

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION,)	
4)	
	Complainant,)	Hearing No. UT-911488
5)	
	vs.)	UT-911490
6)	
	US WEST COMMUNICATIONS,)	UT-920252
7)	VOLUME X
	Respondent.)	PAGES 831 - 1025
8	-----)	

9 A hearing in the above matter was held on
10 February 8, 1993 at 9:30 a.m., at 1300 South Evergreen
11 Park Drive Southwest, Olympia, Washington, before
12 Chairman SHARON L. NELSON, Commissioners RICHARD D.
13 CASAD and A.J. "Bud" PARDINI and Administrative Law
14 Judge HEATHER BALLASH.

15 The parties were present as follows:

16 WASHINGTON UTILITIES AND TRANSPORTATION
17 COMMISSION, SALLY G. BROWN, Assistant Attorney
18 General, 1400 South Evergreen Park Drive Southwest,
Olympia, Washington 98504.

19 US WEST COMMUNICATIONS by EDWARD T. SHAW,
20 Attorney at Law, 1600 Bell Plaza, Room 3206,
Seattle, Washington 98191.

21 THE PUBLIC, by WILLIAM GARLING,
22 Assistant Attorney General, 900 Fourth Avenue,
Suite 2000, Seattle, Washington 98164.

23 METRONET SERVICES CORPORATION
24 by BROOKS E. HARLOW, Attorney at Law, 4400 Two Union
Square, Seattle, Washington 98101.

25 Cheryl Macdonald, RPR, CSR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

TRACER AND TCA, STEPHEN J. KENNEDY,
Attorney at Law, 1201 Third Avenue, Suite 2850,
Seattle, Washington 98101.

MCI, by SUE WEISKE, Attorney at Law,
707 17th Street, #3900, Denver, Colorado 80202.

DEPARTMENT OF INFORMATION SERVICES,
by GEOFFREY G. JONES, Assistant Attorney General, 7th
Floor Highways-Licenses Building, Box 40100, Olympia,
Washington 98504.

ENHANCED TELEMAGEMENT, INC., by GREGORY
A. LUDVIGSEN, Attorney at Law, 706 Second Avenue
South, Suite 500, Minneapolis, Minnesota 55402.

DIGITAL DIRECT, by GREGORY J. KOPTA,
Attorney at Law, 2600 Century Square, 1501 Fourth
Avenue, Seattle, Washington 98101.

WITA, by RICHARD FINNIGAN, Attorney at Law,
1900 First Interstate Plaza, 1201 Pacific Avenue,
Tacoma, Washington 98402.

25

833

1

2

I N D E X

3

WITNESS

D

C

RD

RC

EX

4

BRIAN SANDERSON

839

841,842

860

5

848

849,856,857

6

RICHARD D. EMMERSON

861

867,874,879

896

894

7

885,890

8

MERLIN R. JENSEN

899

900,916,924

929

931,932

9

925

10

DONALD K. MASON

935

946,947,950

1009

1018,1023

1021

11

993

12

13

EXHIBITS

MARKED

ADMITTED

14

60

837

837

15

C61

837

838

16

T-62

840

840

17

63

840

840

18

T-64

849

849

19

65

850

852

20

T-66

862

867

21

67

884

885

22

T-68

900

900

23

69

907

910

24

70

910

911

25	T-71	936	946
1	72	936	946
2	EXHIBIT	MARKED	ADMITTED
3	73	936	946
4	74	936	946
5	75	936	946
6	76	936	946
7	77	936	946
8	78	936	946
9	79	939	940
10	80	968	969
11	81	970	970
12	82	972	976
13	83	975	976
14	84	978	
15	85	989	991
16	86	995	996
17	C87	997	998
18	88	998	999
19	89	1002	1002
20	90	1019	1023
21			
22			
23			
24			

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

2 JUDGE BALLASH: Let's be on the record.
3 The hearing will please come to order. The Washington
4 Utilities and Transportation Commission has set for
5 hearing at this time and place consolidated docket
6 Nos. UT-911488, UT-911490 and UT-920252. This is a
7 continuation of that hearing. Today's date is
8 February 8, 1993. The hearing is being held in the
9 Commission's hearing room in Olympia, Washington
10 before the Commissioners and Administrative Law Judge
11 Heather Ballash of the Office of Administrative
12 Hearings.

13 Since we have a different court reporter I
14 would ask each of the attorneys to make an appearance
15 again, just stating your name and who you're
16 representing with the exception of Ms. Weiske if you
17 could state your full business address for the record.
18 Beginning with the company.

19 MR. SHAW: Yes. Edward Shaw for US West
20 Communications. Address as previously noted.

21 JUDGE BALLASH: Commission staff.

22 MS. BROWN: Sally G. Brown, assistant
23 attorney general.

24 MR. GARLING: William Garling, public

25 counsel. Address as previously noted.

COLLOQUY

836

1 JUDGE BALLASH: Mr. Jones.

2 MR. JONES: Geoffrey Jones, that's with a
3 G E O F F R E Y. Special assistant attorney general
4 representing Department of Information Services.

5 JUDGE BALLASH: Mr. Kopta.

6 MR. KOPTA: For Digital Direct of Seattle,
7 Gregory Kopta, 1501 Fourth Avenue, 2600 Century Square.

8 MR. FINNIGAN: Rick Finnigan appearing on
9 behalf of the Washington Independent Telephone
10 Association.

11 MS. WEISKE: Sue Weiske, W E I S K E,
12 representing MCI, 707 17th Street, Suite 3900, Denver,
13 Colorado 80202.

14 MR. HARLOW: Brooks Harlow. Address
15 previously given. Representing Metronet Services
16 Corporation, intervenor.

17 JUDGE BALLASH: Mr. Kennedy.

18 MR. KENNEDY: Steve Kennedy, representing
19 intervenors TRACER and TCA. Address as previously
20 noted.

21 MR. LUDVIGSEN: Gregory Ludvigsen,
22 representing enhanced TeleManagement Corp. Address as
23 previously given.

24 JUDGE BALLASH: Thank you. Since our last

25 hearing, two answers to bench requests have come in to

COLLOQUY

837

1 the Commission and would like to mark those as
2 exhibits at this time. First that I would like to
3 mark is in response to bench request No. 4 and is a
4 letter dated February 3, 1993 from commission staff
5 counsel. That document will be marked as Exhibit No.
6 60 for identification.

7 (Marked Exhibit No. 60.)

8 JUDGE BALLASH: Is there any objection to
9 the admission of Exhibit No. 60?

10 Exhibit No. 60 will be admitted into the
11 record.

12 (Admitted Exhibit No. 60.)

13 JUDGE BALLASH: Next is in response to
14 bench request No. 6 and that is a confidential exhibit
15 submitted by the company and that will be marked as
16 Exhibit C61 for identification.

17 (Marked Exhibit No. C61.)

18 JUDGE BALLASH: Any objection to the
19 admission of Exhibit No. C61?

20 MR. SHAW: Your Honor, Ms. Brown had called
21 it to my attention earlier and when I went back and
22 reviewed the response to bench request No. 6, it
23 would appear that the company had inadvertently read
24 it too restrictively and had supplied only a partial

25 list. I have an addendum to that. Unfortunately I do

COLLOQUY

838

1 not have the copies made but I would like to
2 supplement our response to that and supply an
3 additional list listing further customers.

4 JUDGE BALLASH: Do you wish to have that
5 part of Exhibit No. 61 or have it as a separate
6 exhibit?

7 MR. SHAW: No, it would be part of 61.
8 What you have in front of you is an incomplete, if you
9 read the bench request to list all Centrex-type
10 customers.

11 JUDGE BALLASH: Would there be any
12 objection to the company supplementing that exhibit
13 with a late-filed supplement?

14 Any objection to the admission of Exhibit
15 No. 61 as supplemented?

16 Exhibit No. C61 will be admitted into the
17 record.

18 (Admitted Exhibit No. C61.)

19 JUDGE BALLASH: Anything further before the
20 company calls its first witness?

21 Mr. Shaw.

22 MR. SHAW: Thank you, your Honor. Call as
23 first witness on rebuttal Mr. Sanderson.

24 JUDGE BALLASH: Let me remind you're

25 still under oath.

(SANDERSON - DIRECT BY SHAW)

839

1 Whereupon,

2 BRIAN SANDERSON

3 having been previously duly sworn, was recalled as a
4 witness herein and was examined and testified as
5 follows:

6

7 DIRECT EXAMINATION

8 BY MR. SHAW:

9 Q. Mr. Sanderson, would you state your full
10 name and business address for the record, please.

11 A. Brian E. Sanderson. I'm at 16th Avenue,
12 Seattle, 98191, room 906.

13 Q. You are the same Brian Sanderson that has
14 previously filed testimony in support of the company's
15 direct case in this proceeding?

16 A. Yes, I am.

17 JUDGE BALLASH: Sir, please use the
18 microphone.

19 Q. Mr. Sanderson, did you cause to be prepared
20 what's been designated as BES-1 rebuttal testimony?

21 A. Yes, I did.

22 Q. And BES-2, a one-page exhibit entitled
23 Company LRIC cost structure?

24 A. Yes.

25 Q. Do you have any corrections that you need

(SANDERSON - DIRECT BY SHAW)

840

1 to make to either of those two exhibits?

2 A. Yes, I do. The Exhibit BES-2, the left-
3 hand box in the lower corner, service feature group
4 costs, that should state shared volume-insensitive
5 costs.

6 MR. SHAW: Your Honor, I don't believe that
7 we've assigned exhibit numbers to these yet.

8 JUDGE BALLASH: We have not. Mr.
9 Sanderson's rebuttal testimony will be marked as
10 Exhibit T-62 for identification. His Exhibit BES-2
11 will be marked as Exhibit 63 for identification.

12 MR. SHAW: Your Honor, we would move the
13 admission of Exhibits T-62 and the Exhibit 63.

14 (Marked Exhibits T-62 and 63.)

15 JUDGE BALLASH: Any objection to those
16 exhibits?

17 Exhibits T-62 and 63 will be admitted into
18 the record.

19 (Admitted Exhibits T-62 and 63.)

20 MR. SHAW: Witness is available for cross.

21 MS. BROWN: Staff has no questions for
22 Mr. Sanderson.

23 JUDGE BALLASH: Mr. Garling.

24 MR. GARLING: Just a few.

25

(SANDERSON - CROSS BY GARLING)

841

1 CROSS-EXAMINATION

2 BY MR. GARLING:

3 Q. Mr. Sanderson, morning. My name is William
4 Garling and I represent public counsel.

5 Mr. Sanderson, with regard to cost causation, that
6 should be the basis for the cost of a service, right?

7 A. Yes.

8 Q. Would you explain for us how long run
9 incremental costs is tied to cost causation, please.

10 A. Well, a long run incremental cost study
11 would look at the period or a long enough period of
12 time where all costs would be variable for that
13 particular service. So, in this case for Centrex Plus
14 we looked at the capital costs and the ongoing
15 operating costs of the service.

16 Q. Mr. Sanderson, can you state whether LRIC
17 numbers determined next year would be the same as
18 those that would be determined for today?

19 A. The cost studies that we supplied were
20 forward looking in that we looked at the latest
21 technology. We looked at a period of time that would
22 include inflation for maintenance and administration.
23 So, the cost that we supplied would be for that
24 particular study period that we looked at. A cost

25 study is at a specific point in time, so costs

(SANDERSON - CROSS BY GARLING)

842

1 continually change, factors change, cost of money
2 changes. So, it is in answer to your question, for a
3 specific period of time, but at that particular point
4 in time that we do the cost study.

5 Q. So would that take into consideration new
6 plant in a particular construction period?

7 A. It would take into account -- if it does
8 take into account the future demand of a service, yes.

9 Q. Considering that answer, what would happen
10 to the costs of this year's new installations?

11 A. I'm not sure I understand your question.

12 Q. Would they be sunk and not included in your
13 analysis?

14 A. No, they would not. We're not looking at
15 sunk costs in this particular proceeding at all.

16 Q. Thank you.

17 MR. GARLING: Nothing further.

18 JUDGE BALLASH: Mr. Jones.

19 MR. JONES: No questions.

20 JUDGE BALLASH: Mr. Kopta.

21

22 CROSS-EXAMINATION

23 BY MR. KOPTA:

24 Q. Morning, Mr. Sanderson. My name is Greg

25 Kopta representing Digital Direct of Seattle. I just

(SANDERSON - CROSS BY KOPTA)

843

1 have a few questions.

2 A. Morning.

3 Q. In your testimony on page 3, if you would
4 turn to that, please. You testify that the cost of
5 growth spare is not part of the price floor; is that
6 correct?

7 A. That is correct.

8 Q. How are those costs recovered?

9 A. They would be treated as a joint fixed cost
10 and they should be recovered through the pricing of
11 all the services that create that spare capacity.

12 Q. Is that something done by you or is that
13 something Mr. Jensen does?

14 A. That would be taken care of by the pricing
15 person.

16 Q. So in this case it would be Mr. Jensen
17 then?

18 A. Yes.

19 Q. Do you know how those costs are allocated
20 among the services that use that particular joint
21 fixed cost?

22 A. Well, we would identify them possibly in a
23 cost study and make them available and then Mr. Jensen
24 when he develops the rate design would then assure

25 that those costs were covered.

(SANDERSON - CROSS BY KOPTA)

844

1 Q. How do you go about allocating costs of a
2 growth spare to the various services? Do you project
3 growth or how do you do it?

4 A. Through our models we're able to determine
5 what is the average fill and what is the objective
6 fill and the difference is the amount that would have
7 to be recovered.

8 Q. On page 4 of your testimony.

9 JUDGE BALLASH: Mr. Kopta, please give line
10 numbers.

11 Q. On page 4 of your testimony on lines 20
12 through 24, you're talking about the E-LRIC results
13 and you testify that you believed that the studies
14 submitted in this docket overstate somewhat volume
15 sensitive costs and thus the actual price floor.
16 Would you explain how those are overstated?

17 A. Well, as I had indicated earlier in my
18 testimony here, we're in a transition process of
19 moving to E-LRIC. A lot of the factors that we today
20 utilize are still not separated into these various
21 categories of like ad overhead, which is a factor
22 that we apply. And in that factor is a combination of
23 joint fixed costs and maybe some volume-sensitive
24 costs as well. And that's because we're at this point

25 not able to separate them; that's why I've stated that

(SANDERSON - CROSS BY KOPTA)

845

1 the costs that were supplied include some joint fixed
2 costs.

3 Q. So you're saying, then, the price floor
4 that's currently -- that you currently testify to may
5 be a bit high?

6 A. Yes.

7 Q. Do you know how much higher it is than it
8 should be?

9 A. At this point I don't know.

10 JUDGE BALLASH: For the record E-LRIC is
11 E-LR I C).

12 THE WITNESS: E stands for enhanced.

13 Q. In your testimony you discuss the
14 proceeding before the Oregon commission dealing with
15 the generic pricing and the cost docket. Did you
16 participate for US West in that particular docket?

17 A. I participated from their inception
18 probably through August of 1991. Because of the
19 burden of the cost of attending I was no longer able
20 to attend after that point.

21 Q. What was your role for the company in that
22 particular docket?

23 A. It was representing the cost side of the
24 corporation in that docket.

25 Q. Do you happen to know the number of US West
(SANDERSON - CROSS BY KOPTA) 846

1 company employees that are involved in this particular
2 proceeding before the Washington Utilities and
3 Transportation Commission?

4 A. In this particular proceeding?

5 Q. Yes.

6 A. Not an exact number, no.

7 Q. Do you know how it compares with the number
8 that were employed in the Oregon proceeding?

9 A. Probably at least as many if not more.

10 Q. Do you know how many tariffs US West
11 company has on file with the Washington Utilities and
12 Transportation Commission?

13 A. No, I don't.

14 MR. KOPTA: No further questions.

15 MR. FINNIGAN: No questions.

16 MS. WEISKE: No questions.

17 MR. HARLOW: No questions.

18 MR. KENNEDY: No questions.

19 JUDGE BALLASH: Mr. Ludvigsen is not
20 available. Questions from the Commission?

21 COMMISSIONER CASAD: I have no questions.

22 COMMISSION PARDINI: One. What is growth
23 spare?

24 THE WITNESS: Growth spare would be the

25 difference in the spare that is available for an

(SANDERSON - CROSS BY KOPTA)

847

1 average versus what would be held for administrative
2 spare for maintenance and ongoing that's held for
3 reserve for like in the central office switch -- I
4 lost you, I'm sorry.

5 COMMISSION PARDINI: What is growth spare?

6 THE WITNESS: It's a spare that's held for
7 services that utilize the plant. So, like, network
8 access channel, we have private line services that use
9 that, resident services, business services. It's that
10 excess capacity in the plant that exists for those
11 services.

12 COMMISSION PARDINI: Thank you.

13 JUDGE BALLASH: Any other questions from
14 the Commission?

15 Redirect for this witness?

16 MR. SHAW: None.

17 JUDGE BALLASH: Thank you for your
18 testimony, Mr. Sanderson. You may step down.

19 MS. BROWN: I am going to go see if
20 Mr. Ludvigsen is in the hall.

21 (Recess.)

22 MS. BROWN: He has no questions for
23 Mr. Sanderson.

24 JUDGE BALLASH: Mr. Shaw, next witness.

25 MR. SHAW: Call Mr. Braden to the stand.

(SANDERSON - CROSS BY KOPTA)

848

1 Whereupon,

2 GREGORY BRADEN,

3 having been first duly sworn, was called as a

4 witness herein and was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. SHAW:

7 Q. Could you state your full name and business
8 address for the record, Mr. Braden?

9 A. Yes. It's Gregory M. Braden. Address 1420
10 Fifth Avenue, Suite 1600, Seattle, 98101.

11 Q. Mr. Braden, you have not previously
12 testified in this docket, correct?

13 A. That is correct.

14 Q. Have you prepared or caused to be prepared
15 an exhibit entitled GMB-1, The Rebuttal Testimony of
16 Gregory Braden?

17 A. Yes, I have.

18 Q. Do you have any corrections that you wish
19 to make at this time in the prefiled exhibit?

20 A. One brief correction. It's on page 2, line
21 3. Currently reads that "I am employed by US West
22 Communications Services." It should read "I am
23 employed by US West Communications, Inc."

24 MR. SHAW: Your Honor, could we have

25 exhibit numbers or an exhibit number assigned too?

(BRADEN - DIRECT BY SHAW)

849

1 JUDGE BALLASH: The testimony of Mr. Braden
2 will be marked as Exhibit T-64 for identification.

3 (Marked Exhibit No. T-64.)

4 MR. SHAW: Your Honor, I would move the
5 admission of Exhibit T-64.

6 JUDGE BALLASH: Any objection to the
7 admission of T-64?

8 Exhibit T-64 will be admitted into the
9 record.

10 (Admitted Exhibit No. T-64.)

11 MR. SHAW: Witness is available for cross.

12 JUDGE BALLASH: Ms. Brown.

13 MS. BROWN: Thank you.

14

15 CROSS-EXAMINATION

16 BY MS. BROWN:

17 Q. I am going to be focusing my questions on
18 pages 9 and 10 of your rebuttal testimony, this
19 morning.

20 MS. BROWN: Your Honor, I would like to
21 have data request response No. 91 marked for
22 identification.

23 JUDGE BALLASH: The document described by
24 Ms. Brown will be marked as Exhibit 65 for

25 identification.

(BRADEN - CROSS BY BROWN)

850

1 (Marked Exhibit No. 65.)

