updated lite version of
16 the SGAT a week before the follow-up workshops
17 reflecting changes, I think, from that workshop and
18 maybe -- I don't know if -- I don't think it captured
19 Oregon yet, but as updated as we could as of the
20 24th, and so that's what that is. So yes, we do
21 intend it to be an exhibit.

22 JUDGE RENDAHL: Okay. Then we will get to
23 that next. Mr. Weigler, did you have --

24 MR. WEIGLER: Your Honor, I just had a call
25 in to Mr. Steese, because he was the representative

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1 at the last workshop. On subloop, it appears that
2 this updated SGAT version has no changes to the
3 language that was proffered by Qwest at the last
4 hearing. I believe that we were waiting for some
5 changes to review the changed language. And because
6 there's no changes, I called Mr. Steese on I believe
7 Thursday or Friday, and have not heard from him if
8 there would be changes to the SGAT regarding subloop.

9 JUDGE RENDAHL: Okay. So that's something
10 that might come into play.

11 MS. SACILOTTO: I'm sorry, Judge Rendahl.
12 This is Kara Sacilotto. I couldn't quite hear any of
13 that discussion.

14 JUDGE RENDAHL: Okay. I'm going to ask Mr.
15 Weigler to talk into the microphone and repeat that.
16 Ms. Stewart is also at the table and has indicated
17 she can answer or respond to what Mr. Weigler just
18 said, but if you could repeat that briefly, Mr.
19 Weigler.

20 MR. WEIGLER: Yes, Your Honor. At the last
21 workshop, Qwest -- we had discussions on the
22 possibility of certain SGAT language being changed in
23 the subloop section, particularly because there's
24 been some orders out from various commissions and
25 we've been -- Qwest has indicated that they would be

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1 filing language that was close to those commissions'
2 orders.

3 And reviewing the SGAT language, as I see
4 it, there's been -- there's no red-line changes to
5 the SGAT regarding subloop whatsoever, and
6 accordingly, we got it on -- I don't know. It was
7 filed the 24th, so we got it on the 25th. I called
8 Mr. Steese, who was Qwest's counsel at the last
9 workshop, asked him if there were any changes and
10 left a message and had not heard from him.

11 JUDGE RENDAHL: Okay. Ms. Stewart.

12 MS. STEWART: Karen Stewart, from Qwest.
13 To respond, we do have a copy of a red-line version
14 of the SGAT we'll be distributing in my portion of
15 the proceeding. We apologize. We were unable to
16 distribute it to the parties prior to today. The
17 changes are minor, in that there's very few word
18 changes, but the words that we have changed were to
19 be consistent with the commitments we made in
20 adopting the seven-state -- the recommendations of
21 Mr. Antonuk in the seven-state proceeding.

22 And so what we have, then, is gone through
23 the SGAT and ensured if there was a conflict. And
24 particularly where there were conflicts was our SGAT
25 originally contemplated that all inventory work would

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1 be done and complete LSRs would be submitted before a
2 CLEC could run a jumper.

3 As the parties may be aware, Qwest accepted
4 the Antonuk recommendation that for the first sets of
5 subloops that a CLEC wanted to run at an MTE
6 terminal, they could run those while the inventory
7 was being completed, and then Qwest would then put
8 the final information on.

9 So we have gone through the SGAT. We did
10 find -- I don't know the exact number, approximately
11 three or four places where there needed to be small
12 word changes to accommodate that, and we are
13 prepared, in the subloop portion, to present those
14 changes.

15 JUDGE RENDAHL: Thank you, Ms. Stewart.

16 MR. WEIGLER: AT&T would look forward to
17 seeing the changes as soon as possible, because
18 that's what I was hoping to do last week, so I could
19 be prepared for today's workshop.

20 JUDGE RENDAHL: Okay. My understanding,
21 from looking at our -- looking at our agenda, let's
22 be off the record.

23 (Discussion off the record.)

24 JUDGE RENDAHL: Let's be on the record.

25 While we were off the record, we determined that we

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1 were going to start with packet switching. Before we
2 turn to that, this SGAT Lite, who is the best witness
3 to sponsor this, Ms. Liston?

4 MS. LISTON: That would be fine.

5 JUDGE RENDAHL: Okay. When the time comes,
6 we'll make it an exhibit to Ms. Liston. Yes?

7 MS. ANDERL: Yes. My recollection is that
8 she sponsored the prior SGAT Lite from the main
9 workshops, so, just to stay consistent with that,
10 we'll do it that way.

11 JUDGE RENDAHL: We will do that. Okay. So
12 turning to packet switching, does everyone have the
13 revised packet switching and dark fiber issues list
14 that Ms. Strain circulated?

15 MS. STEWART: I don't.

16 JUDGE RENDAHL: You do not.

17 MR. CRAIN: We're pulling out copies here.

18 JUDGE RENDAHL: Let's be off the record.

19 (Recess taken.)

20 JUDGE RENDAHL: All right. Let's be back
21 on the record. We're turning first to packet
22 switching issues. And I notice, looking at the
23 issues log, which I hope everyone has copies of now,
24 that the remaining issues are mostly all at impasse.
25 And so I guess I'll just open up the floor to see if

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1 there are any issues that have -- if you've made any
2 further progress on any of these issues and which
3 ones should just clearly be at impasse. Mr. Wilson,
4 or Mr. Zulevic first.

5 MR. ZULEVIC: Yes, just briefly. I'd like
6 to add some additional information pertaining to
7 PS-1, packet switching one.

8 JUDGE RENDAHL: That would be Washington
9 PS-1?

10 MR. ZULEVIC: Yes, that's correct.

11 JUDGE RENDAHL: Okay.

12 MR. ZULEVIC: This is some information that
13 just became available since the last workshop, and
14 what it deals with is a order that came out of the
15 Texas PUC Order 22469 that was issued on July 13th.

16 JUDGE RENDAHL: Is that 224619?

17 MR. ZULEVIC: I'm sorry, 22469.

18 JUDGE RENDAHL: Thank you.

19 MR. ZULEVIC: Issued July 13th of 2001.

20 That dealt with a very similar issue. This has to do
21 with the unbundling requirements associated with the
22 SBC Pronto project, very similar to the ruling that
23 came out of Illinois earlier. And the Texas PUC also
24 ordered the SBC to provide access to the Project
25 Pronto, next generation digital loop carrier, on an

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1 unbundled basis using UNE pricing, whereas I
2 understand that the architecture that Qwest has
3 proposed and is currently deploying in Washington
4 State is not exactly the same as Project Pronto
5 conceptually, it is the same type of architecture in
6 that it provides the ability to get to distant parts
7 of the network using either fiber or copper-fed
8 services to provide digital loop -- to provide DSL
9 services to those remote locations.

10 And I would just like the Commission to
11 take note of this order that came out of Texas and
12 give it consideration as it pertains to PS-1.

13 JUDGE RENDAHL: Thank you.

14 MR. WILSON: Ken Wilson, for AT&T. I have
15 also read this Texas order, and it does address the
16 same issues that we discussed at length in the
17 workshop here, and the Texas Commission has found it
18 in the best interest and within the spirit of the FCC
19 orders, and certainly within the interest of the
20 state, to require unbundling of packet switching in
21 an architecture that is almost identical to that
22 which Qwest is deploying and will be deploying more
23 extensively in the future, so that competition can
24 have a chance in neighborhoods where copper loops
25 will not be competitive for DSL services.

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1 So I think it would behoove the Commission
2 to look into the sections of that Texas order to see
3 the similarities and make an informed decision.

4 JUDGE RENDAHL: Okay. Thank you. Anything
5 from Qwest on that? Mr. Orrel, Mr. Orrel, excuse me.

6 MR. ORREL: Thank you, Your Honor. At
7 least it's not Larry. You know, I haven't lived that
8 down, by the way. Some people will never let me
9 forget.

10 Just as a reminder, though, the
11 architecture Qwest is deploying, as Mr. Zulevic
12 correctly recounted, does not utilize next-generation
13 digital loop carrier. I believe, and we're looking
14 for the cite right now, regarding fiber sharing,
15 Qwest has made some positive statements around the
16 conditions in which it would do fiber sharing, which
17 I believe is contemplated by what is being ordered in
18 Texas, because SBC has deployed some of their packet
19 network on next-generation digital loop carrier.

20 And basically, I'd refer you to Section
21 9.4.1.1, and Qwest states --

22 JUDGE RENDAHL: This is of the SGAT?

23 MR. ORREL: This is of the SGAT.

24 JUDGE RENDAHL: Which version?

25 MR. ORREL: It's the exhibit we have with

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1 us today, July 9th through 18th version for the
2 post-workshop.

3 JUDGE RENDAHL: And that would be, if --
4 it's Exhibit 927. Was that an exhibit to Ms.
5 Liston's testimony, or is this the one I was just
6 discussing?

7 MR. CRAIN: This is the one you were just
8 discussing that we sent out after the last workshop.

9 JUDGE RENDAHL: Okay. Then why don't we
10 mark that as Exhibit 942. So this is language in
11 Section 9.4.1.1 of the SGAT Lite we received on July
12 24th, 2001, and that's Exhibit 942.

13 MR. ORREL: And in Section 9.4.1.1, Qwest
14 commits to -- basically, if we were to deploy
15 next-generation digital loop carrier and the law
16 obligated Qwest to unbundle its packet network, it
17 would provide that unbundled packet network in a
18 similar fashion to what I believe -- I haven't read
19 the Texas order, but I believe how the Texas order is
20 being represented here to us today, this would fit
21 that category, so I think the SGAT already covers
22 this particular scenario.