2 MS. BROWN: Mr. Shaw, could you please hand
3 one to the witness.

4 Q. Mr. Braden, did you prepare this data
5 request response?

6 A. I did not personally prepare it but I did
7 have it prepared.

8 Q. Could you please show me on this document a
9 price per port equal to \$400?

10 A. This particular document does not reflect a
11 price per port of \$400. The information presented
12 here is information which is prepared by our product
13 management group within business and government
14 services of which I am a part, and this reflects a
15 fairly broad range of prices per ports. I do not
16 believe it to be all-inclusive, however.

17 Q. Staff's request No. 1 asked for a copy of
18 all materials relied upon by the company for the price
19 per port information. What in fact did you rely upon
20 then?

21 A. This was some information that we relied
22 upon and then other information that we have
23 experienced in the marketplace in various competitive
24 bids that we've been involved in, involving both

25 Centrex and CPE.

(BRADEN - CROSS BY BROWN)

851

1 Q. The lowest number given is \$450 rather than
2 \$400; is that right?

3 A. Yes.

4 Q. Isn't about \$700 per port the average of
5 these numbers?

6 A. I have not personally computed the average
7 so I couldn't answer that without doing the figures
8 myself.

9 Q. Would you accept that subject to check?

10 A. Yes, I would.

11 Q. \$700 per port would translate into a
12 monthly cost of about \$15.39 per line. Would you
13 accept that subject to check?

14 A. Yes.

15 Q. US West is using a 12.4 percent cost of
16 money for most of its cost studies in this case; is
17 that right?

18 A. I believe that's correct, yes.

19 Q. So the cost per line would actually be a
20 little higher if you were to have used the 12.4
21 percent cost of money, would it not?

22 A. Yes.

23 Q. Now, I would like to --

24 MS. BROWN: Your Honor, I would like to ask

25 that 65 be admitted. Please.

(BRADEN - CROSS BY BROWN)

852

1 JUDGE BALLASH: Any objection to admitting
2 Exhibit 65?

3 Exhibit No. 65 will be admitted into the
4 record.

5 (Admitted Exhibit No. 65.)

6 Q. Mr. Braden, I would like to direct your
7 attention to page 9, line 27 through page 10, line 1
8 of your testimony. Do you have that before you?

9 A. Yes, I do.

10 Q. There you say that network access,
11 maintenance and administration will add another 4 to
12 \$7 per line to the cost of the PBX solution. Does
13 this include local usage as well?

14 A. No. What I believe we were including there
15 was primarily costs around the personnel that would be
16 required to do the maintenance of the CPE. I don't
17 believe there's any usage included in that number.

18 Q. Does the \$19 per line figure appearing on
19 page 10, line 5 of your testimony include local usage?

20 A. I believe it would, yes.

21 Q. Now, to get a \$4 per line network access
22 cost for a PBX system, there needs to be almost a 10
23 to 1 stations to trunk ratio; is that right?

24 A. I would accept that subject to check, yes.

25 Q. A general operating market price per line

(BRADEN - CROSS BY BROWN)

853

1 of \$19, including local usage, with \$8.80 being for
2 the PBX itself means approximately a 4-to-1 ratio of
3 trunks to stations. Would you accept that?

4 A. Could you please repeat the question. I'm
5 not sure I followed your line there.

6 Q. A general operating market price per line
7 of \$19 including local usage with \$8.80 being for the
8 PBX itself means approximately 4-to-1 ratio of trunks
9 to stations; is that right?

10 A. It would be somewhat dependent upon other
11 assumptions that you're making about the underlying
12 maintenance costs which would be borne by the customer
13 in terms of personnel, their maintenance frequency,
14 et cetera.

15 Q. Is that consistent with a 4-to-1 ratio?

16 A. I'm not sure I can answer that question.
17 I'm a little bit lost in terms of the specific answer
18 that you're looking for, the specific question that
19 you're asking here. Is what consistent with the
20 4-to-1 ratio?

21 The \$19 per line.

22 A. I believe \$19 a line could be consistent
23 with it. However, there are a number of variables
24 there that might have a ratio different than 4 to 1 as

25 well.

(BRADEN - CROSS BY BROWN)

854

1 Q. Are you familiar with the other exhibits
2 filed in this proceeding?

3 A. Not all of them, no, I'm not.

4 Q. According to Exhibit C 47, NWC 10, a 1-to-4
5 stations to trunk ratio occurs somewhere between 21
6 and 50 stations; is that right?

7 A. I would assume that's correct.

8 Q. If we say we have a 50-station PBX system
9 on a 60-month contract costing \$19 per month per line,
10 what would the equivalent cost per line be for a
11 blocked Centrex Plus.

12 A. I don't know what the equivalent costs
13 would be.

14 Q. Would you accept subject to check that using 12
15 and a half NAFs it would be \$22.38 cents per line,
16 using 13 NAFs it would be \$22.72 per line?

17 A. That sounds approximate.

18 Q. If the proper purchase per line or port, as
19 you term it, is really \$700 on average, this would
20 make the PBX solution not \$19 per line per month but
21 \$25.59. Would you accept that subject to check?

22 A. Again, it would be dependent upon the costs
23 that are built into the assumption around the price
24 per port. In other words, what are the in-house

25 staffing requirements and other variable costs that

(BRADEN - CROSS BY BROWN)

855

1 the CPE owner would be building into their cost
2 analysis.

3 Q. I arrive at the \$25.59 figure by
4 subtracting \$8.80 from the \$19 figure and adding
5 \$15.39. Would that change your answer in any way?

6 A. No.

7 Q. Centrex Plus would actually be the cheaper
8 solution, would it not?

9 A. In which example?

10 Q. In the example that I mentioned earlier of
11 using the 12 and a half NAFs at \$22.38 per line or
12 using the 13 NAFs at \$22.72 versus the \$19 per line
13 per month and arriving at \$25.59 ultimate LRIC.

14 A. Again, that would be dependent upon the
15 internal costs that the customer would have. For
16 instance, even with Centrex-type offerings what
17 assumptions they make about the allocation of their
18 internal telecommunications staff to the total bill
19 would have some impact on their total price equation,
20 which is what we were trying to address here in this
21 testimony.

22 MS. BROWN: We have nothing further.

23 JUDGE BALLASH: Mr. Garling.

24 MR. GARLING: Nothing, thank you.

25 MR. JONES: No questions, thank you.

(BRADEN - CROSS BY BROWN)

856

1

2

CROSS-EXAMINATION

3

BY MR. KOPTA:

4

5

6

7

Q. Morning, Mr. Braden. My name is Greg Kopta representing Digital Direct. I just have a couple of questions. Do you consider PBX and Centrex-type services necessities for businesses?

8

9

10

11

12

A. Yes.

Q. Other than the private alternatives, is there anything else that business customers can turn to as an adequate substitutes for PBX or Centrex services?

13

14

15

16

17

18

19

20

21

22

23

24

A. For a telecommunications system?

Q. Correct.

A. No, not that I am aware of.

Q. Without US West provision of Centrex Plus, would business customers still be interested in PBX services if the prices were higher than they have been as you discussed with Ms. Brown?

A. Yes. Customers are always going to be interested in some form of telecommunications system for their business.

Q. So the prices for PBXs you would say are somewhat flexible?

25 A. What do you mean by flexible in this case?

(BRADEN - CROSS BY KOPTA)

857

1 Q. Well, I'm just trying to avoid economic
2 terms.

3 A. I appreciate that.

4 Q. It's hard in this docket. But in other
5 words there will still be demand for PBX services even
6 if the prices were to rise?

7 A. Yes, there would, although there are a
8 number of PBX suppliers in the marketplace and we
9 would expect there to continue to be a good deal of
10 competition for the actual PBX systems.

11 MR. KOPTA: That's all the questions I
12 have, thank you.

13 MR. FINNIGAN: No questions.

14 MS. WEISKE: No questions.

15 MR. HARLOW: No questions.

16 MR. KENNEDY: No questions.

17 MR. LUDVIGSEN: Couple of questions.

18

19 CROSS-EXAMINATION

20 BY MR. LUDVIGSEN:

21 Q. Morning, Mr. Braden. I'm Greg Ludvigsen.
22 Attorney for Enhanced TeleManagement Incorporated.
23 Are you aware of whether US West has recently been
24 experiencing a large loss of small customers going to

25 PBXs and enhanced systems?

(BRADEN - CROSS BY LUDVIGSEN)

858

1 A. I don't know that I could characterize any
2 exact percentages for you but we continue to see
3 customers moving back and forth between small premises
4 equipment and Centrex-type services.

5 Q. As part of your job do you try and keep
6 track of what the marketplace is doing with reference
7 to prices for PBXs?

8 A. Yes.

9 Q. Have the prices for PBXs been falling
10 similar to what I've seen as far as the falling of
11 prices for computers in the last year and a half?

12 A. Yes, they've been on a steady downtrend.

13 Q. Are any of the key systems that are being
14 offered enhancing their features becoming in some way
15 competitive to PBXs?

16 A. Some of the key systems are. What we're
17 tending to experience with the various PBX
18 manufacturers with which I am familiar is a continuum
19 of product from small key systems up through small PBX
20 to large PBX and most of their efforts appear to be
21 designing feature functionality that is available
22 along with the size of the system.

23 MR. LUDVIGSEN: I have no further
24 questions.

25

JUDGE BALLASH: Questions from the

(BRADEN - CROSS BY LUDVIGSEN)

859

1 Commission?

2 COMMISSIONER CASAD: I have no questions.

3 COMMISSION PARDINI: One only, in response

4 to the inquiry as to whether PBXs were falling

5 comparable to computer sales. Several personal

6 computers have fallen as much as 50 percent in the

7 last year. Have PBXs fallen that far?

8 THE WITNESS: I have not seen them fall

9 that far, sir.

10 COMMISSION PARDINI: How far have they

11 fallen? Your answer was a steady downtrend. Can

12 you quantify that?

13 THE WITNESS: In my testimony we indicate

14 that the price per port has dropped since the mid 80's

15 from about \$1500 down to a low of 400 or 450 per port,

16 but that has been over an 8-year, 9-year period.

17 COMMISSION PARDINI: Trying to get a

18 comparison to the question you were asked which was in

19 the last year we've seen a significant drop in price

20 of computers, have PBXs fallen along that same line,

21 and your response was a steady downtrend. I don't

22 know what that means. I can't compare it with what I

23 know about personal computers.

24 THE WITNESS: I have not seen them fall to

25 the same degree that I have seen computers fall, but

(BRADEN - CROSS BY LUDVIGSEN)

860

1 they are falling 5 to 10 percent a year would be my
2 guess.

3 JUDGE BALLASH: Any other questions?

4

5 REDIRECT EXAMINATION

6 BY MR. SHAW:

7 Q. Mr. Kopta asked you, Mr. Braden, a question
8 to the effect that if US West did not offer Centrex
9 Plus or a Centrex-type product, would there still be
10 demand for PBXs even if the price for PBXs grows. Do
11 you recall that?

12 A. Yes, I do.

13 Q. Like to direct your attention to the large
14 segment of the business market. At a certain level,
15 such as the State or Boeing, can the customer
16 virtually construct their own network?

17 A. They can and do, yes, sir.

18 Q. And by network switching machines like a 5
19 ESS and use that in a PBX way?

20 A. Yes, they do.

21 Q. And build their own transport?

22 A. Yes, they do.

23 Q. Even over long distances?

24 A. Yes.

25 Q. Do you compete for that market with your

(BRADEN - REDIRECT BY SHAW)

861

1 Centrex product?

2 A. Yes, we do.

3 MR. SHAW: Nothing further.

4 JUDGE BALLASH: Any other questions for
5 this witness?

6 Thank you for your testimony. You may step
7 down.

8 MR. SHAW: Call Dr. Emmerson to the stand.

9 Whereupon,

10 RICHARD D. EMMERSON,

11 having been first duly sworn, was called as a

12 witness herein and was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. SHAW:

16 Q. Could you give your full name and business
17 address for the record, please.

18 A. Yes. My name is Richard D. Emmerson.

19 Business address is 341 La Amatista, Del Mar,
20 California.

21 Q. Dr. Emmerson, did you prepare or cause to
22 be prepared what's been marked as RDE-1 that is
23 rebuttal testimony?

24 A. Yes, I did.

25 Q. Do you have any changes that you wish to

(EMMERSON - DIRECT BY SHAW)

862

1 make to the prefiled testimony?

2 A. No, I do not.

3 MR. SHAW: Your Honor, would that be T-66?

4 JUDGE BALLASH: That document will be
5 marked as Exhibit T-66 for identification.

6 (Marked Exhibit No. T-66.)

7 MR. SHAW: Move the admission of T-66.

8 JUDGE BALLASH: Any objection to the
9 admission of Exhibit T-66?

10 MS. BROWN: I have an objection, Your
11 Honor. I would like to move to strike a portion of
12 Dr. Emmerson's testimony. Specifically page 26,
13 beginning at line 6 through page 30, line 15
14 pertaining to building blocks. This portion of Dr.
15 Emmerson's testimony is not proper rebuttal. In fact
16 it's not rebutting anything. Dr. Cornell has not
17 represented that the building block approach be
18 adopted in the context of this proceeding. Building
19 blocks is a radical or involved radical restructuring
20 of the whole universel of telecommunications services.
21 It's simply not being recommended in this proceeding
22 and as a result of that Dr. Cornell did not in her
23 rebuttal testimony prepare a full point by point
24 rebuttal to Dr. Emmerson's improper rebuttal

25 testimony.

(EMMERSON - DIRECT BY SHAW)

863

1 In fact, the Oregon building block approach
2 was first raised on cross of Dr. Cornell and I simply
3 can't emphasize enough that this is not the forum for
4 debating the wisdom of building blocks. Dr. Cornell
5 testified that she does recommend a cost and pricing
6 docket be undertaken in the future but that is not
7 here and now. Staff also issued data request No. 98
8 to US West requesting that a specific citation to her
9 rebuttal testimony be made showing the exact page
10 references of Dr. Cornell's testimony where she
11 discusses the building blocks and in response to
12 request No. 98 no page citation was offered. For that
13 reason I move to strike.

14 MR. SHAW: Your Honor, I'm surprised. My
15 recollection of Dr. Cornell's recommendations on
16 behalf of the staff in this case were that Centrex be
17 reclassified as noncompetitive service; that the
18 company's ability to offer any long term contracts be
19 taken away from it pending a filing and approval of
20 some sort of a unified tariff; and that as a follow-on
21 to that process the Commission should undertake in a
22 separate proceeding a generic cost and pricing
23 workshop to establish the costs and prices for
24 so-called building blocks under Dr. Cornell's theory

25 that all monopoly building blocks or network

(EMMERSON - DIRECT BY SHAW)

864

1 functionalities should be priced the same with the
2 same markup as she's extensively testified as to
3 Centrex, and that the product would be then ultimately
4 restructured based upon the outcome of that process.

5 In fact, her direct testimony does raise
6 it, she testified to it extensively on
7 cross-examination. It is in the record in this case
8 as to what her integrated approach is, which is
9 essentially some sort of a big O&A approach where
10 everything that the company offers be broken down into
11 functionality and subfunctionality in bits and pieces,
12 and unbundled and all presumably end users and
13 competitors be allowed to buy these bits and pieces
14 and incorporate them into their own services, and that
15 further any service that US West would offer has to be
16 made up of these same bits and pieces at the very same
17 price with the very same markup for monopoly
18 components that are charged to the other users and
19 competitors.

20 That is the whole thrust of the staff case
21 in this proceeding. I just cannot conceive that of
22 the basis for this motion.

23 JUDGE BALLASH: Mr. Shaw, do you have
24 citations to the testimony in the transcript and the

25 prefiled testimony that you can cite to Ms. Cornell's

(EMMERSON - DIRECT BY SHAW)

865

1 testimony?

2 MR. SHAW: I do not. I was not prepared
3 for the motion, I did not expect it, so I do have
4 references to the transcript certainly.

5 MS. BROWN: Well, I have a data request
6 response containing no citations in the prefiled
7 direct testimony of Dr. Cornell. Would that assist
8 you?

9 JUDGE BALLASH: Do you recall the data
10 request that Ms. Brown referred to?

11 MR. SHAW: Yes. The answer is that the
12 concept is inherent in Dr. Cornell's recommendations.
13 I just don't understand this. Ms. Brown isn't
14 denying, in fact she stated, that it was brought out
15 extensively on cross and Dr. Cornell testified at
16 length on cross-examination how her recommendation for
17 this building block generic proceeding was an integral
18 part of what her recommendation is here. She's asking
19 in this case undeniably for the Commission to
20 radically restructure the way Centrex service has been
21 supplied for as long as it's been provided in this
22 state, and her whole basis for doing it is a theory of
23 the need to reprice the service based upon a building
24 block approach. That is throughout the transcript and

25 throughout her testimony. It's inherent in her

(EMMERSON - DIRECT BY SHAW)

866

1 testimony.

2 JUDGE BALLASH: Ms. Brown.

3 MS. BROWN: I don't believe that it's a
4 sufficient basis to submit rebuttal testimony on a
5 statement that it's inherent in her testimony. I
6 would like to re-request No. 98. We asked with regard
7 to rebuttal testimony of Dr. Richard Emmerson "please
8 provide the exact page references to the prefiled
9 testimony of Dr. Nina Cornell in this docket or to the
10 transcript of her cross-examination that Dr. Emmerson
11 is referring to in his testimony starting on page 26,
12 line 19 through page 30, line 14." And the response
13 indicates no citation.

14 JUDGE BALLASH: Any other comments on this
15 motion? The Commission is going to take a break to
16 consider this. Let's be off the record and please
17 remain in the room.

18 (Recess.)

19 JUDGE BALLASH: Let's be back on the
20 record. While we were off the record the Commission
21 had an opportunity to consider the staff's motion to
22 strike. The Commission has decided to deny the motion
23 based upon the extensive testimony with reference to
24 this concept. I will also note for the record that on

25 page 26 of Mr. Emmerson's testimony he does give two

(EMMERSON - DIRECT BY SHAW)

867

1 cites to Dr. Cornell's testimony regarding this
2 concept. The response from the company is
3 appropriate; however, the parties should understand
4 there will not be extensive development of this
5 concept. Ms. Brown, did you have anything else with
6 respect to this exhibit?

7 MS. BROWN: No, I do not.

8 JUDGE BALLASH: Any other objections to the
9 admission of Exhibit T-66?

10 Exhibit T-66 will be admitted into the
11 record.

12 (Admitted Exhibit No. T-66.)

13 MR. SHAW: Witness is available for
14 cross-examination.

15

16 CROSS-EXAMINATION

17 BY MS. BROWN:

18 Q. Dr. Emmerson, I would like to pose a
19 hypothetical. Suppose you have a market for Widgets
20 with many suppliers but all suppliers must buy an
21 essential component to make Widgets from a monopoly.
22 That monopoly charges the price of its cost for the
23 component and the cost to the Widget producers of that
24 component is the major cost of producing Widgets. Are

25 you with me so far?

(EMMERSON - CROSS BY BROWN)

868

1 A. Yes.

2 Q. Suppose that monopoly charged different
3 Widget producers different prices for the component
4 but the price differences did not reflect differences
5 in the cost to the monopoly of supplying the different
6 Widget producers. Would the market for Widgets
7 accurately reflect the relative efficiencies of the
8 various Widget producers?

9 A. It would not reflect the various
10 efficiencies on the cost side. It certainly would
11 reflect the various efficiencies on the demand side.
12 That is with respect to the value of the uses of the
13 Widgets, which I presume would be different across
14 the different users.

15 Q. If the only differences in the prices
16 charged by the monopolists reflected differences in
17 its cost of supplying different Widget producers,
18 would the Widget market accurately reflect the
19 relative efficiencies of the various firms in
20 producing Widgets?

21 A. Read the last sentence one more time for
22 me, please.

23 Q. Why don't I just try it again. If the only
24 differences in the prices charged by the monopolists

25 reflected differences in its cost of supplying the

(EMMERSON - CROSS BY BROWN)

869

1 different Widget producers, would the Widget market
2 accurately reflect the relative efficiencies at the
3 various firms in producing Widgets?

4 A. It most likely would. Through the process
5 of -- in the higher cost areas, for example, one would
6 presume that fewer Widgets would be sold and only used
7 in their highest value uses whereas in the lowest cost
8 market they may be used in many more uses. The answer
9 therefore would be yes.

10 Q. In that last answer were you focusing on
11 the demand side rather than supply side?

12 A. I was imagining that the cost -- let's
13 imagine say we had identical Widget buyers but located
14 in areas where the costs were successively higher,
15 what would happen in the very low cost areas is
16 Widgets may be used for many more purposes in the low
17 cost areas by virtue of their low cost and
18 availability, whereas when one gets into the higher
19 cost areas it would ration out the Widgets to more and
20 more valuable uses and only the most valuable uses
21 would remain in the highest cost markets. In that
22 sense the prices and the costs would be aligned in all
23 of those markets.

24 Q. I would like to direct your attention to

25 your testimony, page 16, line 16 in your scenario one,

(EMMERSON - CROSS BY BROWN)

870

1 what should the water company charge the rice

2 producer?

3 A. The water company should charge the rice

4 producer precisely as the attachment that Dr. Cornell

5 provided referencing Dr. Bommel's testimony. That is

6 in this case, the rice producer should be charged not

7 the 35 cents, which I have here, but the 35 cents plus

8 the lost contribution margin, the 15 cents from corn.

9 So the marginal price to the rice producer would be 50

10 cents. This is imputation in reverse in a sense,

11 which was the second of the two citations referenced

12 in Dr. Bommel's testimony by

13 Dr. Cornell.

14 Q. I'm just trying to understand this. Did

15 you say that it's not 35 cents as that appears on page

16 18 of your testimony but it's 35 cents plus the lost

17 contribution margin?

18 A. Correct. In this particular case --

19 ordinarily this scenario is presented in the context

20 of a local exchange company which in theory could

21 squeeze out a competitor and therefore requires an

22 imputation, which is quite correct, an imputation of

23 the lost contribution margin. In this particular case

24 the situation is reversed in that the rice producer

25 could squeeze out the utility, and the imputation

(EMMERSON - CROSS BY BROWN)

871

1 rule still applies except that it's reversed. Now
2 the 15 cent lost contribution margin from corn should
3 be imputed to the water charge for the rice producer.

4 Q. So is your testimony today on this point
5 different from what's contained in your prefiled
6 rebuttal?

7 A. Not at all.

8 Q. What should it charge the corn producer?

9 A. The corn producer should effectively be
10 squeezed out of this market because it is not an
11 efficient provision of corn.

12 Q. Well, what should the water company charge
13 the corn producer?

14 A. The lost contribution from rice, from
15 selling water to rice, in which case they would find
16 that it would not be profitable to remain in the corn
17 production business.

18 Q. How does that result in only rice being
19 produced?

20 A. That would result in only rice being
21 produced in that -- in one of several ways. One would
22 be that one would imagine that the rice producer
23 precisely as Dr. Cornell suggested, would attempt to
24 expand its output and would do so profitably.

25 Therefore, the corn output would be reduced unit for

(EMMERSON - CROSS BY BROWN)

872

1 unit, and as a result of that reduction of corn output
2 the utility company loses the 15 cent contribution and
3 therefore would, to remain revenue neutral, would have
4 to pick that 15 cent contribution up from each unit of
5 rice sold to the rice producer. This is why it should
6 properly be imputed to rice. The competitive process
7 would drive corn production out, essentially squeeze
8 it out of the market.

9 Q. Do you maintain that the lost contribution
10 -- by that I mean lost to the extent that the input is
11 not sold to a competitor -- must be added to the cost
12 to make a price floor for the end user price of a firm
13 selling the monopoly input?

14 A. Yes, it should work both ways. That is,
15 the lost contribution margin should be recognized
16 whenever an essential facility or bottleneck facility
17 is involved.

18 Q. Which of your two scenarios is applicable
19 to the case at hand, namely looking at rates for
20 Centrex Plus station lines, PBX lines, network access
21 connections?

22 A. They both are relevant in that the whole
23 purpose of this is to demonstrate that whenever there
24 are either differences in the value to which a network

25 function is put or differences in the cost of serving

(EMMERSON - CROSS BY BROWN)

873

1 different customers, either one could be a
2 justification for differences in prices and
3 differences in markups to the various buyers.

4 Q. Which one applies?

5 A. Well, I demonstrated in one case a
6 difference in efficiency; in the second case a
7 difference in the value of the final output. And the
8 point was to simply say, as I said a moment ago, that
9 either type of difference can justify differences in
10 price.

11 Q. Do Centrex and PBX have different value --
12 I'm still trying to understand which of your scenarios
13 would apply -- Centrex vis-a-vis PBX?

14 A. There would be differences on both sides.
15 There would be differences in the cost certainly
16 because very different levels of plant are required
17 for each. There would be differences in value in
18 that, for example, in the Centrex environment the
19 customer would need to attend to far less management
20 of the communication function than they would if they
21 had a PBX. So there could be differences on both
22 sides.

23 MS. BROWN: We have nothing further.

24 JUDGE BALLASH: Mr. Garling.

25 MR. GARLING: Nothing.

(EMMERSON - CROSS BY BROWN)

874

1 JUDGE BALLASH: Mr. Jones.

2 MR. JONES: No questions.

3

4 CROSS-EXAMINATION

5 BY MR. KOPTA:

6 Q. Morning, Dr. Emerson. My name is Greg
7 Kopta with Digital Direct of Seattle.

8 A. Morning.

9 Q. I would also like to focus on the scenarios
10 that you discussed in your testimony. Makes economics
11 at least for me a little bit more understandable, so
12 it would be starting on page 16, line 16. Now, in
13 both scenarios, are you assuming that the price of
14 corn and rice is inflexible, that there is a certain
15 point at which demand will drop off completely if the
16 price is raised even one cent or any increment?

17 A. Yeah. In this particular case I have
18 chosen an extremely simple example just to keep the
19 arithmetic as simple as possible, and therefore, there
20 are only two producers involved. It's a duopoly in
21 essence, which means, and I structured it so that each
22 product was a perfect substitute for the other, so
23 that if one had a different price than the other all
24 consumers would opt for the lower priced product or

25 would move to the lower priced product. So, the

(EMMERSON - CROSS BY KOPTA)

875

1 prices need not be inflexible. The key is that the
2 prices are the same for rice and for corn. If both
3 were to raise their price simultaneously or lower
4 their price simultaneously then one would be following
5 the market demand curve. One would expect fewer sales
6 in the market as a whole if both were to raise price
7 or lower price. So it's only perfect price
8 elasticity, if you want to call it that, between the
9 two products, in the market as a whole.

10 Q. So in your second scenario, if corn were no
11 longer produced and the contribution that the water
12 company added on to the rice production boosted that
13 cost, the assumption, it seems to me, at least as I
14 read the testimony, is that there would be no more
15 demand for rice because it was raised above this
16 level?

17 A. I think you're referring to the first
18 scenario. And that's the one where we start off at
19 equal prices for a dollar and the answer is correct.
20 If the water company were to raise the price of water
21 to the rice producer, the rice producer would produce
22 no more than it's currently producing and probably
23 less, simply because -- I'm assuming it's a profit
24 maximizing rather than a regulated firm like the water

25 company. Water company is regulated; rice producer is

(EMMERSON - CROSS BY KOPTA)

876

1 unregulated.

2 Q. Right. Perhaps I am misconstruing your
3 second scenario but I thought I interpreted it that if
4 the corn were no longer produced the rice would be
5 more expensive, demand would drop off and therefore
6 you would have imputation for both the corn and the
7 rice being passed on to the ratepayers of the water
8 company. Is that incorrect?

9 A. No. In fact, I was trying to avoid, quote,
10 passing it on to the company in both scenarios or at
11 least proposing a way that that could be avoided. In
12 the second scenario there's no relationship between
13 the purchase of rice and the purchase of corn. If
14 rice were eliminated corn would still be purchased in
15 the same quantity as before. I deliberately did that
16 to isolate the cost or the value differences in the
17 two products, whereas in the first example I kept the
18 price identical to emphasize the cost differences. So
19 I simply wanted to show that when there is a cost
20 difference one shouldn't mark up with the uniform
21 markup rule and when there is a value difference one
22 should not do it as well. That only when the two are
23 the same would you get a uniform markup rule.

24 Q. In your scenarios you're assuming that

25 there are no substitutes for corn and rice that they

(EMMERSON - CROSS BY KOPTA)

877

1 are themselves the two products that are --

2 A. In the first scenario I just assumed that
3 those were the two relevant products that related to
4 each other and there were no other complements or
5 substitutes in the picture. In the second scenario I
6 separated them so that the demand for one did not
7 affect the demand for the other and focused on the
8 different value of the effect of the outputs.

9 Q. Do these scenarios take into effect market
10 share differential?

11 A. In this case I had a market share
12 explicitly suggested in the second scenario, that is,
13 50/50. In the first scenario I didn't explicitly
14 designate a market share but one could read it as if
15 it were 50/50 and everything would be consistent.

16 Q. Is it your testimony that these scenarios
17 are comparable to the Centrex Plus\PBX offerings that
18 we've been discussing in these dockets?

19 A. No. These scenarios were deliberately
20 selected to be two very extreme cases, one where there
21 was only a cost difference, one where there was only a
22 value difference, and as I mentioned in answer to a
23 question a little while back, both are present with
24 PBX versus Centrex. So you can imagine being

25 somewhere on the spectrum somewhere between the two

(EMMERSON - CROSS BY KOPTA)

878

1 extremes.

2 Q. So these are not meant to represent, for
3 instance, you can't say that PBX is rice and Centrex
4 Plus is corn in these scenarios?

5 A. No. I wouldn't do that. This is simply
6 just a means of trying to convey why the economics
7 literature suggests that it's appropriate and in the
8 public interest to have price differences when there
9 are either value differences or cost differences.

10 Q. So essentially it's a theoretical
11 discussion that under certain circumstances price
12 differentiation is not necessarily discriminatory; is
13 that correct?

14 A. This is a pedagogical discussion, yes.

15 Q. Have you read the tariffs filed in these
16 dockets?

17 A. No, I haven't.

18 Q. Have you read the testimony that's been
19 filed previously?

20 A. I've read much of it; I have not read it
21 all.

22 Q. Have you read the cost studies on which the
23 costs of Centrex Plus --

24 A. I did not.

25 Q. So your testimony then, primarily is more

(EMMERSON - CROSS BY KOPTA)

879

1 on the theoretical or pedagogical approaches to
2 costing and pricing when it comes to regulatory
3 services?

4 A. Correct. I was just taking particular
5 exception with the recommendation that somehow each
6 access line, each network function should somehow have
7 the same markup when applied to different customers.

8 Q. Thank you.

9 MR. KOPTA: No further questions.

10 MR. FINNIGAN: No questions.

11 #

12

13 CROSS-EXAMINATION

14 BY MS. WEISKE:

15 Q. Dr. Emmerson, I represent MCI and I only
16 have one area of questions. Am I understanding your
17 rebuttal testimony correctly that you oppose
18 Dr. Cornell's recommendation known as an equal
19 contribution rule?

20 A. Yes.

21 Q. And in fact you believe that that
22 recommendation of Dr. Cornell is neither in the public
23 interest nor promotes dynamic efficiency; is that
24 correct?

25 A. That is correct.

(EMMERSON - CROSS BY WEISKE)

1 Q. Dr. Emmerson, I've handed you what I
2 understand is your testimony is the Illinois Bell A48
3 case also known as 92-0448. In particular I would
4 like you to briefly review your Exhibit 22.1 where you
5 discuss general economic principles of imputation?

6 A. Yes, I have it before me.

7 Q. It appears from looking at the exhibit that
8 your various scenarios do use an equal contribution.

9 A. They do use an equal contribution only when
10 the value of the output is the same and the relative
11 efficiencies of the two firms is the same, that's
12 correct.

13 Q. Am I understanding both situation one as to
14 equal costs then, as well as situation two, that
15 you're using the same contribution?

16 A. I'm sorry. Are you referring to a
17 situation in the Illinois Bell testimony?

18 Q. Yes. I'm still in Exhibit 22.1, pages 1
19 and 2.

20 A. What pages reference?

21 Q. I'm looking first at page 2 at the top and
22 then also situation two is the top of page 3.

23 A. Is this in the attachment? I'm sorry, I
24 was looking in the testimony.

25 Q. Yes. It looks like it was five pages of
(EMMERSON - CROSS BY WEISKE)
1 attachment to that testimony.

2 A. Yes, I do have that. That's correct.

3 Q. And also situation three appears to also
4 use the equal contribution? Again at the top of page
5 4?

6 A. These are not equal contributions. These
7 are imputation properly applied.

8 Q. How is the top of situation three on page 4
9 not an equal contribution under LEC in terms of the
10 imputation to the left?

11 A. Well, in this case the LEC is selling a
12 a service to the interexchange carrier for 12 cents.
13 Its internal cost is 10. The lost contribution is 2.
14 If you add those together this amounts to nothing more
15 than an imputation of the 12 cent tariff, but in this
16 case the interexchange carrier is the more efficient
17 carrier and has a higher contribution margin of 5.

18 Q. So you're saying that situation three at
19 the top of page 4 has an unequal contribution rather
20 than an equal contribution?

21 A. This is a contribution -- I'm sorry. I
22 thought this was the interexchange carrier's cost. I
23 will have to orient myself to how I -- this charge is
24 organized somewhat differently than the testimony I

25 have in here. So I will have to go back and take a

(EMMERSON - CROSS BY WEISKE)

1 quick look at how this is structured. If you could
2 give me two or three minutes.

3 Q. That would be fine, and basically, Dr.
4 Emmerson, my questions are going to situation one at
5 the top of page 2, situation two at the top of page 3,
6 situation three at the top of page 4, and in your
7 conclusory statement at the bottom of page 4.

8 JUDGE BALLASH: Ms. Weiske, would it be
9 helpful for the record if we had copies of this
10 document?

11 MS. WEISKE: I would be happy to hand it
12 out. I am not sure if I am planning to offer it as an
13 exhibit. If you want me to hand it out I would be
14 happy to do that.

15 JUDGE BALLASH: I think it would be helpful
16 for us following the questions.

17 MS. BROWN: Your Honor, I also made
18 copies, I was going to offer it into evidence on
19 recross. I think that it will be helpful to see the
20 diagrams and exhibits that Ms. Weiske is referring to.

21 JUDGE BALLASH: Do you want to compare the
22 two exhibits and see if there is any difference to see
23 which one should be distributed?

24 MS. WEISKE: I know they're identical but

25 thank you.

(EMMERSON - CROSS BY WEISKE)

1 JUDGE BALLASH: Why don't we take our
2 morning break at this time and give the witness an
3 opportunity to review this document.

4 (Recess.)

5 JUDGE BALLASH: Let's be back on the record
6 after our morning break. Continue with this witness.

7 BY MS. WEISKE:

8 Q. Dr. Emmerson, before the break we were
9 discussing in your Exhibit 22.1 situations one, two
10 and three and whether it was your belief that those
11 three scenarios supported an equal contribution rule.
12 And I think at the break you were beginning to respond
13 to that question.

14 A. Yes. I had a chance to review both the
15 references to this and the testimony and the appendix.
16 On those three examples you cited, on pages 2, 3 and
17 4, at the bottom of the page in each case there is an
18 explicit statement regarding both the benefits and the
19 efficiency with which the essential facility is
20 offered. In all three cases, the benefits are
21 identical and the efficiency or cost of the essential
22 facility is identical and so this is -- comports with
23 what I said earlier. When the benefits are the same
24 and the efficiencies are the same then the equal

25 markup rule works and that's precisely the result we
(EMMERSON - CROSS BY WEISKE)

1 get here.

2 JUDGE BALLASH: Before you go further, I
3 believe before we went off the record, we did want to
4 mark this document as an exhibit and that would help
5 in the examination. Testimony of Richard Dr. Emmerson
6 in Illinois Bell in Exhibit 22.0, it's a multi-page
7 document, that will be marked as Exhibit No. 67 for
8 identification.

9 (Marked Exhibit No. 67.)

10 Q. Dr. Emmerson, just now in your response you
11 referred to the scenarios at the bottom of each page.
12 My question actually went to your situation one, two
13 and three at the top of each page in terms of your
14 lost contribution margin and whether that was equal.
15 Was your answer to that question yes or no?

16 A. Yes, it was equal, but the tops and bottoms
17 of each page are the same scenarios. One identifies
18 the actual benefits and efficiencies of the various
19 means of provision and the other identifies the
20 imputation rule. I was pointing out that in the
21 bottom in each of these scenarios the relative cost of
22 the essential facility, which is resource A, is the
23 same and the benefits received in the end market are
24 the same, which would lead to an equal contribution or

25 equal price rule, equal imputation.

(EMMERSON - CROSS BY WEISKE)

1 Q. And your comment at the bottom of page 4 in
2 terms of your principle of IC plus LCM to impute
3 the price floor. Do you still agree that that's
4 consistent with both economic efficiency and effective
5 competition?

6 A. Yes, it is.

7 MS. WEISKE: That's all I have, thank you.

8 JUDGE BALLASH: Do you wish to move the
9 admission of Exhibit 67?

10 MS. WEISKE: Yes. I do move the admission
11 of Exhibit 67.

12 JUDGE BALLASH: Any objection? Exhibit 67
13 will be admitted into the record.

14 (Admitted Exhibit No. 67.)

15 JUDGE BALLASH: Mr. Kennedy.

16 MR. KENNEDY: No questions.

17 MR. HARLOW: Excuse me, Judge. I have some
18 questions.

19 JUDGE BALLASH: Go ahead.

20

21 CROSS-EXAMINATION

22 BY MR. HARLOW:

23 Q. Good morning, Dr. Emmerson.

24 A. Good morning.

25 Q. I represent Metronet Services Corporation

(EMMERSON - CROSS BY HARLOW)

886

1 with regard to these questions. First of all, do
2 you have an understanding of the term LCM and what
3 does that stand for?

4 A. Yes. That was an acronym used in the
5 testimony just admitted, lost contribution margin.

6 Q. Is this sometimes referred to by people as
7 imputation?

8 A. The lost contribution margin is what is
9 imputed, yes.

10 Q. Could you please elaborate for me. You
11 answered somewhat in response to Ms. Brown but if you
12 would, please elaborate for me when LCM or imputation
13 should be used, in other words, what kinds of
14 marketplaces?

15 A. Yes. When one firm has an essential
16 facility, sometimes referred to as a bottleneck,
17 although there are technical differences, I think the
18 terms have been used interchangeably here -- when a
19 firm has an essential facility and uses that facility
20 to sell a service in the retail markets and that
21 facility is also required by a competitor in order for
22 the competitor to sell in the same retail markets then
23 any time a retail sale is made one loses the revenues
24 which would have been received from the competitor,

25 that is, loses the revenues in the wholesale market.

(EMMERSON - CROSS BY HARLOW)

887

1 That should be recognized as an appropriate cost.

2 Q. And as I understand it, this is your
3 opinion?

4 A. This is not just my opinion. It's widely
5 established in both the managerial accounting
6 literature, in the transfer pricing area, as well as
7 in economics.