23 JUDGE RENDAHL: AT&T. Ms. Kilgore.

24 MS. KILGORE: Thank you. Mr. Orrel, in the
25 language that you just read that says that this will

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1 be made available if Qwest is obligated by law to
2 provide access, what will a CLEC need to do in order
3 to demonstrate that Qwest is obligated by law to
4 provide access once Qwest uses this technology?

5 MR. ORREL: Well, at the risk of -- I'm not
6 a lawyer, but presently, the FCC has some fairly
7 well-defined parameters whereby Qwest would be
8 required to provide unbundled packet switching, and
9 those would be the requirements, unless the local
10 commissions, in this case, the Washington State
11 Commission, rules further unbundling.

12 MR. CRAIN: And as one other point here, we
13 haven't had an opportunity to read that Texas order.
14 If you could send us a copy of it, we then will
15 respond in our briefs.

16 JUDGE RENDAHL: Mr. Wilson, then Ms.
17 Kilgore.

18 MR. WILSON: Just one further comment. I
19 think the main point that I was trying to raise with
20 the decision in Texas is a similarity in the issues
21 that the CLECs there brought up with respect to the
22 problems of meeting the checklist -- or meeting the
23 preclusions that Qwest has put in the SGAT with
24 respect to unbundling of packet switching that the
25 Texas Commission decided that it was in the best

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1 interest to go ahead and require unbundling of packet
2 switching primarily because of the economic problems
3 associated with collocating equipment that would be a
4 burden and essentially preclude competition in
5 neighborhoods where remote terminals are required.

6 So I think that was the issue, rather than
7 the -- there was a sub-issue, kind of similar to what
8 Mr. Orrel addressed, but the main focus is the
9 requirement to unbundle the packet switching, such as
10 Qwest is deploying in its network.

11 JUDGE RENDAHL: Ms. Kilgore -- okay. Ms.
12 Hopfenbeck.

13 MS. HOPFENBECK: WorldCom concurs in the
14 position that's been stated by Mr. Zulevic, for
15 Covad, and Mr. Wilson, by AT&T, but I also wanted to
16 point out a typographical error that I think means --
17 in 9.4.1.1, so that it doesn't quite do what Qwest
18 intends it to do, at least at this point. I think
19 you need to have a comma, instead of a period in the
20 third line from the bottom of 9.4.1.1. Now you have
21 a phrase there that's not a sentence and doesn't do
22 anything.

23 JUDGE RENDAHL: Are you referring to the
24 "to the extent additional line sharing technologies,"
25 et cetera, et cetera?

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1 MS. HOPFENBECK: Yeah. I just thought we
2 had to --

3 MS. STEWART: Qwest would agree to change
4 the period after "such technology" to a comma.

5 MS. HOPFENBECK: But WorldCom still doesn't
6 believe that this provision goes far enough.

7 JUDGE RENDAHL: That it needs to extend to
8 packet switching, not just line sharing?

9 MS. HOPFENBECK: Yes.

10 JUDGE RENDAHL: Okay.

11 MS. HOPFENBECK: And also, we have a
12 problem with the phrase to the extent that Qwest is
13 obligated by law to provide access to such
14 technology. That's suggesting that they don't have
15 that obligation now.

16 JUDGE RENDAHL: Okay. Ms. Doberneck.

17 MS. DOBERNECK: I would simply -- Ms.
18 Hopfenbeck covered it, which is, even as currently
19 written, we disagree with the language contained in
20 that section, but of course you'll read about that in
21 our brief.

22 JUDGE RENDAHL: Okay. We'll look forward
23 to it. So issue Washington Packet Switching 1 is
24 still at impasse with that further additional
25 information.

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1 Has there been any movement on any of the
2 other packet switching issues, any of the impasse
3 items, Ms. Stewart?

4 MS. STEWART: Yes, on packets -- Washington
5 PS-5, the issue of new packet switching definitions,
6 Qwest and WorldCom have currently exchanged a limit
7 -- some definition, or at least a definition for
8 packet switch that's currently under review. We
9 don't have a decision yet from WorldCom's technical
10 people whether it's acceptable. We hope to still be
11 working on that today. And if, while this proceeding
12 is still underway, we get an answer, we'll report; if
13 not, then --

14 MS. HOPFENBECK: We'll just report in our
15 briefs.

16 MS. STEWART: Briefs.

17 JUDGE RENDAHL: Thank you. I have a
18 question about Packet Switching Issue 4 for
19 Washington. The impasse was check on status at
20 follow-up. Exhibit A to SGAT will include interim
21 rates. Ms. Anderl, do you have any information on
22 that?

23 MS. ANDERL: If I understand the question
24 correctly, Qwest's current Exhibit A to the SGAT does
25 have proposed interim rates for unbundled packet

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1 switching in it, and it is simply that those rates
2 have not been run through a Commission cost docket.
3 But Qwest does offer those rates as currently
4 available in Washington and I believe will propose
5 that the unbundled packet switching rates go through
6 the next phase of -- or be something that is
7 considered in the next phase of the Commission's cost
8 docket.

9 JUDGE RENDAHL: Okay. Thank you. Is there
10 anything further on packet switching? Okay. Let's
11 move on to dark fiber issues. And let's be off the
12 record for a moment.

13 (Discussion off the record.)

14 JUDGE RENDAHL: Let's go back on the
15 record. While we were off the record, we determined
16 that Dark Fiber Issues 10 and 13 need to be
17 discussed. Let's start with 10 and just quickly deal
18 with that. That was a WorldCom issue concerning
19 clarification of cross-connect charges. Ms.
20 Hopfenbeck or Ms. Stewart, do you want to recap where
21 we are on that?

22 MS. STEWART: It's Ms. Stewart, from Qwest.
23 I believe that we have answered WorldCom's questions
24 and concerns about the applicability of those
25 charges.

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1 MS. HOPFENBECK: That's what my
2 understanding is. So that issues closed.

3 JUDGE RENDAHL: Thank you. Dark Fiber
4 Issue 10.

5 MS. STRAIN: SGAT section?

6 JUDGE RENDAHL: Oh, is there an SGAT
7 section, or it was just a question about charges and
8 applicability? So there was no corresponding SGAT
9 section.

10 Okay. And then, turning to the Yipes
11 issues under Dark Fiber Issue 13, Mr. Busch.

12 MR. BUSCH: Thank you. The issue here,
13 again, was the interconnection with dark fiber
14 subloops at a point that we've kind of called
15 mid-span meet points. Qwest's SGAT does offer to
16 interconnect -- provide interconnection for dark
17 fiber subloops at certain points. Yipes would like
18 Qwest to provide interconnection to unbundled dark
19 fiber at splice cases that are not located at the
20 points where Qwest indicates it will offer them, and
21 we've dubbed those mid-span meet points. It's the
22 points in between the ends of the fiber. It's not
23 accessible terminations under the FCC's description.

24 I believe Qwest and Yipes are willing to
25 stipulate that interconnection at mid-span meets for

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1 unbundled dark fiber is, number one, technically
2 feasible, and number two, it is an industry practice
3 in the telecommunications industry to open up a
4 splice case that is a mid-span meet, at a mid-span
5 meet point, and connect fiber facilities with each
6 other at those points.

7 I'll allow Qwest to speak for itself on its
8 position, but we do understand that Qwest does not
9 believe it's required to provide interconnection at
10 these points, and Yipes believes that Qwest is or
11 should be required to do so.

12 JUDGE RENDAHL: Ms. Stewart.

13 MS. STEWART: Karen Stewart, from Qwest.
14 Qwest agrees that it is technically feasible to open
15 splice cases. Qwest would just note that, number
16 one, it's not contemplated by the FCC, and in fact,
17 the FCC specifically says that we only have to offer
18 access to subloops where a splice case does not have
19 to be removed.

20 Secondly, in our fiber network, when we
21 seal a splice case, it's because we're anticipating
22 that there will be little, if any, access at that
23 point, and it's usually because of the strategicness
24 or the amount of traffic that's already there.

25 Thirdly, Qwest does acknowledge that,

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1 particularly in meet-point build arrangements, there
2 may have been some splicing directly of our
3 facilities to another carrier's facilities in
4 meet-point arrangements, but, once again, as
5 contemplated by the FCC and particularly as
6 contemplated in loop facilities, I would just note
7 that most joint builds in a splicing arrangement are
8 interoffice facilities, not loop facilities, that in
9 loop facilities, where Qwest is required to do
10 subloop unbundling and does offer subloop unbundling
11 of dark fiber, it's only required to do that at
12 accessible terminals.

13 Qwest has gone beyond that and has defined
14 certain types of non-sealed splice cases as
15 accessible terminals and feels it has met its
16 requirements under the law and does not agree to
17 general language that it would be required to open up
18 sealed splice cases.

19 JUDGE RENDAHL: Okay. And has Qwest -- is
20 there any SGAT language that the parties have
21 modified in terms of their stipulations, or is there
22 anything we need to note in the SGAT about this
23 stipulation or not?

24 MR. BUSCH: On behalf of Yipes, Your Honor,
25 no, I don't believe so. All of the other issues we

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1 raised prior to today have been addressed without any
2 changes to the SGAT.

3 JUDGE RENDAHL: Okay.

4 MR. BUSCH: And the stipulation we have is
5 a factual stipulation where we would ask the
6 Commission to order Qwest to rewrite the SGAT if you
7 find in our favor. If you find in Qwest's favor,
8 then I believe no changes to the SGAT would be
9 required.