8 Q. Do you have any knowledge as to whether or
9 not it's accepted implicitly or explicitly by US West
10 in its policies?

11 A. It's my understanding that US West has
12 agreed to imputation and under simple conditions
13 imputing a tariffed rate in lieu of an incremental
14 cost does accomplish the imputation that I described,
15 but that's only under very limited circumstances and
16 certainly there are exceptions to that.

17 Q. In response to cross-examination by Ms.
18 Weiske I believe you said that you should use equal
19 markups or equivalent mark-ups when the values are
20 equal and when the relative efficiencies of the two
21 firms are equal. Is that my correct understanding?

22 A. Correct.

23 Q. When you talk about taking value into
24 account -- excuse me, did you have an explanation?

25 A. I was going to say it's not just the

(EMMERSON - CROSS BY HARLOW)

888

1 relative efficiencies of the two firms but also the
2 relative efficiency with respect to providing the
3 service in an integrated way versus selling it to your
4 competitor.

5 Q. Focusing specifically on the value, would
6 it be your opinion that telecommunications as a
7 general matter is any more or less valuable to small
8 businesses than with regard to large businesses?

9 A. The value of the service of course would be
10 dependent on the type of business we're discussing.
11 It would be much more valuable to a travel agent than,
12 say, to someone who had a machine shop in their
13 backyard. So certainly both the size and
14 characteristics of the business would have to some
15 extent differences in value of the telecommunications
16 services.

17 Q. Well, I just want to clarify because my
18 question was trying to get you to focus on the
19 specifics of size rather than the type of business.
20 But just looking at the size of business, I take it
21 from the answer you've just given you couldn't state
22 as a generality that telecommunications would be any
23 more valuable to a large business than a small
24 business?

25 A. Not on a per feature per line or any other

(EMMERSON - CROSS BY HARLOW)

889

1 basis. I am not sure size would have a necessary
2 relationship.

3 Q. Turning back to your opinion that
4 imputation or LCM should be applied when the two
5 services have equal value. Would another way of
6 putting that or would it be appropriate to -- would it
7 be your opinion that it would be appropriate to impute
8 when the two services involved are comparably
9 efficient substitutes for each other?

10 A. I am not sure what you mean by comparably
11 efficient substitutes for each other.

12 Q. Well, if two services are comparably
13 efficient substitutes, doesn't that mean that they
14 essentially have equivalent value for purposes of your
15 opinion as to whether or not to impute?

16 A. If that's what you mean I would accept that
17 definition and that would give them the same value,
18 yes.

19 Q. I do have one other line of questioning.
20 Are you familiar with the qualifications of the other
21 witnesses who have testified in this proceeding both
22 in rebuttal as well as in the original testimony on
23 behalf of US West?

24 A. Only to the extent that I read their

25 qualifications and their testimonies.

(EMMERSON - CROSS BY HARLOW)

890

1 Q. And from those qualifications I assume
2 you're the only witness for US West in this proceeding
3 that's testifying as an economist?

4 A. I don't know what the witnesses are
5 representing their qualifications to be in this case.

6 Q. Are you aware of any other witnesses for US
7 West that are testifying as economists or qualified to
8 do so?

9 A. I don't think as an economist per se but
10 certainly there's economic content to other
11 testimonies.

12 Q. Thank you, Dr. Emmerson.

13 JUDGE BALLASH: Mr. Ludvigsen.

14

15 CROSS-EXAMINATION

16 BY MR. LUDVIGSEN:

17 Q. Dr. Emmerson, I'm Gregory Ludvigsen. Here
18 on behalf of Enhanced TeleManagement Incorporated. In
19 your testimony you've got some extensive examples of
20 the appropriate costs that should be considered in
21 pricing. What is a CALC charge?

22 A. An access line charge as I understand it.

23 Q. Is that something that the Federal
24 Communication Commission has required to be applied?

25 A. I believe that's correct.

(EMMERSON - CROSS BY LUDVIGSEN)

891

1 Q. Do you know whether it was designed to
2 recover?

3 A. In essence it was designed to avoid a
4 problem which, of course, began with large subsidies
5 flowing from toll and terminal equipment to local
6 services, and upon divestiture it was recognized that
7 that form of subsidy was inconsistent with competitive
8 markets and therefore fixed charges needed to be moved
9 to the end users and that was the process by which I
10 understand they did that.

11 Q. It's my understanding that the US West
12 cost studies include both all the interstate and
13 intrastate costs. To the extent that they include
14 those interstate/intrastate costs, would they already
15 be recovering the costs associated with the CALC
16 charge that the FCC imposed?

17 A. You're referring to the recovery of
18 accounting costs. My testimony speaks only to the
19 incremental of cost environment which is the forward
20 looking cost and not to any form of recovery. So I
21 would have -- I don't know how to characterize what
22 you just described in terms of incremental costs.

23 Q. Would the CALC charge be an appropriate
24 incremental cost?

25 A. No, it would be a price. It would

(EMMERSON - CROSS BY LUDVIGSEN)

892

1 effectively be a price charged for the service.

2 Q. In comparing Centrex and PBX, in order to
3 complete a telephone call or to have service, it's my
4 understanding that on the PBX side you would need a
5 station, your inside wire, the PBX, the access line,
6 your main distribution frame and then some sort of way
7 to get out of the public switch network through the
8 switch. Is there any other things that you would --

9 A. I will accept that characterization as
10 being appropriate unless I need more.

11 Q. On the Centrex side you would need the
12 station, some inside wire, then the access line or the
13 NAC, the central office and then what the US West
14 calls the NAR, network access register. Would that be
15 correct?

16 A. Yes, but of course there's a very big
17 reference in that the intercom functions are performed
18 for lines in the Centrex through loops in the Centrex
19 world where they would be in the inside wire, in the
20 PBX wire.

21 Q. Comparing the two or Centrex, the central
22 office line or NAC can function as the equivalent to
23 the PBX and inside wire. It can also function in one
24 sense as the equivalent to the PBX trunk; isn't that

25 correct?

(EMMERSON - CROSS BY LUDVIGSEN)

893

1 A. Yes. The Centrex loops could function in
2 the same manner as a PBX trunk or it could function
3 in the same manner as the intercom for the PBX
4 portions.

5 Q. Based upon the economic theory how do you
6 go about pricing mixed use facility like that?

7 A. An ideal arrangement would be one in which
8 a PBX equivalent number of lines were declared as
9 equivalent access to the network and the remainder of
10 the lines could be treated as intercom lines and
11 effectively competing with the inside wire which would
12 be used for the same purpose. So one would have a
13 price for the access equivalent and then a separate
14 price for the subsequent intercom lines required in
15 the Centrex environment, recognizing that the
16 incremental costs of those intercom lines is quite
17 substantially smaller than the average cost of a line.

18 Q. Are you aware of any other states where
19 that's being done?

20 A. Yes, I am. It's being done in a variety of
21 other states. Delaware.

22 Q. Specific examples?

23 A. For example, in Delaware. That's the
24 current arrangement that's being discussed and pretty

25 much agreed to by the staff witnesses and the company.

(EMMERSON - CROSS BY LUDVIGSEN)

894

1 It's also an approach that's been taken in Nevada and
2 quite a few other jurisdictions. I don't know them
3 all off the top of my head.

4 MR. LUDVIGSEN: No other questions.

5 JUDGE BALLASH: Questions from the
6 Commission?

7 CHAIRMAN NELSON: I will pass.

8 COMMISSIONER CASAD: I have one.

9

10 E X A M I N A T I O N

11 BY COMMISSIONER CASAD:

12 Q. Dr. Emmerson, if I understand your
13 testimony correctly you indicate that optimal pricing
14 must consider the value of the product or service in
15 addition to the cost. Is that essentially correct?

16 A. Yes.

17 Q. I've long been curious why telephone
18 companies consistently apply that approach in some
19 areas but they never seem to apply value to the local
20 loop. Could you explain to me why that difference
21 exists?

22 A. Well, I can only speculate on the motives
23 for that, but there has been a strong tradition in the
24 United States of desiring statewide average rates for

25 residential and business customers as opposed to

(EMMERSON - EXAMINATION BY CASAD)

895

1 recognizing, for example, that rural areas may be much
2 more costly to serve than urban areas. But you have
3 that practice statewide average rates have of often
4 being supported by a statewide average cost study
5 which by its very nature doesn't show the differences
6 in cost or the differences in value. But there are
7 cases where the difference in value has been very
8 clearly recognized to some extent, and that is in the
9 difference between the pricing for business lines and
10 the pricing for residence lines. So there's been a
11 bit of acknowledgement of that phenomenon but not to a
12 great extent.

13 Q. So you would agree, then, would you not,
14 that in order to properly evaluate the local loop one
15 would have to consider value as well as embedded costs
16 or straight costs?

17 A. Yes. I think it's perfectly appropriate
18 to consider the differing values, say, between
19 business and residence or even among types of
20 businesses. Just as we recognize that same phenomenon
21 in having full wide fares on airlines and deeply
22 discounted fares for the vacation traveler who isn't
23 willing to pay as much for those seats but both are
24 necessary to keep the flight financially viable.

25 COMMISSIONER CASAD: Thank you.

(EMMERSON - EXAMINATION BY CASAD)

896

1 JUDGE BALLASH: Any other questions?

2 COMMISSION PARDINI: I have none, Your
3 Honor.

4 JUDGE BALLASH: Redirect from the company?

5

6 REDIRECT EXAMINATION

7 BY MR. SHAW:

8 Q. One that was suggested by Commissioner
9 Casad's questions, Dr. Emmerson, on value. How is
10 value of service in terms of pricing related to
11 so-called Ramsey pricing?

12 A. Well, Ramsey pricing is essentially a
13 formula designed for a pure monopoly environment in
14 which value is explicitly taken into account and it is
15 argued that in that environment that is the most
16 economically efficient prices, but again, it applies
17 only to a monopoly environment.

18 Q. Could you just state what the Ramsey
19 pricing principle is in economics?

20 A. In essence in its simplest form it's called
21 the inverse elasticity rule which means the price
22 markup above marginal costs varies inversely according
23 to the elasticity of demand across the various uses.
24 That's an oversimplification in that it would only be

25 a true statement if there were no other complements

(EMMERSON - REDIRECT BY SHAW)

897

1 or substitutes for the product in question.

2 Q. Does it work both ways? For example, in
3 the context of Centrex service, would a large customer
4 that has choices such as Mr. Braden talked about
5 building its own private switching system have more
6 elastic demand than, say, a smaller customer?

7 A. Certainly the values of the local exchange
8 company service is very much dependent on the
9 availability of competitive alternatives, yes.

10 Q. And should then central concepts in pricing
11 be recognized and such a large customer be charged
12 less than a smaller customer that might not have the
13 same choices?

14 A. Well, one fact I think we can say is that
15 you can -- cannot charge the same price in some cases
16 because the large customer simply goes their own way
17 or opts for alternatives and what's available in the
18 marketplace is available and there's no way around
19 that, whereas the smaller customer may very well not
20 have the same options and therefore have different
21 willingness to pay. By no means am I recommending
22 that as a rate structure.

23 Q. I understand. In the context of carrier
24 access charges do you believe it's appropriate that

25 pricing be set by a regulated monopoly for carrier

(EMMERSON - REDIRECT BY SHAW)

898

1 access based upon the value of that access?

2 A. Yes. Certainly it should be set between
3 incremental costs and stand-alone costs which would
4 be the cost of laying down independent facilities, but
5 then between it will be based very much on the value
6 of the service and other public policy considerations.

7 Q. Specifically, is there any economic
8 principle that requires the same price for the same
9 network functionality to carriers as opposed to end
10 user customers like a business say like Boeing?

11 A. No. There would be no deductive logic that
12 would lead you to that conclusion.

13 Q. Thank you.

14 MR. SHAW: That's all I have.

15 JUDGE BALLASH: Cross from staff?

16 MS. BROWN: We have nothing.

17 JUDGE BALLASH: Any other questions for
18 this witness?

19 Thank you for your testimony, sir. You may
20 step down.

21 MR. SHAW: Call Mr. Jensen to the stand at
22 this time.

23 JUDGE BALLASH: Let me remind you, Mr.
24 Jensen, that you are still under oath.

25 Whereupon,

(JENSEN - DIRECT BY SHAW)

899

1

MERLIN R. JENSEN,

2

having been first duly sworn, was called as a

3

witness herein and was examined and testified as follows:

4

5

DIRECT EXAMINATION

6

BY MR. SHAW:

7

Q. Mr. Jensen, could you state your name and

8

business address for the record, please.

9

A. My name is Merlin R. Jensen. My business

10

address is Room 4400, 1801 California Street, Denver,

11

Colorado, 80202.

12

Q. And you're the same Mr. Jensen that

13

testified on direct in support of the company's case

14

in this proceeding?

15

A. Yes.

16

Q. And have you caused to be prepared by

17

yourself or under your direction a prefiled exhibit

18

noted MRJ-1 being the rebuttal testimony of yourself?

19

A. Yes, I have.

20

Q. Do you have any changes or additions that

21

you need to make to that exhibit at this time?

22

A. No.

23

MR. SHAW: Your Honor, would that be

24

Exhibit T-68?

25 JUDGE BALLASH: Correct. The rebuttal

(JENSEN - DIRECT BY SHAW)

900

1 testimony of Merlin Jensen will be marked as Exhibit
2 T-68 for identification.

3 (Marked Exhibit No. 68.)

4 MR. SHAW: Move the Commission of T-68.

5 JUDGE BALLASH: Any objection?

6 Exhibit T-68 will be admitted into the
7 record.

8 (Admitted Exhibit No. T-68.)

9 MR. SHAW: Witness is available for cross.

10

11 CROSS-EXAMINATION

12 BY MS. BROWN:

13 Q. Mr. Jensen, do you have Exhibit T-37
14 available to you now?

15 A. No.

16 Q. Could you please look at Exhibit T-37, page
17 3, lines 6 through 10. Citing you to the direct
18 testimony of Dr. Cornell?

19 A. I have it.

20 Q. Do you see anywhere on page 3 where Dr.
21 Cornell says that US West has carefully aligned the
22 prices for lines?

23 A. I've read the page. Now would you ask the
24 question again?

25 Q. I would like to direct your attention to

(JENSEN - CROSS BY BROWN)

901

1 lines 6 through 10. Those four lines, do you see
2 anywhere there that Dr. Cornell says that US West has
3 carefully aligned the prices for lines?

4 A. No.

5 Q. Does Dr. Cornell's statement there agree
6 with your statement at page 9, lines 12 through 18?
7 Are you there?

8 A. I'm on page 9 of my rebuttal testimony.

9 Q. At lines 12 through 18 that "customers will
10 pay the same price for lines whether they choose a PBX
11 or Centrex Plus"?

12 A. Are you asking if I see a conflict between
13 my statement and what she says in her direct
14 testimony?

15 Q. Yes.

16 A. No, I don't. I don't see a conflict is
17 what I'm saying.

18 Q. I would like to show you Exhibit C-39,
19 NWC-2. Does Dr. Cornell's column F show the same
20 price per line within each hypothetical for COMPLEX
21 lines versus Centrex Plus?

22 A. No.

23 Q. Do you still claim that Dr. Cornell does
24 not challenge US West's claim to set prices equal

25 between Centrex and PBX?

(JENSEN - CROSS BY BROWN)

902

1 MR. SHAW: Objection to the form of the
2 question. That's not what the testimony says at page
3 9, lines 12 through 18.

4 MS. BROWN: The witness has already
5 testified here today that he does not believe that
6 Dr. Cornell's statement is inconsistent with his
7 testimony.

8 MR. SHAW: Yes, Your Honor, and the
9 statement at page 9 says, "Dr. Cornell has not
10 challenged the fact that USWC has carefully aligned
11 the two major monopoly elements." No statement in
12 there about prices.

13 JUDGE BALLASH: Ms. Brown?

14 MS. BROWN: That's fine. I will just move
15 on to another question.

16 JUDGE BALLASH: Are you withdrawing your
17 question then?

18 MS. BROWN: No. I would like it on the
19 record.

20 JUDGE BALLASH: I don't believe the witness
21 has answered it.

22 MS. BROWN: That doesn't mean that I
23 wouldn't want the question to remain on the record.

24 MR. SHAW: It's not appropriate to have Ms.

25 Brown testify by asking questions that she refuses to

(JENSEN - CROSS BY BROWN)

903

1 let the witness answer.

2 JUDGE BALLASH: I think you need to either
3 withdraw the question or respond to the objection. If
4 you don't wish to respond I will go ahead and rule on
5 it.

6 MS. BROWN: I have nothing further to add.
7 I think the witness has already testified today about
8 Dr. Cornell's statements as being consistent with his
9 and he cites -- he refers to her testimony and page 9,
10 lines 12 through 18 he makes the statement, "that
11 regardless of the competitive choice customers make,
12 PBX or Centrex, customers will pay the same price for
13 these monopoly components when they are similarly
14 situated." I think the witness should be required to
15 answer the question.

16 JUDGE BALLASH: I will overrule the
17 objection and allow the question.

18 A. Would you ask the question once again,
19 then, please.

20 Q. Do you still maintain that Dr. Cornell did
21 not challenge US West's claim to have set prices equal
22 between PBX and Centrex Plus?

23 A. My statement on page 9 refers to the two
24 major monopoly elements. I'm talking about the

25 connection and usage. I have aligned the connection

(JENSEN - CROSS BY BROWN)

904

1 and usage components that are common to these three
2 services and priced them the same when customers are
3 similarly situated.

4 Q. And you still maintain that column F of C
5 39 supports that statement?

6 A. Column F was Dr. Cornell's alteration of
7 the original exhibit that US West supplied in response
8 to your interrogatory, and as I mentioned very
9 clearly, as you recall there was a great reluctance on
10 the part of US West to provide that exhibit because we
11 could see that it could be misused and this is surely
12 what Dr. Cornell has done, and so the very fact that
13 these price per lines on her exhibit are different
14 doesn't mean that US West has not aligned these common
15 components; in fact we have.

16 Q. What would Dr. Cornell had to have done for
17 you to not make the claim that you make on page 9
18 lines 12 through 15 of your testimony?

19 A. She would have had to look at the
20 underlying imputation process that US West performed.
21 US West developed the price of the NAC, which is in
22 the private line category. Those prices were
23 imputed into the PBX trunk and into the Centrex
24 station line rates right out of the filing. The

25 formula that US West used to develop the NAF rate ties

(JENSEN - CROSS BY BROWN)

905

1 to the PBX trunk rate so that the PBX customer and the

2 Centrex Plus customer pay the same price for usage.

3 So we very clearly aligned the two common components,

4 the connection and the usage.

5 Q. If she were to have looked at that formula

6 and disagreed with it, what would you have suggested

7 that she do next?

8 A. I believe she should have understood a

9 little better what US West did so that she could

10 clearly see how the the imputation had been

11 accomplished.

12 Q. On what basis do consumers make choices in

13 the market?

14 A. The service that the customer needs to

15 fulfill their company objectives is one. The quality

16 of that service is another, the price is a third

17 component that customers look at.

18 Q. If a customer is offered two products that

19 serve the same goal but one uses twice as much of an

20 expensive component as another, would you expect that

21 additional cost to have an effect on what consumers

22 buy?

23 A. Depends if they got twice the value for

24 paying twice the cost. They might buy twice as much

25 or be happy to buy even more if it would increase

(JENSEN - CROSS BY BROWN)

906

1 their profits.

2 Q. Well, Mr. Jensen, given the choice between
3 two refrigerators, one energy efficient and one not,
4 selling at the same price, what would you anticipate
5 that a consumer would do in that situation?

6 A. A consumer that understood the difference
7 in the two would buy the energy efficient
8 refrigerator.

9 Q. So why shouldn't consumers be more likely
10 to choose a PBX over Centrex Plus in order to
11 economize on outside plant?

12 A. The PBX customer or the Centrex customer
13 are going to look at the prices that the services are
14 offered at, they're going to look at the quality of
15 the service, look at the features, the functionality
16 that would enable them to conduct their business
17 efficiently and they will make their purchase based on
18 those decisions.

19 Q. But why, all other things being equal,
20 wouldn't the consumers choose PBX over Centrex Plus to
21 economize on outside plant?

22 A. I'm not sure that economizing on outside plant
23 generally enters into a PBX customer mind's decision.

24 Q. Mr. Jensen, I am handing you data request

25 No. 97 and its response for identification.

(JENSEN - CROSS BY BROWN)

907

1 JUDGE BALLASH: Do you wish this marked as
2 an exhibit?

3 MS. BROWN: Yes, please.

4 JUDGE BALLASH: I've been handed US West
5 Communications response to staff's data request No.
6 97. That document will be marked as Exhibit No. 69
7 for identification.

8 (Marked Exhibit No. 69.)

9 Q. Mr. Jensen, did you prepare the response to
10 data request No. 97?

11 A. Yes.

12 Q. This data request response means that 25
13 percent of US West's fully distributed costs for
14 Centrex Plus station lines are assigned to the federal
15 jurisdiction; is that right?

16 A. Yeah. The 25 percent varies from state to
17 state but generally that's where the allocator will
18 end up when it's through shifting.

19 Q. And the CALC is designed to recover much of
20 those costs; is that right?

21 A. Yes.

22 Q. Every dollar you offset the CALC means US
23 West must get another dollar from state rate. Is that
24 also true?

25 A. No.

(JENSEN - CROSS BY BROWN)

908

1 Q. Why not?

2 A. If the product is already contributing
3 enough above its costs so that any offset, all it does
4 is impact the amount of the contribution then the
5 answer to your question is no.

6 Q. Could you please explain that last answer.
7 I didn't understand.

8 A. Let me give you an example. Let's suppose
9 that a product has \$10 worth of contribution. There's
10 a CALC offset, let's make it easy, \$5. I subtract the
11 \$5. I still have \$5 worth of contribution. So all
12 I'm doing is reducing the level of contribution on
13 this product that has the CALC offset in it.

14 Q. How does that change the revenue
15 requirement need?

16 A. I'm not talking about the revenue
17 requirement need. Maybe I misheard your question.

18 Q. But isn't the CALC based on a revenue
19 requirement need?

20 A. Yes. And the CALC is computed by the FCC
21 in order to recover those costs.

22 Q. How would offsetting it somehow make those
23 costs disappear somehow?

24 A. Offsetting it is a pricing form -- it's in

25 the pricing formula. Doesn't have anything to do with

(JENSEN - CROSS BY BROWN)

909

1 the costs.

2 Q. Well, if the CALC is designed to recover
3 costs, how can it have nothing to do with costs?

4 A. Sounds like we need to have a total
5 education here on the CALC. The interstate costs are
6 identified and provided to the FCC. The total number
7 of access lines are divided into that revenue
8 requirement to determine a CALC price, which is
9 applied to each and every access line. Now, when I am
10 developing Centrex Plus prices I am talking about a
11 formula that I've used to develop an imputation price
12 floor. I am not now looking at any interstate revenue
13 requirement or anything else. I am looking at the
14 pricing of this product, and what I am saying is when
15 I apply a CALC offset in developing the price floor,
16 as long as I still have some contribution after I take
17 that CALC offset out, above the cost, the intrastate
18 cost or the intrastate and interstate costs, then I
19 still have not affected any other customer or any
20 other product that US West offers. I am still
21 offering my product with a contribution of public
22 costs here in Washington.

23 MS. BROWN: I move the admission of 69 for
24 identification.

25 JUDGE BALLASH: Any objection?

(JENSEN - CROSS BY BROWN)

910

1 Exhibit No. 69 will be admitted into the
2 record.

3 (Admitted Exhibit No. 69.)

4 JUDGE BALLASH: Been handed another
5 one-page document which is US West Communications
6 response to staff data request No. 94. That document
7 will be marked as Exhibit No. 70 for identification.

8 (Marked Exhibit No. 70.)

9 Q. On page 3, lines 16 through 18 of your
10 testimony you define access as the drop, the loop
11 and the main distribution frame termination. Does a
12 NAF have these three components?

13 A. Yes.

14 Q. Does a complex business line or a PBX trunk
15 have these three components?

16 A. Yes.

17 Q. Does the Centrex Plus station line have any
18 of these three components?

19 A. Yes.

20 Q. And it is your position that a PBX trunk
21 cannot be compared to a Centrex Plus station line?

22 A. Yes.

23 MS. BROWN: Move the admission of Exhibit
24 70.

25 JUDGE BALLASH: Any objection?

(JENSEN - CROSS BY BROWN)

911

1 MR. SHAW: No.

2 JUDGE BALLASH: Exhibit No. 70 will be
3 admitted into the record.

4 (Admitted Exhibit No. 70.)

5 MS. BROWN: No further questions.

6 JUDGE BALLASH: Mr. Garling?

7 MR. GARLING: I have a few.

8 JUDGE BALLASH: Do you have enough to get
9 us to noon or --

10 MR. GARLING: Well, I do.

11 JUDGE BALLASH: Substantially more than
12 that?

13 MR. GARLING: Few that would go past. It
14 would probably be better to start after.

15 JUDGE BALLASH: Why don't we take our lunch
16 break at this time then. Let's be off the record.

17 (Luncheon recess taken at 12:00 noon.)

18

19

20

21

22

23

24

25

(JENSEN - CROSS BY GARLING)

912

1

AFTERNOON SESSION

2

1:30 PM

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

JUDGE BALLASH: Let's be back on the record after our lunch break. Before we continue with Mr. Garling, Mr. Harlow has advised me that Ms. Weiske is ill for this afternoon. He is going to be representing MCI and hopefully she will be back with us tomorrow morning.

MR. HARLOW: Hopefully, thank you.

BY MR. GARLING:

Q. Good afternoon, Mr. Jensen.

A. Good afternoon.

Q. Could I refer you to page 2 of Exhibit T-68, line 23. Page 2, line 23 of your rebuttal testimony.

A. What's my testimony?

Q. That's your testimony that's now Exhibit T-68. There you state at line 23 US West -- "USWC's filing is based on the legal and public policy nondiscrimination provisions of the MFJ in Washington state law. For the purposes of Centrex Plus the MJ generally is interpreted to indicate that common elements of service and nonfunctionality should be offered under equal terms and conditions within the

25 services that they are a part of."

(JENSEN - CROSS BY GARLING)

913

1 Now, understanding that, I would like to
2 ask you this question. Mr. Jensen, why isn't it
3 discriminatory for US West not to offer discounts to a
4 hypothetical venture, and we will call it XYZ
5 Association, which is willing to take more than 50
6 lines, enter into a long term contract to keep using
7 US West lines, and build on a vacant lot right next to
8 a US West central office?

9 A. I'm sorry, I didn't follow the whole
10 question. It was fairly lengthy.

11 Q. I will start again. My question is why
12 wouldn't it be discriminatory for US West not to offer
13 discounts to an entity which is willing to take more
14 than 50 lines, enter into a long term contract to keep
15 using US West lines, and build on -- build a facility
16 on a vacant lot right next to a US West central
17 office? Why wouldn't that be discriminatory?

18 A. Let me try to repeat it back. I don't want
19 to get in a position of trying to interpret the MFJ
20 in a specific instance. That's really a legal
21 interpretation. My attorneys have told me generally
22 how the MFJ should apply, but I'm not sure that I
23 can interpret that on a specific instance from a legal
24 standpoint what discrimination is and what it is not.

25 Q. All right. So you're not able to answer

(JENSEN - CROSS BY GARLING)

914

1 that question?

2 A. I would have some reluctance in trying to
3 do that.

4 Q. Well, let me approach it from this angle.
5 If you were to assume that some customers which have a
6 sufficient accumulation of lines would be willing to
7 go into long term contracts, would US West extend a
8 discount to such customers?

9 MR. SHAW: Your Honor, I will object to the
10 form of the question because I believe it's unclear,
11 asking if some customers would enter into a long term
12 contract, would we enter into that contract, would the
13 company enter into that contract when missing from the
14 question is, are these unrelated customers in
15 different locations, are they related customers all
16 over the same locations. There's a lot of different
17 fermentations of what would be required under the
18 tariffs of the company depending upon details as to
19 those customers. So as asked, I don't think the
20 witness can answer the question.

21 MR. GARLING: I will try again, try to make
22 it as understandable as possible.

23 COMMISSION PARDINI: When you try this time
24 will you try through the microphone?

25 MR. GARLING: All right. I forget about

(JENSEN - CROSS BY GARLING)

915

1 this thing.

2 COMMISSION PARDINI: That's why I reminded
3 you.

4 BY MR. GARLING:

5 Q. In the previous question I had an entity
6 that was willing to take more than 50 lines and it was
7 an apartment building association, okay, and that
8 association was willing to enter into a long term
9 contract to keep US West lines and that association
10 was willing to build its apartment building on a
11 vacant lot next to a US West central office. With
12 those facts in mind, again, would US West extend a
13 discount to that entity for basic services?

14 A. And by basic services you mean which
15 services?

16 Q. Oh, well, in the context of this hearing.

17 A. PBX trunks?

18 Q. That's right. The PBX trunks, the NAC,
19 NAFS, the whole smear, so to speak.

20 A. Yes. My proposal is that the connection
21 component of the services, whether it be a Centrex
22 station lines or PBX trunks or private line, that the
23 connection component be offered on equal terms and
24 conditions to the customer. So, assuming that the

25 customer wanted to contract for one of those three,

(JENSEN - CROSS BY GARLING)

916

1 our proposal is, yes, they would be allowed to
2 contract for them.

3 Q. Mr. Jensen, with regard to Centrex
4 services, could you, considering the entity that we
5 were just discussing in the last question, could you
6 tell me whether the extension of Centrex to such an
7 entity would cover a full cost?

8 A. Yes.

9 MR. GARLING: Thank you.

10 MR. JONES: No questions.

11

12 CROSS-EXAMINATION

13 BY MR. KOPTA:

14 Q. Afternoon, Mr. Jensen.

15 A. Afternoon.

16 Q. My name is Greg Kopta and I am representing
17 Digital Direct of Seattle, and I would like to follow
18 up on a couple of things that Ms. Brown raised as to
19 the CALC charges, and just so I'm clear in my mind
20 about what those are. Could you define a CALC charge
21 for me, please.

22 A. CALC stands for carrier access line charge,
23 is a charge authorized by the Federal Communications
24 Commission. Its intent is to recover a portion of the

25 fixed costs of the connection, the fixed costs related

(JENSEN - CROSS BY KOPTA)

917

1 to the interstate jurisdiction.

2 Q. So is this simply a revenue allocation
3 required of -- first of all, let me ask, is it
4 required to be charged? Does the federal government,
5 as I understand it, they have set up a certain amount
6 that's then divided by the number of lines; is that
7 correct?

8 A. Yes.

9 Q. And is US West required to collect that
10 amount?

11 A. Yes.

12 Q. If this is in essence a per line charge,
13 why isn't this included in the cost of each line?

14 A. It's actually a price that is set by the
15 FCC.

16 Q. A price for access to the interstate
17 network?

18 A. I suppose you could call it that. It's, as
19 we mentioned earlier, there's a 25 percent allocator
20 of those fixed costs, and the FCC sets a price to
21 cover a portion of that.

22 Q. So you are required to recover that amount
23 in the price that you set for any given line; is that
24 correct?

25 A. No. I'm required to charge the CALC on

(JENSEN - CROSS BY KOPTA)

918

1 each access line.

2 Q. So that's going to be an amount that is
3 attributed to every line that you have, correct?

4 A. Yes. Every switched access line.

5 Q. Well, I suppose my question is that if it's
6 going to be required for each line why is it not
7 lumped in with cost as opposed to pricing?

8 A. Well, I'm not a cost expert but the costs
9 that have been submitted here, the incremental costs
10 of providing service, it's a total long run
11 incremental costs as opposed to this being a price
12 imposed by the FCC.

13 Q. Well, taking it as you apply it, then, as I
14 understand it, you take the cost figures supplied by
15 Mr. Sanderson, add a contribution factor and that's
16 the price for an individual service in this filing; is
17 that correct?

18 A. That's a simplistic way of explaining it,
19 yes.

20 Q. In the contribution for each service or
21 each facility, does that contribution cover the CALC
22 for each line that you have?

23 A. Does the contribution cover the CALC, is
24 that the question?

25 Q. That's the question.

(JENSEN - CROSS BY KOPTA)

919

1 A. Well, they're really not related. As I
2 mentioned, there's an interstate revenue requirement
3 from which the CALC price is developed. Totally
4 independent of that, the company develops its long run
5 incremental costs for providing these services. When
6 I set a price, I make sure that the price for my
7 products exceed the long run incremental costs. I
8 have some contribution on top of that. So you've got
9 two different things here. You've got one price
10 covering a revenue requirement and over here you have
11 incremental costs.

12 Q. Well, if you add the incremental costs plus
13 the CALC, does the final price that you set -- is the
14 final price that you set in excess of those two things
15 added together?

16 A. Yes. If you take the total service
17 together, the revenues do exceed the costs.

18 Q. And the CALC?

19 A. I am going to have to look at a document, I
20 think, to be sure I'm answering the question correctly
21 and I don't have it here at the podium.

22 MR. KOPTA: Mr. Shaw, do you have that
23 document or can you confer with --

24 THE WITNESS: I don't know if he has it. I

25 will have to look.

(JENSEN - CROSS BY KOPTA)

920

1 MR. SHAW: Can we be off the record for a
2 moment?

3 JUDGE BALLASH: Let's be off the record.

4 (Recess.)

5 JUDGE BALLASH: Let's be back on the
6 record. Please go ahead, Mr. Jensen.

7 A. My answer to your question is that -- and I
8 will try to state it so that we're sure we're in sync
9 here -- the total price plus CALC exceeds the total --
10 I think the other part of the question was the total
11 costs plus CALC? The price plus CALC exceeds the
12 costs plus CALC in nearly all situations. There are a
13 few, first five or six quarter miles where there is a
14 shortfall in your formula of about 30 cents, in the
15 very short distances.

16 Q. Let me make sure that again we're on the
17 same page. You are equating costs plus CALC with
18 price plus CALC or are you comparing cost plus CALC
19 with the price?

20 A. I was comparing costs plus CALC with the
21 price plus CALC. Now, did I misinterpret your
22 question?

23 Q. Yes. I was curious as to cost plus CALC as
24 compared to the price.

25 A. Well, I included in my price the price of

(JENSEN - CROSS BY KOPTA)

921

1 the line, plus the CALC. They're both revenues that
2 relate back to this line. So I took a combination of
3 the proposed station line price -- in other words, I
4 was trying to get the total revenues versus the total
5 costs, because the CALC is a revenue covering a
6 portion of those costs. So I was trying to take the
7 price for the station line plus the CALCs since that's
8 what the customer pays in totality, both pieces of
9 that, and comparing that then to your question about
10 the costs plus the CALC.

11 Q. Put another way, then, are you saying that
12 the price that you've calculated includes the total
13 CALC for the number of lines that are involved? Does
14 the price cover the total CALC charges?

15 A. You're talking total price here?

16 Q. The price that you are going -- that are
17 included in the tariffs that you've proposed in this
18 filing.

19 A. The price is greater than the CALC, but I
20 don't think that's a good comparison. That's why I'm
21 struggling with it. Remember, we're talking about two
22 different things here. We're talking about the price
23 of the station line and then on top of that the
24 customer has to pay the FCC CALC and so I'm trying to

25 add those two together, say, what is the customer

(JENSEN - CROSS BY KOPTA)

922

1 totally paying for the line and the CALC. Now, what
2 do you want me to compare that to?

3 Q. Once you've put those two together, is the
4 price that you set in excess of the sum of those two
5 things?

6 A. No. The price would be equal to the sum of
7 the station line price plus the CALC.

8 Q. I'm sorry, you lost me.

9 A. Obviously I'm not following you.

10 Q. Well, for each station line you have a CALC
11 charge; is that correct?

12 A. Yes.

13 Q. And you have figures that you received from
14 Mr. Sanderson as to the cost of that particular
15 station line?

16 A. Yes.

17 Q. If you add the figures that you received
18 from Mr. Sanderson to the CALC charge for that line,
19 you come up with a figure. Now, when you're pricing
20 that, is that price in excess of that sum?

21 A. Yes.

22 Q. And is there contribution in addition to
23 the CALC that you have added on to make up that price?

24 A. No. I added some additional contribution

25 on the station line price above the costs that were

(JENSEN - CROSS BY KOPTA)

923

1 provided to me by our cost support group, but I didn't
2 do anything with the CALC other than charge what the
3 FCC ordered.

4 Q. So the CALC is then rolled in automatically
5 to whatever price you're charging for the service; is
6 that correct?

7 A. Well, from a customer viewpoint he looks at
8 that as a single rate but technically from an
9 accounting standpoint they go into different pots.

10 Q. So the CALC goes into the revenue pot,
11 general revenue pot, along with contribution. Are
12 they similar?

13 A. Well, the FCC, I think when you talk
14 revenue requirement, they have an authorized rate of
15 return in the development of the revenue requirement
16 so if you want to call that a cost or you want to call
17 that an earned return or whatever, it's included in
18 the CALC.

19 Q. So as currently structured -- is the
20 Centrex Plus filing as currently structured it
21 recovers the costs plus the CALC for each station
22 line, plus some contribution; is that correct?

23 A. Yes.

24 MR. KOPTA: That's all my questions, thank

25 you.

(JENSEN - CROSS BY KOPTA)

924

1 JUDGE BALLASH: I will note for the record
2 that Mr. Finnigan has left for the day.

3 MR. HARLOW: At this time I don't
4 anticipate any questions for Mr. Jensen. What I would
5 like to do is pass and I might possibly have some
6 follow-up after Mr. Ludvigsen. If that would be
7 possible.

8 JUDGE BALLASH: If there's no objection we
9 will proceed that way. Mr. Kennedy.

10

11 CROSS-EXAMINATION

12 BY MR. KENNEDY:

13 Q. Mr. Jensen, my name is Steve Kennedy
14 representing TRACER and TCA. I just have a couple of
15 real quick questions on this CALC matter and I don't
16 want to beat this to a pulp, but I want to make sure I
17 understand. Your testimony is that for every station
18 line that is purchased under Centrex Plus the customer
19 will pay a CALC charge, correct?

20 A. Yes.

21 Q. That's true. No trunk-rated Centrex as
22 well as for the 100 percent option?

23 A. That's right.

24 Q. If we ignore the CALC charge completely,

25 does the intrastate price cover your costs for these

(JENSEN - CROSS BY KENNEDY)

925

1 station lines?

2 A. Yes.

3 Q. So despite concerns that may have been
4 raised by CALC offset pricing you're still covering
5 costs even without considering CALC revenues?

6 A. Yes, and maybe to clarify that. You asked
7 specifically about the intrastate costs and they're
8 definitely -- it covers all of those costs.