10 JUDGE RENDAHL: Okay. Ms. Strain, do you
11 have a question? Now, I understand there's an
12 additional issue that Yipes has, and that has to do
13 with the rates. Or maybe that was AT&T's, an issue
14 of AT&T to clarify on follow-up, or Ms. Stewart, you
15 have --

16 MS. STEWART: I'll clarify. In the issues
17 that we've been working with with Yipes to try and
18 resolve, one of them was a concern that our interim
19 rate for portions or subloops of dark fiber had not
20 undergone any type of formal cost study or review.
21 We were asked by Yipes if we would agree to indicate
22 in the SGAT that those rates are interim subject to
23 trueup. Qwest does agree to make that change in the
24 SGAT.

25 However, in our proceeding on the Tuesday

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1 -- the telephone call that we had to work through
2 some of the dark fiber issues, I believe it was Mr.
3 Sekich, for AT&T, that indicated this was a new
4 question to him and he had not had an opportunity to
5 speak with his client, and he was hoping that AT&T
6 could come prepared today, having talked to their
7 client about whether they would agree to set in
8 language in the Washington SGAT specifically stating
9 that there would be a trueup, and I believe the
10 reason Mr. Sekich was concerned was the trueup, as
11 contemplated by Qwest and Yipes, was it would be
12 higher or lower. So if the rate went up, the CLEC
13 would pay more; if the rate went down, obviously
14 Qwest would issue a credit.

15 JUDGE RENDAHL: Does AT&T have any
16 response?

17 MS. KILGORE: I do, Your Honor. AT&T would
18 be amenable to that type of provision in the SGAT.
19 So to the extent that's where you end up in this
20 discussion, then AT&T would be fine with that.

21 JUDGE RENDAHL: So it appears this issue is
22 closed, then?

23 MS. STEWART: I guess with confirmation
24 that Yipes would like to have language that they
25 would be trued up on the rates?

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1 MR. BUSCH: Yes.

2 JUDGE RENDAHL: Okay.

3 MS. STEWART: We will, on the break and
4 prior to the conclusion of this workshop, will have
5 language specifically to put in the SGAT rate section
6 that the rates will be interim for portions or
7 subloops of dark fiber.

8 JUDGE RENDAHL: Okay. And that will be
9 language in Exhibit A or language in the SGAT?

10 MS. STEWART: I believe it would be
11 appropriate to put it in the actual body of the Dark
12 Fiber Section, 9.7.

13 JUDGE RENDAHL: Okay. Thank you. So is
14 there anything further on dark fiber issues, assuming
15 everything else will be argued on brief? Okay. I
16 think we're ready to go on to subloops. Let's be off
17 the record for a moment.

18 (Discussion off the record.)

19 JUDGE RENDAHL: Let's be back on the
20 record. While we were off the record, I received two
21 documents from Qwest concerning subloops, and one is
22 a revised version of Section 9.3, Subloop Unbundling.
23 The other is High-Level LSR Process Flow for
24 Intra-Building Cable. Would these be exhibits to Mr.
25 Orrel's or Ms. Stewart's testimony? Ms. Stewart's

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1 testimony. Okay.

2 Then let's turn to -- the revised Section
3 9.3 will be Exhibit 1020, and the High-Level LSR
4 Process Flow for Intra-Building Cable will be Exhibit
5 1021. And we are going to have another document
6 concerning access protocols, and will that be an
7 exhibit to your testimony, Mr. Wilson, or also to Ms.
8 Stewart's? Does it matter?

9 MS. STEWART: Yeah, it probably should be
10 ours, since it's our document.

11 MR. WILSON: It's Qwest's document, yes. I
12 think at some point AT&T may have a marked-up
13 version, but this version is their original
14 new-improved.

15 JUDGE RENDAHL: Okay. Then let's be off
16 the record for a moment.

17 (Discussion off the record.)

18 JUDGE RENDAHL: Let's be back on the
19 record. When that document is circulated, it will be
20 marked 1164, and it is titled Qwest Multi Tenant
21 Environment, (MTE), Access Protocol. What is the
22 date of that document?

23 MR. ORREL: July 17th, 2001.

24 JUDGE RENDAHL: July 17th, 2001. Thank
25 you. Okay. Let's start on subloops. Which is the

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1 first issue that we need to talk about?

2 MS. STEWART: This is Karen Stewart, with
3 Qwest. I believe we were going to do the access
4 protocol first, but since it's being copied, perhaps
5 I could identify in Exhibit 1020 the new SGAT Lite
6 for Section 9.3, where the various sections of new
7 verbiage originated from to hopefully facilitate the
8 group's review when we get to this portion of the
9 proceeding.

10 JUDGE RENDAHL: Thank you.

11 MS. STEWART: In Exhibit 1020, there is a
12 new complete red-lined Section 9.3.1.1.2 and
13 9.3.1.1.3, and 9.3.1.1.4. These three new sections
14 are almost verbatim. There is one small change,
15 which I will discuss. These three sections are
16 virtually verbatim from the seven-state recommended
17 report of Mr. Antonuk on what are the various
18 circumstances and conditions that should be taken
19 into consideration when a CLEC would like to access
20 subloops in a manner not contemplated by the Qwest
21 SGAT.

22 Qwest has agreed to this language and has
23 incorporated and adopted this language in the seven
24 states covered by that proceeding and has voluntarily
25 extended that language to each of its other states.

05455

1 The small change is in 9.3.1.1.4, and that small
2 change is in the middle of the section.

3 I believe in Mr. Antonuk's report, it had
4 said, Qwest will impose in the six areas identified,
5 and it either had Section 1 or Section A above, and
6 since it now had an SGAT number, we've inserted --
7 replaced that 1 or A with the appropriate section
8 number of 9.3.1.1.2. With that minor correction, I
9 believe the language is verbatim from his recommended
10 report.

11 Next change was in 9.3.1.3.2. This was a
12 conforming change, where the words "during or after
13 an inventory" has been inserted. That insertion was
14 necessary because of a subsequent section we'll talk
15 about where Qwest agrees that a CLEC can access
16 subloop elements during the creation of the inventory
17 of the CLEC's terminations.

18 Going on to Section 9.3.3.5, again, these
19 are conforming changes to identify that a CLEC can
20 submit LSRs without the complete inventory
21 information, and that Qwest will hold those in
22 abeyance, and subsequently the orders will be
23 processed in such a manner as contemplated in the new
24 section, which we'll discuss in a second, 9.3.5.4.1.

25 The next change is in Section 9.3.5.4.1.

05456

1 This is additional language that had been proposed by
2 Mr. Antonuk in the seven states. Qwest has adopted
3 this language. It basically provides more
4 flexibility in shorter intervals for CLECs in
5 accessing MTEs when the ownership has previously been
6 terminated by Qwest and a five-day interval where the
7 CLEC provides Qwest a written claim by an authorized
8 agent of the MTE owner.

9 Once again, it was a recommended change
10 there. Qwest has adopted that and is willing to have
11 this language now in each of its states.

12 9.3.5.4.4, this is a conforming change to
13 identify that a CLEC can, except when it's -- it's a
14 conforming change with the fact that when the initial
15 inventory is being created in an MTE, that a CLEC can
16 submit an LSR that does not have that final inventory
17 information on it.

18 The next change is an advocacy change on
19 the part of Qwest, as requested by AT&T. It's
20 9.3.5.4.5. It's a new sentence at the end of this
21 section. Basically, in our prior workshops, AT&T had
22 requested that it have the flexibility in ordering or
23 requesting that Qwest run jumpers in MTE terminals
24 for intra-building cable. Previously, Qwest did not
25 agree to that. Qwest has now made that change, and

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1 with the insertion of this language, Qwest will agree
2 to run jumpers for a CLEC for intra-building cable in
3 an MTE, assuming that an inventory of CLEC
4 terminations is complete and a complete LSR has been
5 submitted. It would be subject to the rates later in
6 the back of the SGAT for Qwest running a jumper, but
7 this is an advocacy change I would bring to the
8 parties' attention. Qwest hopes it can resolve any
9 final issues we have on this, who runs jumpers.

10 Next, 9.3.5.4.6, once again, a conforming
11 change. 9.3.5.4.7, this is language that had been
12 proposed by Mr. Antonuk. Qwest is agreeing to
13 receive this language and, basically, it is a
14 significant advocacy change on the part of Qwest, or
15 at least we're accepting this recommendation, and
16 that is that Qwest would secure the circuit
17 identifying information and would enter it in on the
18 LSR for those first LSRs that were run while the CLEC
19 termination inventory was being conducted.

20 9.3.5.5.2.1.3 is language that Qwest had
21 proposed in response to issues raised by Covad. It
22 was an exhibit in our previous workshop. I believe
23 the language was accepted by the parties. It was
24 Exhibit 1018. So I've basically just taken the
25 language from Exhibit 1018 and have inserted it here,

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1 and also that same language from Exhibit 1018 is in
2 9.3.5.5.2.1.4. So that should not be new language at
3 all. It's from our previous workshop.

4 There was a conforming change in 9.3.6.4.2,
5 indicating -- basically conforming to our change in
6 advocacy, that a CLEC can request that Qwest run
7 jumpers in MTE terminals for intra-cable loops. And
8 that's all of the changes that you should find on the
9 document.

10 JUDGE RENDAHL: Thank you for running
11 through that and clarifying that for us. Let's be
12 off the record for a moment.

13 (Discussion off the record.)

14 JUDGE RENDAHL: Let's go back on the
15 record. Mr. Weigler has a few questions for Ms.
16 Stewart on the changes made in Exhibit 1020.

17 MR. WEIGLER: Steve Weigler, from AT&T.
18 For the record, Exhibit 1020 was provided today, and
19 this is the first time that AT&T has had the
20 opportunity to look at Qwest's changed SGAT language,
21 at least the current changes on Section 9.3, so my
22 questions might appear a little rudimentary.

23 Ms. Stewart, are these -- does this
24 document reflect the changes made because of an order
25 from the multi-state -- from John Antonuk from the

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1 multi-state process?

2 MS. STEWART: It was not a formal order. I
3 believe it was John Antonuk's report making
4 recommendations to the various commissions of the
5 seven states. In filing its responsive comments to
6 that initial report of Mr. Antonuk, Qwest was willing
7 to accept all of the recommended Antonuk changes for
8 emerging services with the understanding that if it
9 made those changes, that the seven state commissions
10 would find Qwest in compliance with its 271
11 obligations for each of the emerging services.

12 So since we then, as part of our comments,
13 filed a SGAT showing those changes, we are now
14 offering to extend those same concessions and changes
15 in each of the various states. So with the exception
16 of the changes that resulted from the concerns of
17 Covad in Washington 1018, the rest are those changes,
18 with the added addition of since our last workshop,
19 at the request of AT&T, we have reassessed and
20 determined, in our intra-building cable process, we
21 can have a manner in which the CLEC can request that
22 Qwest run jumpers.

23 So that's basically the three, Covad
24 changes out of 1018, the Antonuk changes, conforming
25 changes to make Antonuk's changes flow through the

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1 whole document, and the change in advocacy on a CLEC
2 can request that Qwest run jumpers.

3 MR. WEIGLER: And then, just to clarify,
4 did other commissions state, if you made these
5 changes, that you would be in compliance on subloop
6 unbundling?

7 MS. STEWART: I believe that process is
8 underway in each of the states. I'm not aware that
9 any state has issued a final order.

10 MR. WEIGLER: But is there any state that
11 said if you make the changes suggested by the Antonuk
12 report, that you would be in compliance?

13 MS. STEWART: As I indicated, I don't think
14 any state has formally responded to Mr. Antonuk's
15 report or done a final order.

16 MR. WEIGLER: Now, there is at least one
17 order that's come out that has suggested that Qwest
18 make some changes to be in compliance. The one I'm
19 referring to is the Arizona order. And I believe
20 Qwest indicated that they would comply with the
21 Arizona order, also, but there's some things in here
22 that I don't see changes -- that Qwest has made the
23 changes that are suggested by the Arizona order. Is
24 Qwest intending to do so?

25 MS. STEWART: I would have to look at my

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1 notes on the Arizona order. The only one that comes
2 to mind out of the Arizona order -- and I apologize
3 if it turns out to be Colorado, because they're now
4 starting to run in my mind a little bit here. One of
5 the orders had slightly different recommended
6 intervals on the determination of ownership. Instead
7 of -- maybe this was Colorado. Instead of being two,
8 five and 10 for the various situations, they
9 recommended one, five and 10.

10 And I believe in our responsive comments,
11 and this is Colorado, I'm now remembering, we just
12 indicated that we would propose that Colorado adopt
13 two, five and 10, so that we would have consistency
14 in our states.

15 And once again, I would have to get my
16 notes from the chair over there, but I'm not aware
17 that, right off the top of my head, that there was
18 specific subloop SGAT language in the Arizona order.
19 Is there a section you can point me to, in
20 particular, you're thinking of?

21 MR. WEIGLER: Yeah, I'm just making sure
22 that I have the right section here. If I could just
23 have a second. Yeah, I'm talking about Section
24 9.3.6.4.1. The language is as follows: Staff also
25 agrees with AT&T that Qwest has not justified its

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1 proposed inventory charge, and accordingly, SGAT
2 Section 9.3.6.4.1 should be deleted.

3 And I see that in the SGAT, if I turn --
4 and it's a heavily-contested issue to AT&T, and
5 that's whether AT&T should pay a subloop nonrecurring
6 charge. CLEC will be charged -- and I'm reading from
7 the SGAT. CLEC will be charged a nonrecurring charge
8 for time and materials required for Qwest to complete
9 the inventory of CLEC's facilities within the MTE,
10 such that subloop orders can be submitted and
11 processed.

12 MR. CRAIN: That is from the Arizona --

13 MR. WEIGLER: Order.

14 MR. CRAIN: -- recommended Staff order.

15 And have we conceded the issue?

16 MR. WEIGLER: I believe you have.

17 MR. CRAIN: I don't know, I don't know.

18 MR. WEIGLER: I don't want to speak for
19 Qwest, but I believe that, reading your brief, you
20 have conceded to Arizona Staff's changes. And as
21 this applies to Washington, AT&T desires to know if
22 Qwest will be striking Section 9.3.6.4.1, as
23 recommended by the Arizona Commission Staff. If so,
24 that obviously isn't an impasse issue.

25 MR. CRAIN: We'll get back to you.

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1 MS. STEWART: We'll confirm that.

2 JUDGE RENDAHL: Okay. And you'll try to do
3 so before tomorrow, before the end of the day
4 tomorrow?

5 MS. STEWART: Correct, before the end of
6 the day tomorrow.

7 JUDGE RENDAHL: Great.

8 MS. STEWART: And if we've made that change
9 in Arizona, we'll make the change in Washington.

10 MR. WEIGLER: Also, I could fax or I could
11 e-mail Qwest a copy of the comments that showed that
12 they acquiesced at least to the Commission's order.

13 MS. STEWART: We believe we can have access
14 to it.

15 MR. WEIGLER: Okay.

16 JUDGE RENDAHL: Well, thank you for going
17 through the document 1020, Exhibit 1020, and
18 clarifying the changes, and thank you, Mr. Weigler,
19 for pointing out inconsistencies.

20 We now have what I had marked as Exhibit
21 1064, which is Qwest's Standard MTE Terminal Access
22 Protocol document. Mr. Orrel, which issue is this?
23 We had talked about -- Ms. Kilgore, you said it might
24 be Subloop Issue 4. Is that --

25 MR. WEIGLER: Your Honor, this is Subloop

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1 Issue Three, WA-SB3.

2 JUDGE RENDAHL: Okay. So this is the first
3 subloop impasse issue. Let's be off the record for a
4 moment.

5 (Recess taken.)

6 JUDGE RENDAHL: Let's be back on the
7 record. And we're going to talk about Subloop Issue
8 3, but before we go on the record on that, is there
9 something we need to talk about, Ms. Stewart and Mr.
10 Busch, or Mr. Busch?

11 MR. BUSCH: Yes, thank you, Your Honor. I
12 believe there are two issues that we should address
13 very briefly. First is the language that we were
14 going to review on the break. I believe Qwest and
15 Yipes have agreed upon some language for the SGAT --

16 JUDGE RENDAHL: Oh, okay.

17 MR. BUSCH: -- dealing with trueup of
18 rates, interim rates.

19 JUDGE RENDAHL: And that is this document
20 that we just marked as Exhibit 1065?

21 MS. STEWART: That is correct.

22 JUDGE RENDAHL: And this is language that
23 Yipes and Qwest are agreeable to?

24 MS. STEWART: That is correct.

25 JUDGE RENDAHL: Okay. Is there any comment

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1 from other parties about this trueup language? Okay.
2 Anything further, Mr. Busch?

3 MR. BUSCH: Second item from Yipes would
4 be, unless I contact you otherwise, we do not need to
5 reserve time for Mr. Holdridge's rebuttal testimony
6 later on in this hearing, this workshop.

7 JUDGE RENDAHL: Okay. Well, thank you very
8 much.

9 MR. BUSCH: Thank you.

10 JUDGE RENDAHL: Have a good afternoon.

11 MR. BUSCH: Thank you.

12 JUDGE RENDAHL: Okay. And then, turning
13 now to Subloop Issue 3. Who's going to start, Mr.
14 Orrel or Ms. Stewart?

15 MS. STEWART: This is Karen Stewart. We've
16 had just a real quick takeback on the issue of
17 whether Qwest had agreed, as a result of the Arizona
18 Staff proposed findings, whether Qwest has agreed
19 that it would not apply charges for inventory, and I
20 believe Mr. Steese has joined us on the bridge and
21 wanted to just respond briefly to that issue.

22 JUDGE RENDAHL: Mr. Steese, are you with
23 us?

24 MR. STEESE: I am.

25 JUDGE RENDAHL: Welcome back.

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1 MR. STEESE: Thank you very much. Very
2 quickly, went back and verified and my memory was
3 correct. We did not concede this issue in the state
4 of Arizona. We have conceded, as we stated last in
5 the workshop, that if a CLEC issues a request for
6 facility determination, who owns the facilities, then
7 we are not going to charge for that, but as it
8 relates to the creation of the actual inventory
9 itself, we still believe a charge is appropriate, and
10 that has not been conceded.

11 JUDGE RENDAHL: Mr. Weigler, do you wish to
12 respond or comment?

13 MR. WEIGLER: I think it remains an issue
14 in Washington that will need to be briefed.

15 JUDGE RENDAHL: Okay. And which -- this is
16 under Issue Subloop 3, or which issue is this?

17 MR. WEIGLER: Well, I'm not sure if --

18 JUDGE RENDAHL: Is it an issue here in
19 Washington yet?

20 MR. WEIGLER: It is an issue that I brought
21 up at the last workshop where I indicated that
22 there's numerous sections that the CLECs, or AT&T, in
23 particular, found discriminatory and asked to widen
24 the issue of WA-SB3, but it didn't make the
25 particular SGAT provision.

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1 JUDGE RENDAHL: This has to do with
2 inventorying?

3 MR. WEIGLER: It does. It's an inventory
4 charge.

5 JUDGE RENDAHL: Let's be off the record for
6 a moment.

7 (Discussion off the record.)