9 Q. Thank you. That's all.

10 JUDGE BALLASH: Mr. Ludvigsen.

11 MR. LUDVIGSEN: Just a few questions.

12

13 CROSS-EXAMINATION

14 BY MR. LUDVIGSEN:

15 Q. First of all, you said that you're required
16 to charge a CALC per switched access line for Centrex
17 Plus; is that correct?

18 A. Yes.

19 Q. And do you consider a switched access line
20 to be the equivalent of the NAF or the NAC?

21 A. The NAC.

22 Q. Okay. I think that you said, looking at
23 page 8, line 11 that you consider PBX trunks are a
24 functional equivalent to NAFs not station lines?

25 A. That is correct.

(JENSEN - CROSS BY LUDVIGSEN)

926

1 Q. Now, PBX trunks can charge one CALC per PBX
2 trunk which includes both the NAC and whatever it is
3 in the central office that allows you to reach the
4 public switched network?

5 A. That's true, but the CALC applies to the
6 connection, sometimes called the loop or whatever.
7 But that's what it is applicable to.

8 Q. Now, as I understand it, you built the CALC
9 rate into the basic station rate -- sorry -- you're
10 covering your CALC rate in the basic station rate, is
11 that correct, the CALC charge? Well, let me go a step
12 -- and then you're giving a discount as you buy more
13 and more station lines?

14 A. When you say we're covering the CALC in the
15 station line rate, I don't agree with that. I'm not
16 quite sure if the way you're wording it is confusing
17 me but when, for example, in the first 20 lines, we're
18 just pricing the station line. There is no CALC
19 offset at all in the 1 to 20 category.

20 Q. And that's because you've assumed that
21 there will be one NAC per NAF; is that correct?

22 A. Yes.

23 Q. As you get to the 21 to 50 station lines
24 you've made an assumption that there will be fewer

25 NAFS than NACs; is that correct? And then you've

(JENSEN - CROSS BY LUDVIGSEN)

927

1 given a discount of a certain dollar amount?

2 A. Yes. When you say assumption, there was
3 some information provided in the interrogatories to
4 substantiate the assumption of two-to-one ratio.

5 Q. But it wouldn't necessarily match up with
6 any particular customer's actual physical system?

7 A. That is correct. It's more of a
8 representation of average in those line sizes.

9 Q. And then you give a much larger discount as
10 you got to over 50 station lines?

11 A. Yes.

12 Q. Let's take a hypothetical example of where
13 a customer has ordered PBX service from you and they
14 have 100 DID trunks. How much in total CALC charges
15 do you think they would end up paying?

16 A. If they had 100 DID trunks?

17 Q. Yes.

18 A. Well, if I recall right, the CALC in
19 Washington is \$3.73. So that would be \$37.30 a month.
20 -- pardon me, 373. I missed it by a decimal, didn't
21 I?

22 Q. Let's say a customer decided instead to
23 order 100 Centrex Plus lines from you. How much would
24 they be paying in CALC charges?

25 A. In CALC charges they would be paying 373.

(JENSEN - CROSS BY LUDVIGSEN)

928

1 Q. But you will have built a discount into
2 your price, isn't that correct, in order to reduce
3 that?

4 A. In establishing a price floor, yes, I did
5 consider a CALC offset so that on a functional basis
6 the Centrex customer pays the same amount as a PBX
7 trunk customer, but as far as -- I think the way you
8 characterized the question I didn't discount them. I
9 used that in developing a functionally equivalent set
10 of prices so that if a customer had 100 DID trunks or
11 100 stations then they would pay the functional
12 equivalent amount of same.

13 Q. Did you discount the price of the PBX trunk
14 to take into account the additional station lines or
15 lines that were ordered?

16 A. The way the pricing was established was in
17 relating the number of stations that a PBX system
18 would have related to a station line equivalent on the
19 Centrex Plus.

20 Q. Is it possible for US West to determine how
21 many NAFS a customer actually has? I mean, you
22 actually charge a customer in each case?

23 A. Yes.

24 Q. So it would be possible in each case to

25 charge a customer just for the NAFs that they actually

(JENSEN - CROSS BY LUDVIGSEN)

929

1 ordered rather than building assumptions into your
2 rate tables, wouldn't it?

3 A. That could be done.

4 MR. LUDVIGSEN: I have no further
5 questions.

6 JUDGE BALLASH: Mr. Harlow?

7 MR. HARLOW: No follow-up.

8 JUDGE BALLASH: Questions from the
9 Commission.

10 COMMISSIONER CASAD: I have none.

11 COMMISSION PARDINI: No, Your Honor.

12 JUDGE BALLASH: Redirect?
13

14 REDIRECT EXAMINATION

15 BY MR. SHAW:

16 Q. Mr. Jensen, when Ms. Brown was asking you a
17 series of questions about Exhibit 70, do you recall
18 Exhibit 70 which was data request No. 94 and the
19 response?

20 A. Yes.

21 Q. Do you have that in front of you?

22 A. I do not. I think it was taken when we
23 left for lunch.

24 Q. Handing you my copy, do you recall a series

25 of questions on what made up a NAF?

(JENSEN - REDIRECT BY SHAW)

930

1 A. Yeah. I recall a series that started out
2 what is a NAC, meaning it was a drop, the loop and the
3 termination on the main distribution frame, and then
4 there was some questions that followed that initial
5 question.

6 Q. Is there some concern in your mind that you
7 may have misunderstood Ms. Brown and heard her to say
8 NAC when she said NAF?

9 A. Yes. They're both kind of close together.

10 Q. To try to clarify this to make sure that
11 there's no confusion in the record, would you please
12 define again for everybody what a NAC is.

13 A. Yes. A NAC has three components. It has
14 drop, loop and a termination on the main distribution
15 frame.

16 Q. And does a NAF have those three same
17 components?

18 A. No.

19 Q. What is a NAF?

20 A. A NAF is a -- I would describe it as
21 software code that provides access or denies access to
22 the public switch network.

23 Q. Then conceptually a NAC needs a NAF if
24 there's going to be any usage on the public switch

25 network; is that correct?

(JENSEN - REDIRECT BY SHAW)

931

1 A. That is correct.

2 Q. Is a NAF functionally equivalent, in your
3 view, as you state in the response to data request No.
4 94, Exhibit 70, functionally equivalent to a PBX
5 trunk?

6 A. Yes.

7 Q. And why is that?

8 A. Because both the PBX trunk and the NAF
9 provide access to the public switch network.

10 Q. PBX trunk conceptually is a bundled NAF
11 and NAC, correct?

12 A. Yes.

13 Q. Thank you.

14 MR. SHAW: I have nothing further.

15

16 RE-CROSS-EXAMINATION

17 BY MS. BROWN:

18 Q. Does a PBX trunk use the specific software
19 code used to create a NAF?

20 A. No.

21 Q. Does a single business line use that
22 software code?

23 A. No.

24 MS. BROWN: Thank you.

25 JUDGE BALLASH: Any other questions?

(JENSEN - RECROSS BY BROWN)

932

1 MR. HARLOW: Yes, Judge.

2 JUDGE BALLASH: Mr. Harlow.

3

4 RECROSS-EXAMINATION

5 BY MR. HARLOW:

6 Q. In response to Mr. Shaw's redirect, you
7 testified that a NAC needs a NAF to provide public
8 usage or usage on the public switch network; is that
9 correct?

10 A. Yes.

11 Q. Given that response to Mr. Shaw's question,
12 how is it that a NAC can be considered -- and I will
13 quote your exact language, I believe -- to be a,
14 quote, "switched access line" for purposes of applying
15 a CALC?

16 A. I'm not an expert on the FCC's definition
17 on what falls into all of the components of the CALC
18 charge, but when you have a switch service you have to
19 have a NAC plus then you have to have some central
20 office equipment. Generally, the main component in
21 inside the central office is the line card which
22 identifies that number so that calls can be directed
23 to and from the end user station. There are some
24 fixed costs there that really get you into using this

25 central office switch itself.

(JENSEN - RE CROSS BY HARLOW)

933

1 Q. Are you testifying that you're equating or
2 applying a NAC to every -- excuse me -- a CALC to
3 every telephone number?

4 A. I'm not sure I'm enough of an expert on the
5 details of the CALC calculation to explain that or to
6 answer that clearly for you.

7 Q. Let me ask you this. Is it your
8 understanding that the FCC mandates that the CALC be
9 applied in the way you've applied it in pricing the
10 Centrex Plus proposal?

11 A. Yes. What I'm saying is it's per access
12 line and what I am trying to make clear to you here,
13 I'm not sure that every little component that the FCC
14 describes to make up the access line, but essentially
15 for every connection from an end user to the central
16 office there's a CALC if it is a switched service.

17 Q. Are you aware that in some states, and
18 perhaps this doesn't apply to US West but other Bell
19 operating companies do not apply a CALC charge to
20 every, what we've called, I guess, a NAC which might
21 also be called a station line or intercom line?

22 A. Well, there is quite a bit of evidence in
23 the docket itself in this record explaining the trunk
24 equivalency and the fact that when the FCC originally

25 ordered the CALC they said it should be on every line.

(JENSEN - RE CROSS BY HARLOW)

934

1 And regional holding companies appealed that or
2 attempted to and the FCC came back and said, no, every
3 line will pay the CALC. But they also then told the
4 commissions in that order, and I do have some quotes
5 -- I think it's in my rebuttal -- that indicate that
6 they said the state commissions really have
7 jurisdiction over this and they can adjust the prices
8 on the state basis. So I think the implication that
9 you have here is that many commissions have chosen to
10 make the final price include a CALC offset but in fact
11 all of these companies still do charge one CALC per
12 line initially on an FCC basis. Then there's a credit
13 mechanism and then a recharge on an equivalent basis,
14 but that's why I'm saying we charge it on every line
15 and so do the other regional holding companies.

16 Q. So to clarify, would it be your testimony
17 that although the bill has to show a CALC charge per
18 line adjustments can be made elsewhere in a state-
19 filed tariff to offset the effects of that?

20 A. Absolutely. And that's what the FCC
21 suggested the state commissions should consider if
22 they were concerned about the product.

23 Q. I think I understand it now. Thank you.

24 JUDGE BALLASH: Any other questions for

25 this witness?

(JENSEN - RECROSS BY HARLOW)

935

1 Thank you for your testimony, Mr. Jensen.

2 You may step down. Next witness.

3 MR. SHAW: Call Mr. Mason, please.

4 Whereupon,

5 DONALD K. MASON,

6 having been first duly sworn, was called as a

7 witness herein and was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. SHAW:

11 Q. Would you state your name and business
12 address for the record, please.

13 A. My name is Donald K. Mason, M A S O N.
14 1600 Bell Plaza, Seattle, Washington.

15 Q. Mr. Mason, you have not previously
16 testified in the direct case of the company in this
17 matter?

18 A. No, I haven't.

19 Q. Have you had prepared a series of exhibits
20 being DKM-1 rebuttal testimony?

21 A. Yes, I have.

22 Q. Consisting of 17 pages and then supporting
23 exhibits DKM-2, DKM-3, DKM-4, DKM-5 and DKM-6, DKM-7
24 and DKM-8?

25 A. Yes.

(MASON - DIRECT BY SHAW)

936

1 Q. Do you have any changes that you need to
2 make to any of those exhibits?

3 A. Not that I am aware of.

4 MR. SHAW: Your Honor, I would like to
5 assign exhibit numbers to DKM-1 through 8 at this
6 time.

7 JUDGE BALLASH: Rebuttal testimony of Don
8 Mason will be marked as Exhibit T-71 for
9 identification.

10 (Marked Exhibit No. T-71.)

11 JUDGE BALLASH: DKM-2 will be marked as
12 Exhibit 72 for identification.

13 DKM-3 will be marked as Exhibit No. 73
14 for identification.

15 DKM-4 will be marked as Exhibit 74 for
16 identification.

17 DKM-5 will be marked as Exhibit 75 for
18 identification.

19 DKM-6 will be marked as Exhibit 76 for
20 identification.

21 DKM-7 will be marked as Exhibit No. 77
22 for identification.

23 And DKM-8 will be marked as Exhibit No. 78
24 for identification.

25 (Marked Exhibit Nos. 72, 73, 74, 75, 76,

(MASON - DIRECT BY SHAW)

937

1 77, 78.)

2 MR. SHAW: Your Honor, at this time
3 pursuant to an agreement with Mr. Ludvigsen, Mr.
4 Mason's prefiled testimony addresses an issue which
5 the parties, that is US West and ETI, have reached
6 agreement on and we want to -- we move or strike a
7 portion of the Exhibit T-71 on the supposition that
8 the two parties will be successful in completing their
9 agreement. There is a very small chance that the
10 parties will not complete their agreement whereupon
11 we would have to recall Mr. Mason and have him
12 re-sponsor the testimony that we would like to strike
13 out at this time. However, we anticipate that that
14 will not be necessary.

15 Upon the completion of the settlement there
16 also will be -- ETI will be withdrawing the testimony
17 of Mr. Patterson. So, basically the testimony that at
18 this time we would like to withdraw from T-71 is on
19 page 11 starting with the answer beginning at line 23
20 through line 24 on page 12. And specifically that
21 testimony relates to a product called ACT, A C T,
22 which again we believe that the parties have reached a
23 satisfactory agreement where that no longer needs to
24 be an issue in this case.

25 So I would like to offer Exhibit T-71,

(MASON - DIRECT BY SHAW)

938

1 striking out the indicated portion at this time, as
2 well as Exhibits 72 through 78.

3 JUDGE BALLASH: How soon do you anticipate
4 completing the settlement negotiations, gentlemen?

5 MR. LUDVIGSEN: Hopefully by tonight or
6 tomorrow morning.

7 JUDGE BALLASH: So it would be at the
8 conclusion of these proceedings so we would not need
9 to reconvene if these witnesses needed to be
10 recalled.

11 MR. SHAW: That's correct. If the very
12 small possibility happens that we need to actually
13 litigate this issue before this Commission we would
14 complete the record by Wednesday.

15 JUDGE BALLASH: Any objection to the
16 admission of Exhibits T-71 and Exhibits 72 through 78?

17 MR. HARLOW: Judge, I do anticipate an
18 objection. I would like to briefly voir dire the
19 witness.

20 JUDGE BALLASH: Any objection?

21 Please proceed.

22 VOIR DIRE EXAMINATION

23 BY MR. HARLOW:

24 Q. Mr. Mason, is everything contained in

25 Exhibit T-71, does it reflect your opinions?

(MASON - VOIR DIRE BY HARLOW)

939

1 A. My opinions as opposed to company policy?

2 Q. Well, opinions or facts, in your belief?

3 A. Yes.

4 Q. And does Exhibit T-71 also reflect company
5 policy, US West policy?

6 A. Yes, as I understand it.

7 MR. HARLOW: At this time I would like to
8 have MetroNet data request 31 and US West response
9 marked as the next exhibit number.

10 JUDGE BALLASH: US West Communication
11 response to MetroNet's data request No. 31 will be
12 marked as Exhibit 79 for identification.

13 (Marked Exhibit No. 79.)

14 BY MR. HARLOW:

15 Q. Mr. Mason, can you identify this as your
16 response to MetroNet's data request No. 31?

17 A. Yes.

18 Q. Is it true as stated in there that you're
19 not an attorney?

20 A. Yes.

21 Q. Is it true that you did not know enough
22 about the specifics of MetroNet's operations to state
23 whether or not they are, "permissible under any of US
24 West tariffs or price lists?

25 A. Yes, I would believe that's true from a

(MASON - VOIR DIRE BY HARLOW)

940

1 legal standpoint.

2 Q. Would the same be true as to ETI?

3 A. Yes.

4 Q. At this time, Your Honor, I would like to
5 offer Exhibit 79 into evidence.

6 JUDGE BALLASH: Any objection?

7 Exhibit 79 will be admitted into the
8 record.

9 (Admitted Exhibit No. 79.)

10 MR. HARLOW: Concludes my voir dire
11 prepared to state my objection and motion to strike.

12 JUDGE BALLASH: Please proceed.

13 MR. HARLOW: The testimony that I seek to
14 strike is contained on page 3, lines 11 and 12 of
15 Exhibit T-71. The sentence that reads, "listings are
16 obtained via an inappropriate application of the joint
17 user server's tariff," and in addition beginning on
18 page 10 [-] the testimony starting at line 23 that
19 starts out, "the tariff specifically prohibits local
20 exchange resale," and continuing through the end of
21 that sentence on line 28 and then finally the
22 testimony beginning also on page 10, at line 31, the
23 sentence that starts out, "they do this by
24 reselling," which continues on to page 32 -- excuse

25 me, page 11 -- through the end of line 4. And the

(MASON - VOIR DIRE BY HARLOW)

941

1 basis of my motion to strike is basically as set forth
2 in US West response, "we agree that this testimony
3 constitutes a legal conclusion." The appropriateness
4 of the use of the joint user tariff is not something
5 that's within the qualifications of Mr. Mason, and
6 further Mr. Mason indicated pursuant to his response
7 to Data Request No. 31 that he does not have enough
8 information about the operations of MetroNet or ETI to
9 state if their operations are permissible and
10 therefore he himself, as reflected by this data
11 request, not indicates that he doesn't have enough
12 information to state whether they are or are not,
13 quote, joint users or, quote, rebillers. These
14 conclusions are also legal conclusions. We don't
15 think this witness has laid a proper foundation for
16 giving the testimony I indicated. It should be
17 stricken.

18 JUDGE BALLASH: Mr. Shaw.

19 MR. SHAW: Your Honor, first, in regard to
20 Exhibit 79, the question is, "does Mr. Mason believe
21 that MetroNet's business operations, as described by
22 Ms. Murray, are permissible under any of US West
23 tariff or price lists." Mr. Mason as an executive of
24 US West and a person familiar with its tariffs and

25 services does not, if you read his testimony

(MASON - VOIR DIRE BY HARLOW)

942

1 carefully, state an opinion that MetroNet's business
2 operations described by Ms. Murray or otherwise are
3 permissible in the sense of are illegal. What he does
4 state is that he believes as an executive of US West
5 that the joint user service tariff is an inappropriate
6 application for MetroNet to obtain listing on page 3.
7 He doesn't say anything about whether or not
8 MetroNet's business operations are permissible as a
9 matter of law. On page 10 on lines 22 through 28
10 simply quotes a tariff that's on file before this
11 commission by the company and states no opinion
12 whatsoever about it. He then states at the bottom of
13 page 10 and carrying over that it's his belief that
14 they are reselling the services of other carriers and
15 are not simply rebillers as claimed Ms. Murray and her
16 direct testimony, at least to some degree.

17 This Commission can take judicial notice
18 that in fact MetroNet is a registered
19 telecommunications company with this Commission.
20 Registered after expressing the views that they may
21 not be a telecommunications company and then
22 apparently agreed that they are.

23 So, the facts are that they are a
24 registered telecommunications company and they are

25 reselling the services of other carriers and nowhere

(MASON - VOIR DIRE BY HARLOW)

943

1 in Mr. Mason's testimony does he say that that is
2 illegal. Of course this has to be addressed by the
3 Commission against the background that this issue is
4 in a state of flux in this state with the Commission's
5 orders in the EDS and ETI proceedings to the effect
6 that local exchange service is a monopoly of local
7 exchange companies versus the courts deciding
8 otherwise versus the fact that the Commission has
9 appealed those court determinations arguing that in
10 fact it is under the law in the state of Washington.