8 JUDGE RENDAHL: Let's be back on the
9 record. While we were off the record, we determined
10 that the issue that Mr. Steese and Mr. Weigler and
11 Ms. Stewart were discussing concerning charges for an
12 inventory of CLEC facilities can be added to Issue
13 SB-5. Whether an inventory of CLEC facilities must
14 be created, and if so, are charges appropriate, and
15 add an SGAT Section 9.3.6.4.1 under the list. So
16 that remains at impasse. Thank you, Mr. Steese, for
17 your clarification.

18 MR. STEESE: You're welcome.

19 JUDGE RENDAHL: And I think we're now going
20 to move back to Subloop Issue 3, which is also
21 involving multiple tenant environments. Mr. Orrel.

22 MR. ORREL: Thank you, Judge. I believe
23 Exhibit -- was it 1064 that is the Qwest Standard MTE
24 Terminal Access Protocol?

25 JUDGE RENDAHL: Yes, that's the document.

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1 MR. ORREL: The intent of this document was
2 to produce a template, if you will, for access to
3 Qwest MTE terminals where Qwest owns the wire that
4 goes into the terminal in one side and comes out the
5 other, in other words, for access to subloop
6 environments.

7 And the purpose of the document is to
8 provide CLEC technicians with some sort of guide to
9 obtaining access to the terminal once certain
10 activities have taken place, such as an LSR being
11 passed to Qwest for access to the subloop element at
12 that location. And this document is still in draft
13 form, we're in the July 17th version of this year,
14 and I know we filed it probably about a week or so
15 ago.

16 And while we were offline during break, I
17 know AT&T has several questions regarding the
18 document. It might be more productive if we just
19 work through their questions and --

20 JUDGE RENDAHL: Okay. And that's fine.
21 This is actually Document 1164, Exhibit 1164, not
22 1064.

23 MR. ORREL: 1164, okay.

24 JUDGE RENDAHL: Mr. Weigler.

25 MR. WEIGLER: Thank you, Your Honor. Steve

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1 Weigler, from AT&T. To start out, the access
2 protocol is a little more than an access protocol,
3 because in Section 9.3.5.4.5.1, it indicates when
4 CLECs access subloops in MTE terminals, it should
5 adhere to Qwest's standard MTE terminal access
6 protocol. I can't read my writing after that, but
7 that is the section that matters that the parties
8 need to adhere to this access protocol. Thus, it
9 becomes almost part of the SGAT, or it does become
10 part of the SGAT, because it says that if we're going
11 to access, and it takes us to off the SGAT document
12 to a multi tenant environment terminal access
13 protocol.

14 The parties, as part of this docket, and
15 also Docket 3120 involving AT&T's complaint that we
16 were not getting access to what AT&T considers the
17 NID and Qwest considers an MTE terminal, and so thus
18 we'll consider it today an MTE terminal, so everyone
19 knows -- is on the same page.

20 Qwest issued a docket -- a document on six
21 -- June 14th, 2001, called a Standard MTE Terminal
22 Access Policy Protocol. The parties got together.
23 After reviewing the document, we had some concerns
24 about the access policy protocols. In fact,
25 significant concerns. But we, in the spirit of

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1 compromise and as ordered by this Commission, we got
2 together offline to discuss our issues.

3 We brought our issues to the attention of
4 Qwest, including Mr. Orrel, and then received another
5 document dated July 17th, 2001, although we didn't
6 receive it probably until sometime last week.
7 Anyway, the document that we received is in ways
8 significantly different than access protocol that we
9 saw before. And we have -- because -- and it seems
10 to me, not being a technical person, but I brought my
11 technical person along, to be more limiting even than
12 the document that we saw on June 14th, 2001, and the
13 document we've been negotiating over.

14 As this is part of the SGAT, in a sense,
15 because it is referenced that we have to follow this
16 protocol and it is more limiting, AT&T has
17 significant concerns that our access is being limited
18 to the MTE terminals to access the internal wiring as
19 -- and that that would be against the requirements of
20 the Act.

21 However, during break, we did meet with Mr.
22 Orrel, who indicated that this is a draft, that there
23 is room for negotiation on this, and that there --
24 and also clarified some language to alleviate some of
25 our concerns. With that, I hand it over to our

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1 technical witnesses to discuss some of the issues and
2 problems that we see with the document. Thank you.

3 JUDGE RENDAHL: Okay. Mr. Beveridge or Mr.
4 Wilson.

5 MR. WILSON: Ken Wilson, Your Honor. Let's
6 just walk through a few issues quickly, so we can see
7 some of the problems that we have. If you go to page
8 four first of Qwest 1164, the second bullet issue,
9 second sentence essentially has a caveat that says
10 that any terminal that's not addressed in this
11 document will be available only on an individual case
12 basis, and that has always been a problem for CLECs,
13 and it's definitely a problem in this context.

14 What this is saying is that any terminal
15 that's not specifically addressed here will only be
16 available on an individual case basis. And we feel
17 that all terminals need to be addressed, at least
18 generally, and that all references to ICB should be
19 removed from this document.

20 If we then go on to page five, I would
21 remove bullets three and four. They're redundant.
22 Those two issues are at impasse in the SGAT itself.
23 And I have taken out these two particular terms
24 several places you'll see later on, and I noted with
25 some humor on the new -- one of the new SGAT

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1 provisions that Ms. Stewart went over also had these
2 two same terms embedded in it. It reminded me a
3 little bit of federal -- laws in the senate, where
4 you put in the middle of a law, something you want,
5 you put something that the other side doesn't want,
6 so you can see if you can get it passed. I think we
7 only need these in one place, rather than sprinkled
8 everywhere.

9 But let's go on to some more substantial
10 issues. Page seven. Here, again, there's a little
11 -- the same type of problem at the top, under CLEC
12 responsibilities. Again, it's saying nothing happens
13 until you issue an LSR. I think that's covered in
14 the SGAT. That could be taken out.

15 I do have one question for Qwest in regard
16 to this. We have discussed an LSR with respect to
17 when the CLEC is actually installing a customer at
18 the premises. Qwest -- I understand Qwest wants an
19 LSR, and that, I think, is the disputed issue.
20 However, there's discussion in this document and
21 implied other places that before the CLEC accesses a
22 building or before they go into a building, they have
23 to notify Qwest.

24 And I guess the question is, is that
25 notification contemplated to be a letter, an LSR, or

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1 some other type of communication? This would be
2 before we are installing. Because here it seems to
3 be an LSR, but I don't know what we would be
4 ordering, per se.

5 MS. STEWART: Yes, Qwest does contemplate
6 that a CLEC would notify Qwest. As part of that
7 notification process would be the request to
8 determine ownership that -- they would be at the same
9 time. Basically, that would be your notification to
10 us that you had plans to access the building, is --
11 the first step is determining the ownership.

12 MR. WILSON: Okay. But do you want us --
13 there's a place in the SGAT, I could find it, where
14 it says to send a letter. Here it seems to say send
15 an LSR. Which is it? I know you said notification.
16 What type of notification?

17 MS. STEWART: Again, my LSR expert's out of
18 the room here. I'll confer and make sure that I am
19 accurate. As you know, Mr. Viveros has been handling
20 the details of the provisioning process, and I don't
21 want to speculate when he's here available in the
22 room to answer that question.

23 MR. WILSON: Okay. Thank you.

24 MS. STEWART: Is your -- let me jump ahead
25 here. I'm assuming you want something more flexible

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1 and faster than a letter? More of an electronic
2 means of being able to do that type of
3 communications?

4 MR. WILSON: I think a letter adds delay.
5 I think there should probably be other means. I
6 don't know that an LSR is appropriate, because we're
7 not really ordering anything at that point per se.

8 MS. STEWART: Right. So perhaps maybe it
9 can be augmented to a phone call mutually agreed, but
10 I will check with Mr. Viveros.

11 MR. WILSON: Okay.

12 MS. KILGORE: I think the most important
13 point was that there's an inconsistency in between
14 the two, so that's the real issue.

15 MS. STEWART: Yes.

16 MR. WILSON: And maybe another question in
17 regard to this page seven provision. Still kind of
18 at the top, under the first bullet point, it says,
19 kind of at the bottom of the first bullet point, it
20 says, Review type of terminal for direct access
21 capability. That seemed to be an interesting
22 statement, because it almost implied a Qwest truck
23 roll, or else how would you determine. So I was
24 proposing to strike that provision. I think it's
25 addressed more succinctly later on, and we'll get to

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1 that.

2 Moving on to page eight, in the second
3 paragraph, the first sentence also has ICB. I don't
4 think that -- I think the SGAT, in the NID section,
5 does not contemplate access to the protector field as
6 ICB. I thought we actually had provisions for
7 ordering the use of the protector field of a NID. So
8 I think that last clause on the first sentence is
9 probably incorrect.

10 And then we get to a major issue. The
11 third sentence in the second paragraph that says
12 access will only be allowed in the appropriate cable
13 size increment, AT&T feels very strongly that this
14 would be wasteful, that these CLECs should be able to
15 access in smaller than 25-pair, and I think maybe Mr.
16 Beveridge has a few words on that issue.

17 MR. BEVERIDGE: Yes, it seems to be
18 reflecting the standard increments in terms of pairs
19 served on a given cross-connect block, and we're
20 wondering why it seems to be an unnecessary
21 limitation as a minimum increment.

22 MR. ORREL: The reference to 25 pairs is a
23 for example. It's determined by the type of terminal
24 that is in the MTE. Specifically, if we have a
25 100-pair terminal in that MTE, typically you would

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1 bring in either one 100-pair cable with four
2 complements of 25-pair within the cable or individual
3 25-pair cables to tie down to a splice strip that's
4 associated with the protector field such that you
5 would splice into that protector field once, close
6 the splice, and leave it alone.

7 Those splice strips aren't intended to be
8 -- they're not accessible terminals, if you will, not
9 intended to have multiple access within them. So all
10 we're trying to say is it's not a limitation; it's
11 just an indication that if you want to access the
12 protector side of a terminal, you access it where
13 there's spare protectors, and we just ask that, from
14 a waste perspective, from Qwest's perspective, that
15 we don't bring one pair and effectively tie up 25
16 pairs on the protector field.

17 JUDGE RENDAHL: Does that clarify some
18 language?

19 MR. BEVERIDGE: We need to propose some
20 alternative language, Your Honor.

21 JUDGE RENDAHL: Okay. Is that something
22 you want to do now or --

23 MR. BEVERIDGE: I think we'd like to take
24 it offline.

25 JUDGE RENDAHL: Okay. That's fine.

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1 MR. WILSON: Continuing on, actually, the
2 -- on the same page eight, the same paragraphs we
3 were looking at, which is titled CWSTP Option One,
4 that's essentially a NID access situation, and we're
5 concerned that even though the MTE -- this MTE access
6 document is ostensibly talking about access to
7 subloop, they have put a section in which is
8 essentially access to a NID where Qwest does not own
9 the inside wire.

10 And I think that's a bit troubling, because
11 we have statements about access to NIDs within the
12 SGAT itself, and I'm not sure we want to modify those
13 with this document.

14 Moving on, the bottom of page eight, on
15 option two, the first bullet has this same 25-pair
16 increment issue, which we will deal with in the same
17 way.

18 If we then go to page nine, in Option
19 Three, I think, is where we start getting into the
20 real bulk of the inside wire issues. In the first
21 paragraph, the third sentence, I would actually
22 strike that whole sentence, because I think it's
23 AT&T's position that there are no situations in which
24 we would want to preclude the CLEC from accessing
25 these terminals. Essentially, that sentence contains

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1 a statement which says there are terminals that are
2 hard-wired and there's no access. And I think we
3 would disagree that such a preclusion, even if it's
4 just implicit, should be in this protocol.

5 And in that -- this paragraph goes on
6 further to say, in a later sentence, hard wire
7 terminals perform the function of a splice, rather
8 than a cross-connect. We would disagree with that
9 sentence and strike it. And then I would actually
10 strike the sentence after that, as well.

11 MR. STEESE: Ken, if I can interject for a
12 second. This is Chuck Steese, from Qwest. Question
13 for you. We're going through and you're proposing
14 verbiage changes. Would it be possible, I mean, to
15 simply get a red-lined version of this? And this is
16 something that is akin to the type of technical
17 document that we can run through CICMP. Would it be
18 more efficient to do that? Because you're going
19 through a number of proposed changes, and I'm not
20 sure how we're supposed to react to them. I'm not
21 sure what you have in mind. Maybe you could explain.

22 MR. WEIGLER: Chuck, this is Steve Weigler,
23 and I think I articulated the reason we need to go
24 through these changes is that you're directly
25 limiting our access to MTE terminals or subloop

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1 elements via the use of this standard access terminal
2 or, what is it, MTE terminal access protocol. It's
3 directly referenced in your SGAT that this is the way
4 that we can obtain access to the MTE, thus we
5 consider it as if it is part of the SGAT, and
6 therefore we need to discuss the issues that we have
7 with this particular docket on the record, because we
8 don't believe that, as written, without the suggested
9 changes, that you're in compliance with the Act.

10 MR. STEESE: Let me ask it a different way,
11 Steve. I heard you say that -- we obviously
12 disagree. That's fine. But the question is, is
13 there a more efficient way than having Mr. Wilson go
14 through and say I would strike this sentence; for
15 you, since you have this docket available, maybe to
16 provide a red-line version to us with your proposed
17 changes on them instead of saying he would strike
18 this sentence, for example.

19 And given the fact that there is some
20 opportunity for Qwest to react to that, maybe it
21 would be more efficient for us to get that red-line
22 version, say we can accept these 10 things, not these
23 10, whatever it might be, and that way we can save
24 time on the record.

25 MR. WEIGLER: We'd agree to provide a

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1 red-line document, but we believe that we do need,
2 and maybe Mr. Wilson can state that these are the
3 issues that AT&T has with the document, and we
4 believe that we need to at least put that on the
5 record. And if Qwest wants to respond to our issues
6 on the record, that's fine. Otherwise, if there's no
7 response, that's fine, too.

8 MR. STEESE: Steve, then let's assume that
9 we disagree. You would anticipate briefing each and
10 every sentence difference, or just anticipate
11 briefing we disagree that the MTE access protocol --
12 that we disagree in the whole whether it provides the
13 access? What are you contemplating there?

14 MR. WEIGLER: I'm contemplating that these
15 issues are being placed on the record and that AT&T
16 will brief the issues that it believes are limiting
17 its access inappropriately under the Act, and that at
18 least Qwest will have notice on what those issues are
19 and they can brief accordingly.

20 And in the interim, if the parties -- and I
21 spoke to Mr. Orrel. I spoke to Mr. Orrel off the
22 record, and we're trying to work out language, and
23 there might be -- and Mr. Orrel can communicate with
24 whoever's briefing that there might be issues that
25 don't need to be briefed, because we were just --

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1 they were able to be resolved between the parties off
2 the record.

3 MR. CRAIN: So is the answer here that AT&T
4 will go through right now and just identify the
5 issues, the places they think this is limiting, and
6 then we'll understand that, brief the issues, and
7 move on?

8 MR. WEIGLER: If Qwest doesn't have any
9 response to what AT&T believes are the issues.

10 MR. CRAIN: Yeah, Barry does want to speak,
11 but --

12 JUDGE RENDAHL: Okay. Let's have Mr.
13 Wilson briefly identify the issues, as opposed to
14 going through line by line and identifying language
15 concerns. Then, Mr. Orrel, you can respond. And
16 then, if offline you happen to work through some of
17 these language issues, then that's fine. Mr. Wilson.

18 MR. WILSON: Thank you, Your Honor. Just a
19 few additional issues. Option Four, on page 10, is a
20 bit of a new concept. It opens up the issue of
21 campus environments, where you may have a minimum
22 point of entry, MPOE, and I thought that maybe an
23 additional sentence could be added there to expand
24 the access and to relate such access to option three,
25 and we can provide that to Qwest, because the way it

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1 is now, it kind of sets it apart. And many times the
2 actual terminal on an option four is very similar to
3 the terminal on an option three, and we just thought
4 that the same methods of access should be available
5 in that case. So just a simple addition.

6 Then the document goes on to look at some
7 specific terminal types. There's a 66 terminal and a
8 76 terminal. I would suggest adding some language to
9 especially the 66 terminal to open up the options a
10 little bit on how that terminal can be accessed.
11 Right now, it's a little too restrictive in its
12 language and maybe doesn't cover some of the
13 configurations of the 66 block. So we would
14 recommend a little bit of additional language to open
15 that up.

16 I think, finally, what we think is needed
17 overall in the document is some language to cover
18 additional access methods. This really primarily
19 covers the 66 block and the 76 block. There are
20 other types of blocks and terminals available that we
21 think should be addressed in general by this protocol
22 and we would propose some language to allow CLECs to
23 get access to that.

24 In fact, there was actually a little bit of
25 language that was left out, I think, of the original

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1 access protocol document and this version that
2 covered some of that, and we will offer some
3 additional language to open the access methods up a
4 bit.

5 And I think that's our general concern,
6 that the language here tends to be restrictive in
7 nature. What we would like to see is something a
8 little more permissive in nature. The CLEC should
9 have the same type of freedom of access to these
10 terminals as Qwest's technicians have, so that we are
11 not delayed in our access to these terminals that --
12 so that we can provision our customers in the same
13 manner as Qwest provisions their customers. We feel
14 that's a parity issue, and that's a very large
15 concern that we get access to these terminals easily.

16 And I don't know if Mr. Beveridge has a few
17 other closing comments to -- from his experience
18 accessing these terminals.

19 JUDGE RENDAHL: Mr. Beveridge.

20 MR. BEVERIDGE: Thank you, Your Honor. In
21 a way of hitchhiking on his comment with regard to
22 pairs that may be riser pairs inside the building
23 that are not terminated, but rather simply coiled up
24 or left unterminated, that would be by way of one
25 example, where if the pairs are otherwise usable all

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1 the way to end user premises within the building, but
2 not tied down to an existing cross-connect field.
3 And my question would be is it permissible in that
4 case, in Qwest's view, to use a temporizing method
5 where access to the pairs in sort of a free space
6 nonterminated way would be permitted?

7 JUDGE RENDAHL: Mr. Orrel.

8 MR. ORREL: I guess one of the questions
9 I'd have to ask is who owns the cable?

10 MR. BEVERIDGE: The assumption would be
11 Qwest owns the cable for this example.

12 MR. ORREL: If Qwest owns the cable, more
13 than likely there is a cross-connect there or
14 terminal there. We don't just coil up cable and put
15 it in the riser.

16 MR. BEVERIDGE: My experience has indicated
17 that that is the practice in certain cases, where the
18 riser cable is larger than the space permitted for
19 the existing -- for so many 66-type termination
20 blocks on the customer side. So the unused pairs, if
21 you will, are simply coiled up, looped. They're
22 typically not cut off.

23 MR. ORREL: I don't think I have an answer
24 for you, because I haven't personally experienced
25 that, so I need to do some checking.