11 So that is the reason why Mr. Mason was
12 very careful to never express an ultimate legal
13 opinion that the telecommunications services offered
14 by MetroNet in the state of Washington are illegal
15 services. He simply gives an opinion on the
16 applicability of a couple of the tariffs on file with
17 this Commission. So I don't think that the narrow
18 ground of the objection is well founded that Mr. Mason
19 is offering as a lay witness a legal opinion on one of
20 the ultimate issues in this case, that is, whether or
21 not MetroNet is even entitled to resell Centrex
22 service which is a local exchange service.

23 JUDGE BALLASH: Mr. Harlow.

24 MR. HARLOW: Mr. Shaw is dancing around the

25 head of a very small pin. My opinion is he's trying

(MASON - VOIR DIRE BY HARLOW)

944

1 to have it both ways. He states that the testimony
2 doesn't say it's illegal in attempting to distinguish
3 his testimony, and yet if you look at data request No.
4 31, Exhibit 79, the question didn't ask whether the
5 operations were illegal either. It said permissible,
6 which is about as close as you can get to
7 inappropriate without waving a red flag to US West as
8 to what this question was all about.

9 On page 10 at line 23, Mr. Mason proposes
10 to file testimony that says "the tariff specifically
11 prohibits local exchange resale," and then he goes on
12 to say that "MetroNet is a reseller in spite of what
13 they call themselves." So now he's saying that their
14 tariff specifically prohibits something which the
15 company has allowed MetroNet to do for a number of
16 years. It seems clear to me that the nature of this
17 testimony, thrust of it is it's giving a legal opinion
18 on interpretation of a tariff. I didn't think Mr.
19 Mason was qualified to do it when I got this
20 testimony, and when I got the response to data request
21 No. 31 it seemed clear that US West was confirming
22 that, he's not a lawyer and this testimony is not
23 appropriate and should not be allowed.

24 MR. SHAW: Your Honor, I will just point

25 out in brief response that nowhere does Mr. Mason

(MASON - VOIR DIRE BY HARLOW)

945

1 in the challenged testimony say or offer an opinion
2 that MetroNet is violating the company's tariffs.
3 That is an ultimate legal conclusion for this
4 Commission to make.

5 JUDGE BALLASH: I think we all understand
6 here that this witness is not an attorney and I
7 believe the Commission in the past has allowed
8 testimony in regarding the personal beliefs of the
9 company and/or the witness regarding certain issues.
10 On that basis the motion to strike is denied. This
11 issue obviously will be treated as to legal arguments
12 in the briefs by all of the parties.

13 MR. HARLOW: Judge, in light of your ruling
14 I would ask if -- perhaps you would like to take it
15 up later, perhaps US West might even withdraw its
16 objection, but under the circumstances I think we're
17 now entitled to an answer to data request No. 31
18 interpreted the same way as they're interpreting this
19 testimony.

20 JUDGE BALLASH: Is that something counsel
21 can work out off the record?

22 MR. HARLOW: I hope so.

23 JUDGE BALLASH: Mr. Shaw.

24 MR. SHAW: Yes. I guess it's really a kind

25 of a motion to compel an answer to a data request and

(MASON - VOIR DIRE BY HARLOW)

946

1 rather than force Mr. Harlow to do that I will be glad
2 to discuss it with him. I don't think there's any
3 problem. We can work up some sort of a stipulation
4 that -- for his use.

5 MR. HARLOW: Also, Judge, I would like to
6 offer Exhibit 79.

7 JUDGE BALLASH: I believe that's been
8 admitted.

9 Are there any other objections to Exhibits
10 T-71 and 72 through 78?

11 Those exhibits will be admitted into the
12 record.

13 (Admitted Exhibits Nos. T-71 and 72 through
14 78.)

15 CROSS-EXAMINATION

16 BY MS. BROWN:

17 Q. Mr. Mason, what products do resellers like
18 MetroNet and ETI utilize today?

19 A. US West products you're talking about?

20 Q. Yes.

21 A. CentraFlex III and Centron.

22 Q. Were these products designed to compete
23 with PBXs or something else?

24 A. They were designed to compete in the

25 general marketplace. They were not priced as

(MASON - VOIR DIRE BY HARLOW)

947

1 specifically as Centrex Plus has been priced in a
2 similar way to what PBX trunks are, for example. But
3 the answer is yes, they were.

4 Q. If US West establishes a Centrex-type
5 system in the given central office for a single
6 customer with, say, 50 lines, is the central office
7 portion more costly for US West if those lines serve
8 different locations than if they all run to the same
9 location?

10 A. I don't know. Your question was cost?

11 Q. Yes.

12 A. I don't know.

13 MS. BROWN: Thank you.

14 MR. GARLING: Nothing.

15 MR. JONES: No questions.

16

17 CROSS-EXAMINATION

18 BY MR. KOPTA:

19 Q. Afternoon, Mr. Mason. My name is Greg
20 Kopta that with Digital Direct of Seattle. I just
21 have a couple of questions. Would you turn to your
22 testimony on page 16, lines 20 through 30, in which
23 you were discussing the effect on other business lines
24 if Centrex services were no longer offered by US West.

25 Specifically on line 28 through 30 in which you say,

(MASON - CROSS BY KOPTA)

948

1 "It is my view that in the short run cost productions
2 would not change as significantly as the revenue
3 shortfall that would be experienced." On what do you
4 base that conclusion?

5 A. Well, I think what my reference there was
6 that if we did as described in DKM-7, which is to go
7 to a unified rate and eliminate Centrex, that Centrex
8 would go away as a service. US West's revenues from
9 Centrex would immediately drop. There should be over
10 time some reduction in the costs associated with
11 Centrex, for example, in the use of the loop plant,
12 that we would reuse over time but it wouldn't be
13 instantaneous as I would expect the revenue decrease
14 would be.

15 Q. Why is that? Let me ask it that way. Why
16 is it that way, that it would not be instantaneous?

17 A. It would take some time to use the,
18 typically copper, although it could be some other sort
19 of facility, in other business services. For example,
20 if the Centrex customers went to PBX trunks and
21 whatever the particular station-to-trunk ratio was
22 they would not use as many of the facilities that the
23 Centrex customer does so it would take time and growth
24 for us to reuse that plant.

25 Q. I'm assuming that the did I know

(MASON - CROSS BY KOPTA)

949

1 discontinuance of Centrex would be immediate.

2 Wouldn't there be a corresponding immediate shift of
3 customers to PBX services or a great deal of the
4 customers which switched to PBX services so there
5 would be an immediate reduction in the cost?

6 A. Well, I think my reference there was more
7 to the plant, that if there was 100 Centrex customers
8 and they put a PBX in and they put 10 trunks, they
9 would only need 10 of those facilities where we had
10 100 before, that would still leave 90 to be used for
11 other growth and it would be idle at that point in
12 time.

13 Q. In Exhibit 77, which is DKM-7, you've
14 listed the revenues for Centrex type services as of
15 September 1, 1992; is that correct?

16 A. Yes. I'm not sure it's September 1. I
17 believe it's September 1992.

18 Q. Is that under the previous Centrex filings
19 for Centrex?

20 A. Yes. That's all of the existing Centrex
21 service. They are some Centrex services, Centrex III
22 and Centron.

23 Q. Would that figure change at all using the
24 Centrex Plus filing that we're dealing with in this

25 proceeding?

(MASON - CROSS BY KOPTA)

950

1 A. If all existing customers converted to
2 Centrex Plus, it would change.

3 Q. Would it be higher or lower?

4 A. I don't know. It's possible Mr. Jensen has
5 answered that question. In my analysis the answer is
6 it depends on the customer and their situation.

7 Q. In looking back at your testimony you
8 anticipate an increase of \$10.27 per line,
9 that's on lines 25 through 26 on page 16 of your
10 testimony. Does that take into consideration all
11 business lines?

12 A. Yes. All nonCentrex business lines.

13 Q. So all lines and services other than
14 residential services would increase by \$10.27
15 according to your figures.

16 A. Yes.

17 Q. Thank you. I have no further questions.

18 JUDGE BALLASH: Mr. Harlow.

19

20 CROSS-EXAMINATION

21 BY MR. HARLOW:

22 Q. Mr. Mason, did you participate in
23 formulating US West data request to MetroNet?

24 A. Are you referring to a specific one or in

25 general?

(MASON - CROSS BY HARLOW)

951

1 Q. In general.

2 A. Yes.

3 Q. Were they prepared at your direction?

4 A. Yes.

5 Q. Did you review MetroNet's responses to
6 those data requests to assist you in formulating your
7 rebuttal testimony in this case?

8 A. No, I have not seen them.

9 Q. Do you have that information, that data,
10 available to you?

11 A. No, my attorney wouldn't share it with me.
12 You're talking about MetroNet's data requests, what we
13 asked of MetroNet and the responses?

14 Q. Yes.

15 A. My attorney would not share that with me.

16 Q. Did you ask your attorney to share that
17 data with you?

18 A. We had a discussion about it. I don't know
19 that I specifically asked to have it shared but he
20 told me it was proprietary.

21 Q. Did you have access to the nonproprietary
22 data requests of MetroNet, the data request responses
23 of MetroNet?

24 A. I have not seen any of the responses of

25 MetroNet.

(MASON - CROSS BY HARLOW)

952

1 Q. I'm sorry, but I asked you if you had the
2 data available to you in response, the nonproprietary
3 data available to you in response to US West data
4 requests to MetroNet.

5 A. I think I'm confused. Are you talking
6 about our responses to your data requests or your
7 responses to our data requests?

8 Q. I'm talking about MetroNet's nonproprietary
9 responses to US West data requests.

10 A. All right. And your question is have I
11 seen them?

12 Q. No. I understood you to say you have not.

13 A. I have not.

14 Q. My question was did you have the
15 nonproprietary responses available for your review?

16 A. I still don't understand the question.

17 Q. Could you have asked for them if you needed
18 them to prepare your rebuttal testimony?

19 A. Well, based on my discussion with Mr. Shaw
20 my assumption was that all the responses you provided
21 were proprietary and I therefore did not see any of
22 them.

23 Q. But you did not confirm that in preparing
24 your rebuttal testimony?

25 A. Only in brief conversation with Mr. Shaw.

(MASON - CROSS BY HARLOW)

953

1 I did not use any of it. I did not have access to it.

2 Q. You were aware from the preparation of the
3 data requests themselves what data should have been
4 available in response to those data requests?

5 A. Yes.

6 Q. I take it you haven't signed an Exhibit B
7 to the protective order in this case?

8 A. I did not.

9 Q. Did you ask to sign a protective order
10 agreement?

11 A. No, I didn't.

12 Q. Do you have any reason to believe that
13 anyone would have objected to that data -- excuse
14 me -- objected to you serving as an expert under the
15 protective order on behalf of US West in this case?

16 A. I don't think so, but I'm not sure.

17 Q. Did you assist US West in preparing US
18 West's responses to MetroNet's data requests?

19 A. Yes.

20 Q. And so you're familiar with those data
21 responses?

22 A. Yes, I am.

23 Q. Do you consider yourself to be a policy
24 witness in this proceeding?

25 A. Policy on resale in general, yes.

(MASON - CROSS BY HARLOW)

954

1 Q. I take it from reviewing your
2 qualifications you're not an economist by training or
3 experience?

4 A. No, thank goodness.

5 Q. I see insulted people in the room?

6 A. No offense to Dr. Cornell.

7 Q. So in challenging Ms. Murray's testimony
8 you're not basing your testimony on -- excuse me, you
9 are basing your testimony on your estimation of the
10 revenue effect on US West as opposed to whether or not
11 Ms. Murray's testimony is based on sound economic
12 principles; is that correct?

13 A. That is correct. My experience in the
14 general marketplace but not economics.

15 Q. Directing your attention to page 13 of your
16 testimony, lines 29 to 30. You testified that the
17 recommendations in Ms. Murray's testimony are only
18 designed to increase reseller profitability. I take
19 it from your prior answer because your testimony was
20 not based on economics that your statement has not
21 included possible benefits from an economic policy
22 standpoint; is that correct?

23 A. That is correct.

24 Q. Directing your attention to page 14, line

25 17. At that portion of your testimony you refer to,

(MASON - CROSS BY HARLOW)

955

1 "improperly designed" Centrex services. Are you
2 saying there that Centron and Centraflex III were
3 improperly designed?

4 A. Yes, to the extent that there creates quite
5 an arbitrage situation with simple business service.
6 I would call that as improperly designed.

7 Q. To put it another way, you believe they're
8 improperly designed because they facilitate what I
9 call rebillers, what you call resellers aggregating
10 users into a single Centrex system?

11 A. It's not the aggregation per se. It's the
12 level of the pricing that we have on them.

13 Q. In other words, it's the loss, what you
14 perceive as a loss, of revenue to US West, is your
15 reason for calling those services improperly designed?

16 A. Correct.

17 Q. Is it your testimony that it was not the
18 intent of US West in making this Centraflex III and
19 Centron offerings to permit that to take place?

20 A. I quite frankly don't think that US West
21 realized what they were doing when they put those
22 services in place.

23 Q. So the answer to my question would be yes?

24 A. You said permit. I don't think they

25 considered it. So it wasn't a question of was it to

(MASON - CROSS BY HARLOW)

956

1 permit or not. They didn't think about it.

2 Q. Do you think that any time customers use a
3 service in a way that was not expected or anticipated
4 by US West that US West should be able to modify or
5 restrict the service somehow to reduce the ability of
6 customers to engage in that unintended or
7 unanticipated use?

8 A. Well, I think if US West feels that there
9 is an inappropriate usage that they should have the
10 ability to come back and modify, and these are
11 approved by the Commission and any modification would
12 be required to be approved by the Commission also.

13 Q. So I assume with those qualifications it's
14 a qualified yes?

15 A. Yes.

16 Q. Do you believe that MetroNet has probably
17 made investments in its business on the expectation by
18 MetroNet that US West would continue to offer
19 Centraflex III and Centron services?

20 A. I have no firsthand knowledge but I assume
21 they have some investment.

22 Q. Do you think it's appropriate for this
23 Commission to consider the fact that current customers
24 of a service that has been offered for a long time

25 might have come to rely on that offering when US West

(MASON - CROSS BY HARLOW)

957

1 -- when they're considering whether or not to allow US
2 West to withdraw or significantly modify the offering?

3 A. Could you repeat the first part of the
4 question?

5 Q. Do you think it's appropriate for this
6 Commission to consider the fact that current customers
7 of the service may have come to rely on that service
8 in their business, would be appropriate for the
9 Commission to consider that if the company comes in
10 and proposes a significant restructuring or
11 curtailment?

12 MR. SHAW: Objection to the form of the
13 question in that it does not specify -- uses the word
14 customer, refer to a customer like MetroNet, what we
15 perceive to be a telecommunications company in the
16 reseller business or an end user business like a law
17 firm or whatever.

18 JUDGE BALLASH: Can you be more precise?

19 MR. HARLOW: I don't think there's any
20 distinction, and I don't make any distinction in my
21 question. I think the witness should be able to
22 answer it in general, as broad of terms as can be
23 construed.

24 JUDGE BALLASH: I will allow the question.

25 A. The answer to the question is yes, I think

(MASON - CROSS BY HARLOW)

958

1 they should consider that in the overall context of
2 all the pros and cons and try to make a determination
3 as to whether Centrex resale is in the public
4 interest.

5 JUDGE BALLASH: Mr. Harlow, would this be a
6 good time to take our afternoon break.

7 (Recess.)

8 JUDGE BALLASH: Let's be back on the record
9 after our afternoon break. Mr. Harlow.

10 BY MR. HARLOW:

11 Q. Now I will hand you what I was about to
12 hand you.

13 MR. HARLOW: I will just state for the
14 record this is a response and amended response of
15 MetroNet to US West data request No. 2.

16 Q. Would you accept subject to check since
17 this is not marked confidential that this is one of
18 the data request responses to MetroNet you had
19 available to you at the time you prepared your
20 testimony?

21 A. Accept subject to check.

22 Q. Data request seeks data regarding what,
23 quote, telecommunications advanced features Ms. Murray
24 was referring to in your testimony regarding the

25 features that MetroNet makes available to small

(MASON - CROSS BY HARLOW)

959

1 businesses?

2 A. Yes, it does.

3 Q. In the second sentence of the responses
4 seven features are identified by name.

5 A. Is this on page 2?

6 Q. Second sentence of the first response,
7 page 1.

8 A. Yes.

9 Q. And on the second page --

10 COMMISSION PARDINI: Is this proprietary
11 information? That was the testimony that Mr. Mason
12 gave. He did not look at it because it was
13 proprietary.

14 MR. HARLOW: This is not proprietary,
15 Commissioner.

16 COMMISSION PARDINI: Okay. Just checking.
17 I don't understand what's going on here.

18 MR. HARLOW: I will tie it in quite
19 clearly.

20 Q. On the second page of that response six
21 additional features supplied by MetroNet are
22 identified by name.

23 A. I see six. I'm not sure there are
24 additional but that's subject to check.

25 Q. Directing your attention to your testimony

(MASON - CROSS BY HARLOW)

960

1 at page 7, line 21 in that answer you stated,
2 "although it is not totally clear to me what
3 `sophisticated service' are being referred to," and
4 that answer refers to testimony by both Mr. Bier and
5 Ms. Murray. Do you see that?

6 A. Yes, I do.

7 Q. Apparently at the time you prepared that
8 testimony, however, you had available to you through
9 data request response No. 2 a specific identification
10 by name of all the advanced features MetroNet provides
11 to its customers?

12 A. Is that a question?

13 Q. Yes.

14 A. I have this list, yes.

15 Q. And that would have been available to you
16 at the time you prepared your testimony had you asked
17 for it; is that correct?

18 A. Apparently so.

19 Q. Directing your attention to page 3 -- you
20 may keep that or discard that, if you like.

21 A. I don't consider these sophisticated
22 features if that's your question.

23 Q. There's no question pending.

24 MR. HARLOW: I move to have that remark

25 stricken.

(MASON - CROSS BY HARLOW)

961

1 JUDGE BALLASH: That remark will be
2 stricken from the record.

3 Q. Directing your attention to page 3, lines
4 10 through 11. Do you see there where you refer to
5 the "inappropriate application of the joint user
6 service tariff"?

7 A. Yes, I do.

8 Q. Are you saying that the joint user service
9 tariff does not really apply to MetroNet services?

10 A. I am saying that as written that tariff is
11 not designed for the services as MetroNet is using
12 them.

13 Q. So you believe it would be inapplicable
14 then?

15 A. We are applying it simply because within
16 the various tariffs it's the only thing today that
17 comes close to fitting the case, but the specific
18 words, as you pointed out earlier, have some specific
19 provisions that prohibit resale.

20 Q. So apparently because it comes close enough
21 you do consider it appropriate then?

22 A. Under the current circumstances we are
23 applying it.

24 Q. Well, what's the difference, please,

25 between appropriate and applicable?

(MASON - CROSS BY HARLOW)

962

1 A. Well, it's not designed to be used as
2 MetroNet is using it but we are using it since so far
3 no one has determined that there's anything else that
4 should replace it.

5 Q. So apparently, then, there's been a
6 practical decision that it is appropriate; is that
7 correct?

8 A. I wouldn't say -- I still think it's
9 inappropriate as the service is designed; we are
10 applying it.

11 Q. Maybe Mr. Ludvigsen can clarify that for
12 me.

13 Mr. Mason, I will move on. I would like to
14 know how you define resale as you use it in your
15 testimony and as it applies to Centrex-type services.

16 A. I am simply using it to mean where a third
17 party purchases the service from US West and in turn
18 resells it to another end user who could purchase the
19 service directly from US West.

20 Q. Well, that sort of begs the question, I
21 guess, what do you mean by purchasing?

22 A. Is the customer of record.

23 Q. So in any situation where the customer of
24 record isn't actually using the service and somebody

25 else is and is paying the customer of record who in

(MASON - CROSS BY HARLOW)

963

1 turn pays US West that would be something you would
2 consider resale?