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1 MR. BEVERIDGE: Okay.

2 JUDGE RENDAHL: Okay. Any other response
3 to any of Mr. Wilson's comments? Any other response
4 to Mr. Wilson's comments on this document?

5 MR. ORREL: Well, actually, I'll start with
6 Mr. Weigler's comments. The genesis of this document
7 kind of goes back a ways into the workshops. We were
8 challenged by AT&T in the workshops to provide direct
9 access to our subloop terminals, MTE terminals, in
10 particular. Qwest agreed to do that. We agreed to
11 develop a terminal access protocol because we
12 objected to the direct splice methodology that AT&T
13 has employed in various locations to access subloop
14 elements.

15 So Qwest agreed to develop the document
16 under the premise that it was a draft, it was a
17 working draft. We encouraged comment from AT&T as
18 the draft was developed. Some of the comments I'm
19 hearing today about option four being a new element,
20 the fact that option one shouldn't be in there, that
21 option three hardware terminals is not an appropriate
22 description of what the terminal looks like, et
23 cetera, these are issues that we've had on the table
24 for quite some time in our previous versions. These
25 aren't new issues.

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1 But I wanted to make sure that we left on
2 the table the fact this is a working draft. We have
3 been working with AT&T directly on this, and we do
4 welcome any red lines that you feel compelled to
5 provide to us.

6 Going to page four, the issue of ICB, as
7 far as the access to the terminal, what we're really
8 talking about here is the ability to access the
9 terminal may not be readily apparent when an AT&T
10 technician walks up to it. The terminal may be an
11 option three, where it's hard-wired, may be a very
12 old variety of terminal. We've been placing these
13 things for decades. There's literally tens of
14 thousands of these in the network. They look
15 differently depending on when they were deployed.

16 So as a result of that, what we're saying
17 is the access to that may have to be determined on an
18 ICB basis. Qwest is not going to prohibit the access
19 to that terminal because we're still trying to figure
20 out the appropriate access for that terminal.

21 I think further back in the document, page
22 six, bullet five, we state if there is no customer
23 cross-connect field, the CLECs shall access utilizing
24 some form of temporizing method -- we don't dictate
25 what that is, it's not very descriptive, I don't

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1 believe -- that minimizes long-term accessibility to
2 the terminal.

3 Just saying when you do go in and access
4 it, until we can figure out what the appropriate
5 cross-connect field should be there, do it in such a
6 manner that preserves the plant in a manner such that
7 with the high amount of churn that's normal in these
8 type of buildings, if, for example, another CLEC
9 wants access to that customer or Qwest gets the
10 customer or somebody new moves into that apartment,
11 we're able to get that customer back on their
12 cross-connect over to the terminal.

13 MR. WILSON: Barry, on that paragraph you
14 just read, isn't that a typo? Shouldn't that be
15 maximizes instead of minimizes?

16 MR. ORREL: Yeah, I think you're right,
17 Ken. Thank you for that assistance.

18 MR. WEIGLER: See, we're making headway.

19 MR. ORREL: I think a lot of the issues
20 we're talking about, as far as the line by line
21 issues, I think we can develop some mutually
22 agreeable language. I don't see an issue there.

23 However, on page five, when we talk about
24 striking line three, even -- I believe, my
25 interpretation, anyway, of the Antonuk report

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1 suggested that there still be an LSR for the subloop
2 access. The question is what do we do with the LSR
3 and what happens to your access during the time when
4 we're building inventories, et cetera.

5 MR. WILSON: My main point -- I know that's
6 still an issue. My main point was I don't think you
7 need it six places. I can point about three places
8 in the SGAT and three places here where it gets in
9 here.

10 MR. ORREL: We wanted to make sure you
11 understood we needed an LSR, so I think we made that
12 point. When we talk on page seven, the LSR issue,
13 review the type of terminal for direct access
14 capability. Ken, I believe we will have to roll a
15 truck in many instances to evaluate the terminal.
16 That's something Qwest will have to do with this. In
17 particular with option three, environments. It,
18 again, may not be readily available, as far as being
19 able to create a cross-connect field. We will have
20 to do some work, some retrofitting there to make that
21 happen.

22 MS. KILGORE: Can I clarify? When you say
23 that you're going to have to verify the terminal, you
24 said particularly for option three. Are you
25 intending to do that for every MTE terminal, whether

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1 or not it's option three?

2 MR. ORREL: Not if it's a NID. Not if it's
3 option four.

4 MS. KILGORE: When you say what if it's a
5 NID, what do you mean by that?

6 MR. ORREL: Well, if -- let's just talk
7 about that. Ken was wondering why NID is included in
8 there. Well, our cable wire service termination
9 policy is a tariffed item, starts with option one,
10 which happens to be a NID. If I start with option
11 two, you would have asked where is option one. So
12 what we're trying to do is, in fairness and
13 completeness, provide the technician with, first of
14 all, what is option one versus option two versus
15 option three, and secondarily, how we would gain
16 access. For option one, we simply said, as far as
17 access to the customer cross-connect field, have at
18 it. You have unfettered access.

19 The issue becomes when you're trying to get
20 into the protector side of that NID, and when we're
21 in an MTE environment, those protector field
22 arrangements can be rather complicated in comparison
23 to a residential NID. And that's why we're kind of
24 looking at that on an ICB basis. Did that answer
25 your question?

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1 MS. KILGORE: Kind of. I think when we're
2 sending language back and forth and you're revisiting
3 the document, as you look at this bullet point, this
4 is worded very broadly and, in this section, it would
5 pertain, as you said, to any of the options. But
6 then you kind of clarified and said, Well, no, not
7 option four, and option one only if you're accessing
8 the protector field. I mean, I'd like those types of
9 things to be clearer in here, because as this is
10 worded -- here's my concern.

11 Option one, we're going out simply to do
12 what we're going to do with the inside wire. And up
13 until now, my understanding has been that that would
14 be direct, virtually unfettered access. And I'm
15 concerned that this will add -- this whole section,
16 in other words, the LSR, all of this other work
17 that's described here could be interpreted to apply
18 to an option one access scenario that I just
19 described. See what I'm saying?

20 So just as you're going back and looking at
21 it, to try to make clear in what circumstances that
22 additional work is required.

23 MR. ORREL: Right. We are very specific to
24 talk about MTE terminals versus MTE NIDs. And if
25 that distinction isn't there, we'll try to put that

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1 into the document.

2 And Ken, as far as option three goes, the
3 only intent of the language there is to indicate that
4 our technicians don't access those terminals to make
5 cross-connects there. What we're doing is we're
6 saying to you, the CLEC, you can have access there to
7 make cross-connects. It may be a temporized solution
8 until we retrofit it, but you have access to it. I
9 think that goes beyond parity, if you really get down
10 to brass tacks there.

11 If we need to strike the language or modify
12 the language, we can look at that, but all we're
13 trying to do is tell the technician, This is what
14 you're going to see there. It's more of a
15 descriptor, and I'm not trying to tie this back to
16 FCC orders and all those kind of things.

17 Option four, again, it's a campus
18 environment. We're talking about detached terminals
19 there. I didn't think this was controversial.
20 Detached terminals fall under collocation rules. I
21 thought we'd all agree on that.

22 MR. WILSON: All I was actually going to
23 add would be a final sentence that says when MPOE
24 terminals inside service buildings or are inside
25 service buildings or are attached to the outside of

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1 service buildings, access is gained as in CWSTP
2 option three above, something simple like that.

3 Because it could be the same, an identical
4 type of terminal and could be accessed in the same
5 way. If it's a pedestal on a concrete pad associated
6 with a building, then I think you'd probably go to
7 the -- an environment more like a feeder distribution
8 interface point. But it may just be the same type of
9 66 terminal or 76 terminal, et cetera.

10 MR. ORREL: Okay. We'll take a look at
11 that and we'll look at your red-line, too, when you
12 get that ready. And I think that's pretty much it.
13 You know, I really don't think that this document is
14 as evil as it's sometimes portrayed. It's intended,
15 again, just to be an assist to the technician. We'll
16 take a look at your red-line and see what we can do
17 with it and we'll continue discussions with you on a
18 direct basis to see if we can get this resolved.

19 MS. KILGORE: Can I just ask one question?

20 JUDGE RENDAHL: Ms. Kilgore, Mr. Wilson,
21 and then I have a question.

22 MS. KILGORE: Mr. Orrel, do you have any
23 estimate of the percentage of terminals that would
24 not be covered by the protocol set out in this
25 document, where it would be an ICB basis, as you

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1 proposed it here?

2 MR. ORREL: I have no idea. But, remember,
3 the ICB basis is as far as a determination of whether
4 or not we need to retrofit the terminal and make it a
5 single point of interconnection, SPOI. That's what
6 we're talking about when we're talking about the ICB.
7 That's not stopping AT&T or any other CLEC from
8 accessing that subloop.

9 MS. KILGORE: Is that your tem -- sorry, I
10 forgot the word, but --

11 MR. ORREL: Temporizing solution, yes.
12 That's an old telephony term. Sorry.

13 MS. KILGORE: All right. So when you talk
14 about ICB in here, you're saying go ahead and do the
15 temporizing solution, and then ICB means we're going
16 to go back and look at it and figure out the best way
17 to deal with this terminal.

18 MR. ORREL: Right. We'll determine whether
19 or not -- and we're going to not only look at the
20 type of terminal, we're going to look at the age of
21 the terminal, will it hold up to direct access. Some
22 of the terminals are fairly old and are not very
23 pliable. We're going to look at what we anticipate
24 to be the volume there, even though we don't really
25 have forecasts for this, try to determine --

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1 obviously, if AT&T's interested in building, we're
2 going to have to determine, based on several
3 variables, whether or not that terminal needs to be
4 replaced. In case of an option three, if it's a
5 large apartment building, chances are very good that
6 we would want to change that if there's a real
7 cross-connect field there for the CLEC and a
8 demarcation point for test access.

9 MR. WILSON: Actually, that raises an
10 interesting question. If there is a terminal where
11 the CLEC needs to use some of these temporary
12 solutions and Qwest determines that it needs to put
13 in a permanent type of solution, does Qwest expect
14 the CLEC to pay for that entire new terminal or part
15 of the terminal? What is contemplated there?

16 MR. ORREL: I believe the intent there is
17 to capture the cost through recurring charges, rather
18 than a nonrecurring flat rate up front.

19 MR. WILSON: Okay. I had actually an issue
20 that I wanted to ask the group about connecting the
21 access protocol back up to the SGAT, so maybe if
22 Judge Rendahl had a question on the access protocol,
23 you should go first.

24 JUDGE RENDAHL: I do, but I think we're
25 maybe on the same wavelength here. In the issues

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1 log, it seems that the issues that are addressing
2 this terminal access protocol -- it seems to me there
3 are two issues. One is disagreements over the
4 terminal access protocol language and whether that's,
5 you know, whether the parties agree on the language.

6 And I support the parties working together
7 to try to resolve the language, understanding that
8 there may be some underlying impasse issues, and
9 those I would expect to be briefed. And I think
10 that's, Mr. Weigler and Mr. Steese, what you both
11 agreed to do; is that correct?

12 MR. STEESE: Yes.

13 MR. WEIGLER: Yes, Your Honor.

14 JUDGE RENDAHL: Okay. And so to the extent
15 that at least for purposes of Issue SB-3, the
16 question really there is whether -- it says whether
17 the SGAT provisions for access to subloop elements
18 are consistent with the FCC's, you know, definitions.
19 Would that be this protocol? Is that what we're
20 really talking about here or are there separate SGAT
21 sections that we then need to also get to? Mr.
22 Wilson.

23 MR. WILSON: That was kind of my point. I
24 think it's both. Definitely, the SGAT calls into
25 effect the access protocol, so we believe that the

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1 access protocol is part of that issue. But I went
2 through the SGAT Lite that Qwest filed on the 24th,
3 not the new language that we got today. I went
4 through the SGAT this morning and I found a number of
5 provisions in that current SGAT that I had some
6 problems with in relation to the same types of access
7 to the terminals issues. And so I was going to ask
8 how did we deal with that.

9 Some of them, I think, actually slightly
10 contradict the access protocol. Some of them are
11 slightly redundant with the access protocol, but may
12 set up kind of a conflict, so I don't know how to
13 resolve this.

14 JUDGE RENDAHL: Well, I guess one
15 suggestion I have is it's now a quarter of five and
16 we need to leave at five today; that, unfortunately,
17 Mr. Orrel, it looks like you may have to be here
18 tomorrow morning, but --

19 MR. ORREL: I'll get even with Chuck.
20 That's okay.

21 JUDGE RENDAHL: Okay. Maybe you all can
22 use the time offline to go over this new version of
23 the SGAT language and this document, the terminal
24 access protocol, and do some of this work offline and
25 maybe tomorrow morning, when we get to it, there will

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1 have been some meeting of the minds on some of the
2 issues, maybe not, and if there isn't a meeting of
3 the minds, at least we'll know where they are and be
4 able to, you know, more directly point to or know
5 where the impasse issues are in the SGAT and in the
6 terminal access protocol. Does that seem to be a
7 good proposal?

8 MR. ORREL: Do what I can.

9 MR. WILSON: We can talk about how to do
10 this logistically, I think, off the record.

11 JUDGE RENDAHL: Mr. Crain, did you have --

12 MR. CRAIN: I was thinking that, reading
13 through this, and I'm new to this whole workshop
14 here, but I anticipate we're not going to be able to
15 close this issue. This is going to be -- we have
16 asked AT&T to provide us with a red-line draft of the
17 protocol. My suggestion would be that if AT&T could
18 provide that to us, we could work with them and, by
19 the end of the week or something, report back about
20 what we've been able to close and what was still an
21 impasse issue, maybe file something, but assume that
22 if we don't report back, it's been closed -- it's an
23 impasse issue.

24 JUDGE RENDAHL: Just for my clarification,
25 we're talking about whether the SGAT provisions are

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1 consistent for access to subloops at MTE terminals or
2 consistent with the FCC's rules and orders, and also
3 whether the terminal access protocol is consistent;
4 is that correct?

5 MR. CRAIN: Yes, and I guess --

6 JUDGE RENDAHL: So you're saying they would
7 remain at impasse even with some discussion tonight
8 on these issues?

9 MR. STEESE: Judge, if I could interject, I
10 might say it slightly different.

11 JUDGE RENDAHL: Go ahead.

12 MR. STEESE: What I would suggest is -- I
13 mean, Mr. Wilson has put the concerns on the record.
14 We've had substantial discussion last time about
15 various concerns raised by AT&T and Qwest's response
16 thereto.

17 What I would recommend is that we do what
18 we've done in subloop in the past, because we really
19 had been looking at the issues very differently. We
20 had a vigorous discussion on the record, then we saw
21 if there was anything more we could close and we
22 closed some issues, and then what we did is we
23 provided a list of the issues to be briefed.

24 What I would anticipate is there might be
25 two or three issues within the protocol itself, that

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1 here's the issue and we can frame it for you as nice
2 as we can. Here's the issue, here's Qwest's view,
3 here's AT&T's view, and we each argue from that.

4 And so really Qwest is more than happy to
5 continue to talk to AT&T about this to see what it
6 can resolve, but in terms of putting more on the
7 record, I think it would be just restating our
8 respective views. And what we need is an issues list
9 and to see if there's anything we can close with
10 respect to the protocol, so I would recommend that we
11 just spend time, set dates for exchanging information
12 about this, and then have the brief that is due on
13 this particular issue be triggered by the
14 identification of the issues instead of the closing
15 of this workshop, and maybe we could try and get it
16 accomplished by the middle of next week, for example.

17 JUDGE RENDAHL: Mr. Weigler.

18 MR. WEIGLER: Judge, I respectfully
19 disagree. Qwest -- the last access protocol that we
20 got from Qwest, the first time I saw it was last
21 week, and that's while we had this follow-up
22 workshop. As far as the SGAT, we just got their new
23 language on the SGAT today. When I was preparing for
24 this hearing, I have about 12 SGAT sections that I
25 had concerns about and now I got new SGAT language,

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1 and I don't know if those concerns are there or not.
2 I have to review their new SGAT language to determine
3 at least if they adhere to various Commission orders
4 and if I have concerns about those. So the idea that
5 we've pounded these issues into the table, we just
6 got this language. That's why we're here. So I
7 think that we need to keep this dialogue, if it's via
8 online or a determination offline, on what's still an
9 issue before we close out and decide to brief these
10 issues.

11 MR. STEESE: Maybe I was misunderstood,
12 Steve. When you look, first of all, at the SGAT
13 language, the SGAT language that we're offering is a
14 concession for issues already at impasse, things that
15 we've discussed at length. Now, we think maybe the
16 language, as we offer it now, might take an issue
17 you've already agreed to brief earlier this month in
18 Washington off the table.

19 But then, with respect to the access
20 protocol, maybe I didn't speak clearly. What we did
21 in the past is we had a vigorous discussion about
22 subloop generally. Then -- at the time, it was
23 Dominick Sekich, from AT&T, and Steve Beck, from
24 Qwest, sat down and hammered out what the issues log
25 was. What is it where we disagree, where is it that

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1 we agree, is there anything that we can, off the
2 record, close.

3 So with respect to the protocol itself, Mr.
4 Wilson has certainly laid out some of his concerns.
5 We've heard those. It comports with a lot of what
6 Mr. Wilson has said in the past. All we're saying is
7 that, offline, continue to see if we can close
8 issues. If we can't, identify the specific language
9 issues within the protocol itself that we disagree
10 with, the overarching issue, and provide it to the
11 Judge for resolution.

12 JUDGE RENDAHL: This is Judge Rendahl.
13 We're discussing subloop issues today and tomorrow.
14 That's what has been on our workshop list. I guess
15 I'm a little hesitant to just cut off all discussion
16 and say this is the way it is. If, as Mr. Weigler
17 says, I mean, there is new SGAT language that's just
18 been distributed today. I think we may be -- at
19 least on the issue of the terminal access protocol,
20 there's not much more we can do right here, right
21 now. Obviously, if there's any changes, the parties
22 need to do those offline. It's not productive to do
23 it here today.

24 So I guess I'd like to keep working with
25 the document that Ms. Stewart distributed as the

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1 changes to the subloop section. And maybe we just
2 need to end it today and have the parties go back and
3 look at this new language and come back fresh in the
4 morning. And maybe with some discussion, you know,
5 offline, it might be very quick in the morning, but
6 I'm not seeing much progress right now. I guess
7 that's what I'm talking about. So let's be off the
8 record for the moment and have a discussion about
9 what we do from here.

10 (Discussion off the record.)

11 JUDGE RENDAHL: Let's be back on the
12 record. While we were off the record, we decided
13 that we're going to end this follow-up workshop
14 today, this session today, and come back at 9:00
15 tomorrow morning. In the meantime, the parties will
16 continue to work offline on these issues and we'll
17 discuss this in the morning, how we proceed. Let's
18 be off the record.

19 (Proceedings adjourned at 4:58 p.m.)

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