3 A. I think in general, yes.

4 Q. Do you consider shared tenant service
5 providers who use Centrex services to be resellers of
6 Centrex services?

7 A. Yes -- wait. The end of your question
8 again, who use --

9 Q. I will repeat the whole thing. Do you
10 consider shared tenant service providers who use
11 Centrex-type services to be resellers of Centrex
12 services?

13 A. My reading of the Washington tariffs
14 designed shared tenant service as being PBX resale.
15 There's no statement, as I read that schedule, that
16 talks about Centrex resale, as it applies to shared
17 tenant.

18 Q. What tariff are you referring to?

19 A. 14, 15, 16 or 17. I should say it's
20 schedule. I've got it here. Schedule 17.

21 Q. WNU 24?

22 A. Yes.

23 Q. What's the name of that schedule?

24 A. Shared Telecommunications Services.

25 MR. HARLOW: Bear with me, Judge, it's in

(MASON - CROSS BY HARLOW)

964

1 here somewhere. I will move on for a minute while
2 someone attempts to find that for me.

3 Do shared tenant service providers pay the
4 joint user service fee?

5 A. No, they don't.

6 Q. What kind of listings do they use?

7 A. I believe it's called a secretarial
8 listing. That's on page 3 of that schedule, in
9 secretarial listings, apply for additional directory
10 listings.

11 Q. And I assume you have the monthly charge
12 for that?

13 A. I don't. It can be found in schedule 63
14 directory listings, though.

15 Q. Would you accept subject to check that the
16 secretarial listing customer is charged \$2.50 per
17 month for each additional listing?

18 A. That sounds about what I would expect it to
19 be.

20 Q. Now, customers of rebillers also need
21 separate listings for each of their end user
22 customers; isn't that correct?

23 A. Yes.

24 Q. And I believe based on your earlier

25 testimony they're being charged under a different

(MASON - CROSS BY HARLOW)

965

1 tariff called a joint user service tariff; is that
2 correct?

3 A. That is correct.

4 Q. And according to the exhibits in your
5 testimony they're being charged at the rate of \$18.75
6 per month for each additional listing; is that
7 correct?

8 A. That is correct.

9 Q. Directing your attention to page 8 of your
10 testimony, lines 28 to 29. You refer to resellers
11 aggregation of "geographically dispersed" customers.

12 A. Yes.

13 Q. And again at page 14, line 17 to 19 you
14 state that US West views resale of its improperly
15 designed Centrex services to, again that term,
16 geographically dispersed customers as simply price
17 arbitrage? That term comes up again, geographically
18 dispersed. Is it US West's position that making
19 Centrex services readily available to geographically
20 dispersed customers is not in the public interest?

21 A. No.

22 Q. What would your position on making
23 Centrex-type services readily available to
24 geographically dispersed customers be?

25 A. Under the proper circumstances US West

(MASON - CROSS BY HARLOW)

966

1 would not object to providing -- to having Centrex
2 resale services resold and there are several
3 conditions under which that would apply. One, it
4 needs to be legal in the state to have Centrex resale.
5 That would be the first condition.

6 The second would be that Centrex Plus is
7 the serving vehicle, not Centron or CentraFlex III or
8 Centrex. And the third would be that there is a
9 recognition relative to the revenue loss or
10 contribution loss that US West incurs and that some
11 pricing mechanism be put in place that would recognize
12 that. It could either be a premium on a NAR, joint
13 user tariff, if appropriately applied and recognized,
14 as that could be a partial revenue offset also.

15 Q. So I take it since Centrex Plus is
16 considered to be a central prerequisite this is a new
17 policy of US West?

18 A. US West general policy, although as
19 recognized by some of the parties, has been in a state
20 of flux, but currently the policy as I stated is what
21 it is.

22 Q. What was the policy in 1985 and 1986?

23 A. I don't believe US West had a policy at
24 that point. As I pointed out before, when CentraFlex

25 III was designed I don't think there was a recognition

(MASON - CROSS BY HARLOW)

967

1 that CentraFlex resale could occur or Centrex resale.

2 Q. So clearly there wouldn't have been a
3 policy against resale in '85 and '86?

4 A. No.

5 Q. You stated that the first condition, as you
6 understood it, would be that resale must be legal in
7 this state. Do you have any understanding as to
8 whether or not resale of Centrex services, as you
9 defined resale, is considered legal in the state of
10 Washington?

11 A. Well, I'm not aware of any specific
12 decision the Commission has made relative to that.
13 The discussion relative to the ELI case certainly has
14 raised some issues about the general applicability of
15 intraexchange resale and whether that's in the public
16 interest.

17 Q. I assume the company wouldn't allow resale
18 if it felt that it was illegal; isn't that correct?

19 A. If we felt it was illegal?

20 Q. Yes.

21 A. We sometimes have a hard time figuring out
22 ourselves what's legal and illegal, as you've already
23 pointed out based on some of our tariffs.

24 Q. Is it US West policy to attempt to try to

25 follow the public service laws in each of the states

(MASON - CROSS BY HARLOW)

968

1 in which it operates?

2 A. Yes, it is.

3 Q. While you were the director of distributor
4 of marketing did you know a gentleman by the name of
5 Mr. John Schenk?

6 A. Yes, I did.

7 Q. What was his position?

8 A. He was a manager in my group who was
9 specifically responsible for developing the shared
10 tenant services market.

11 Q. So he reported directly or indirectly to
12 you?

13 A. Yes, he did.

14 MR. HARLOW: Judge, this document I would
15 like to have made an exhibit and numbered in this
16 record.

17 JUDGE BALLASH: I've been handed a two-page
18 document which is entitled US West Communications
19 Response to MetroNet's Data Request No. 20. That
20 document will be marked as Exhibit No. 80 for
21 identification.

22 (Marked Exhibit No. 80.)

23 Q. Would you accept subject to check that this
24 is a US West response to the 20th data request of

25 MetroNet in this proceeding?

(MASON - CROSS BY HARLOW)

969

1 A. I would.

2 Q. And this would be, again, a data request
3 response that would have been available -- one of the
4 data request responses that you would have
5 participated in preparing?

6 A. That is correct.

7 Q. Directing your attention while you have
8 that exhibit in front of you to page 5 of your
9 testimony, lines 14 to 15. You stated that "US West
10 has never endorsed Centrex resale." Did you take this
11 document into account in filing that testimony?

12 A. Yes, I did.

13 MR. HARLOW: Your Honor, at this time I
14 offer Exhibit 80.

15 JUDGE BALLASH: Any objection to the
16 admission of Exhibit No. 80?

17 Exhibit 80 will be admitted into the
18 record.

19 (Admitted Exhibit No. 80.)

20 MR. HARLOW: I would like this to be
21 numbered as the next exhibit in order.

22 JUDGE BALLASH: I've been handed another
23 data request from US West, a response to a MetroNet
24 data request No. 21. That document will be marked as

25 Exhibit No. 81 for identification.

(MASON - CROSS BY HARLOW)

970

1 (Marked Exhibit No. 81.)

2 Q. Do you have Exhibit 81 in front of you,
3 Mr. Mason?

4 A. Yes, I do.

5 Q. Is this a data request response to
6 MetroNet's data request No. 21 that would have been
7 prepared under your direction, supervision?

8 A. Yes, it is.

9 MR. HARLOW: Judge, I would offer Exhibit
10 81 into evidence.

11 JUDGE BALLASH: Any objection?

12 MR. SHAW: No.

13 JUDGE BALLASH: Exhibit 81 will be admitted
14 into the record.

15 (Admitted Exhibit No. 81.)

16 MR. HARLOW: Just to make sure our forests
17 make their sacrifice, I have another exhibit.

18 COMMISSIONER CASAD: How many more do you
19 have?

20 MR. HARLOW: Maybe about two or three.

21 COMMISSIONER CASAD: Maybe pass them out at
22 the same time and then you wouldn't have to get up and
23 down.

24 MR. HARLOW: I need the exercise. Actually

25 I do have a line of questions on these.

(MASON - CROSS BY HARLOW)

971

1 JUDGE BALLASH: Next document is MetroNet's
2 data request No. 22 to US West and response. That
3 document will be marked as Exhibit No. 81 for
4 identification -- excuse me -- 82 for identification.

5 (Marked Exhibit No. 82.)

6 Q. Mr. Mason, do you have Exhibit 82 in front
7 of you?

8 A. Yes, I do.

9 Q. Was this response to MetroNet's data
10 request No. 22 prepared under your direction and
11 supervision?

12 A. Yes, it was.

13 Q. Will you accept subject to check that the
14 original of the attachment to this was a full color
15 brochure that was printed on heavy duty glossy paper?

16 A. I will.

17 Q. On the last page of this, at the bottom
18 right-hand corner, it says 9-85. Is this when this
19 brochure was prepared and distributed?

20 A. I assume it was prepared at that time.

21 Q. Do you know which service this brochure was
22 referred to?

23 A. I believe it talks about tenant shared
24 services and I assume Centrex or whatever our service

25 was at that time.

(MASON - CROSS BY HARLOW)

972

1 Q. Is it possible this would refer to
2 CentraFlex III service?

3 A. I'm not sure when we introduced CentraFlex
4 III. I was thinking it was a little after this but it
5 could be.

6 Q. Will you accept subject to check that this
7 brochure refers to CentraFlex III?

8 A. Subject to check.

9 Q. Okay. If you can't accept that, will you
10 accept -- if you have to come back and say that's not
11 correct, will you accept subject to check that
12 CentraFlex III was available as of September of 1985?

13 A. I will accept subject to check.

14 Q. I take it this brochure was directed at
15 building owners or others to get them to subscribe
16 to the particular Centrex type service to share with
17 or resell to their tenants?

18 A. I believe that's true.

19 Q. Is it likely that the tenant would have
20 been unrelated businesses except to the extent that
21 they shared the same landlord?

22 A. Yes.

23 Q. On the third page in the right-hand column
24 there's a heading that says "tailored to fit your

25 properties"?

(MASON - CROSS BY HARLOW)

973

1 A. Okay.

2 Q. Do you see that?

3 A. Yes, I do.

4 Q. Please look at the third paragraph, where
5 it states, "Multiple properties can be tied to the
6 same system. So no matter how many buildings you have
7 or how many locations you have you only have to manage
8 one telecommunications system." Do you see that?

9 A. Yes, I do.

10 Q. Doesn't this in effect refer to
11 geographically dispersed locations?

12 A. Geographically dispersed shared tenant
13 locations, I would assume, and by shared tenant I mean
14 high-rise building.

15 Q. Excuse me, are you saying you mean
16 geographically dispersed vertically as opposed to
17 horizontally?

18 A. I am saying I think what this applies to is
19 taking several shared tenant systems, which, again, by
20 my reading of the tariff, implies single building and
21 tying them together as opposed to geographically
22 dispersed independent customers.

23 Q. So your testimony would be that multiple
24 properties means multiple properties in a single

25 building?

(MASON - CROSS BY HARLOW)

974

1 A. No, multiple buildings but each of those
2 considered being a shared tenant.

3 Q. It would be your testimony that it was not
4 the intention in using the phrase "multiple properties
5 can be tied to the same system" to reflect that
6 geographically dispersed properties could be tied
7 together in a single system?

8 A. Geographically dispersed properties as
9 opposed to geographically dispersed customers.

10 Q. I am directing your attention to the
11 heading under Tailored To Fit Your Properties, it says
12 "and multiple properties can be tied to the same
13 system." Trying to clarify whether it's your
14 testimony that that was intended to refer only to a
15 single building being on a single system?

16 A. No. It could mean multiple buildings being
17 on a single system, multiple shared tenant buildings.

18 Q. And those buildings, I take it, could be
19 separated by a public thoroughfare or highway?

20 A. Could be.

21 Q. Apparently at the time of this brochure US
22 West did in fact promote the resale of this particular
23 Centrex service to unrelated geographically dispersed
24 customers?

25 A. That's not what that statement says in my

(MASON - CROSS BY HARLOW)

975

1 interpretation.

2 Q. Would you agree that this brochure supports
3 that statement?

4 A. It promotes the usage of resale Centrex in
5 competition with PBXs within shared tenant buildings.
6 That's how I interpret that sentence.

7 MR. HARLOW: This will be our next exhibit.

8 JUDGE BALLASH: Did you wish to move the
9 admission of the exhibit?

10 MR. HARLOW: I will move all four or I
11 guess I have done a few. Whichever ones I haven't
12 done I will do in a minute.

13 JUDGE BALLASH: Been handed another
14 multi-page document which is US West response to
15 MetroNet's data request No. 23. That document will be
16 marked as Exhibit No. 83 for identification.

17 (Marked Exhibit No. 83.)

18 Q. Mr. Mason, I take it you have in front of
19 you Exhibit 83?

20 A. I do.

21 Q. And is this one of US West's data request
22 responses to MetroNet's data request No. 23 prepared
23 under your direction and supervision?

24 A. Yes, it is.

25 MR. HARLOW: I move the admission of 82 and
(MASON - CROSS BY HARLOW) 976

1 83. I believe that takes care of the ones that
2 haven't yet been admitted.

3 JUDGE BALLASH: Any objection?

4 Exhibits 82 and 83 will be admitted into
5 the record.

6 (Admitted Exhibits Nos. 82 and 83.)

7 Q. Directing your attention now to page 3 of
8 your prefiled testimony.

9 JUDGE BALLASH: Mr. Harlow, is there a date
10 associated with the attachment to Exhibit 83?

11 MR. HARLOW: If there's not one on the
12 exhibit I am not aware that there's anything of record
13 that would establish the date. My client can probably
14 tell me, but I assume that would be -- you would
15 prefer not to do that.

16 JUDGE BALLASH: Does the witness know by
17 any chance?

18 THE WITNESS: I believe it's in the same
19 time frame as 82, the one before it, but these were a
20 little bit prior to my time or right about the time I
21 came in.

22 Q. On line 9, on page 3 refer to "economies of
23 scale." Do you see that?

24 A. Page 3 which line again?

25 Q. Page 3, line 9.

(MASON - CROSS BY HARLOW)

977

1 A. Yes.

2 Q. Do you believe that there are economies of
3 scale to US West in offering Centrex-type services?

4 A. Are you talking from a cost standpoint?

5 Q. Yes. And I assume that was the thrust of
6 your testimony.

7 A. Well, the thrust of the testimony had to do
8 with pricing.

9 Q. Well, let's shift the focus then and ask
10 you with regard to cost standpoint.

11 A. I haven't reviewed the costs in this
12 particular docket and what I've seen have not or what
13 I am aware of have not particularly produced any
14 economies of scale relative to loops in particular.

15 Q. Again, on page 3, but moving up to lines 5
16 to 7 you assert that "despite claims presented by
17 resellers that they provide a variety of value added
18 services, it appears that the primary value these
19 resellers add is discounted basic exchange access."
20 In reaching this conclusion did you take into account
21 MetroNet's response to a US West data request
22 regarding the number of times MetroNet had assisted
23 customers with "emergency outages"?

24 A. That was MetroNet's request of US West?

25 Q. US West data request to MetroNet which I

(MASON - CROSS BY HARLOW)

978

1 understood you helped draft.

2 A. I did not because I didn't see the answer.

3 JUDGE BALLASH: I've been handed a two-page

4 document. At the bottom it states "Responses of

5 MetroNet to US West Data Requests." This document

6 will be marked No. 84 for identification.

7 (Marked Exhibit No. 84.)

8 Q. Do you have in front of you Exhibit No. 84?

9 A. I do.

10 Q. And in part of the response to subsection A

11 it indicates that "there were 749 assists by

12 MetroNet's customer service representatives to clients

13 with a quote 'emergency' outages"; is that correct?

14 A. Yes, that's what it states.

15 MR. HARLOW: Your Honor, we offer Exhibit

16 84.

17 MR. SHAW: I am going to object, Your

18 Honor. MetroNet has not seen fit to put any of its

19 managers on the stand in this case. We ask this data

20 request -- this is MetroNet's unsworn, unsupported

21 answer. Now MetroNet is trying to offer a response to

22 our data request for the truth of it. There's no way

23 for the company to cross-examine or check this

24 evidence. Just inappropriate to put in MetroNet's

25 specific testimony through Mr. Mason. Mr. Mason has

(MASON - CROSS BY HARLOW)

979

1 no way to vouch for the correctness of data responses
2 of MetroNet.

3 JUDGE BALLASH: Mr. Harlow.

4 MR. HARLOW: Ask one more foundational
5 question before we take up Mr. Shaw's objection.

6 JUDGE BALLASH: Yes.

7 Q. Do you have any reason to doubt the
8 veracity of this response of MetroNet to the data
9 request that you drafted?

10 A. I have no way to judge the response.

11 Q. So the answer would be no?

12 A. No.

13 MR. HARLOW: I don't know if Mr. Shaw wants
14 to add to his objection before I respond.

15 MR. SHAW: Same objection. It's
16 inappropriate. It's not proper cross-examination.

17 MR. HARLOW: I think the objection of
18 Mr. Shaw clearly goes to the weight rather than the
19 admissibility. Mr. Mason has testified that he thinks
20 the primary value that MetroNet offers to its
21 customers is one thing. He then, according to his
22 testimony, prepares data requests seeking to find out
23 what kinds of assistance MetroNet provides to the
24 customers other than what he believes to be the

25 benefit, words "assistance with emergency outages."

(MASON - CROSS BY HARLOW)

980

1 Then according to his testimony after he drafts that
2 data request he basically ignores it in preparing his
3 testimony. So this data request clearly goes to the
4 credibility of Mr. Mason's testimony. In giving that
5 testimony he's disregarded data that's been available
6 to him that he has no reason to doubt. So I think it
7 should be admissible for purposes of impeachment.

8 MR. SHAW: Your Honor, Mr. Mason nowhere in
9 his testimony in the foundation of this exhibit has
10 said anything about the subject matter of this data
11 request. There's no testimony to impeach.

12 JUDGE BALLASH: Can you respond to that,
13 Mr. Harlow?

14 MR. HARLOW: Well, again, Mr. Mason stated
15 that "despite claims presented by resellers that they
16 provide a variety of value-added services," it is the
17 primary value and then he goes on to give his opinion.

18 JUDGE BALLASH: What page are you on?

19 MR. HARLOW: Page 3, starting on line 5 of
20 Exhibit 71, T-71. So he's basically disregarding a
21 claim and he's entitled to that opinion, but on the
22 other hand, I think the Commission is entitled to see
23 what data he has ignored or disregarded in coming to
24 that conclusion. It goes to his credibility.

25

JUDGE BALLASH: While this testimony or

(MASON - CROSS BY HARLOW)

981

1 this evidence may be relevant in respect to rebutting
2 this witness' testimony, if you wish to rebut his
3 testimony it would have been appropriate to do this
4 through a MetroNet witness. I do not think it is
5 appropriate to introduce this through this witness.
6 On that basis the objection is sustained.

7 Q. Mr. Mason, will you accept subject to check
8 that in response to MetroNet's data request No. 26
9 regarding your testimony on page 7 about US West
10 communications and consulting centers for CCC's that
11 serve small business accounts with four or more lines,
12 that the average number of accounts assigned to each
13 manager is 1250?

14 A. That sounds about right.

15 Q. Mr. Mason, have you ever worked for an
16 entity that you deemed a reseller?

17 A. No.

18 Q. Have you ever worked for a rebiller?

19 A. No.

20 Q. Have you ever examined a profit and loss
21 statement of a reseller or rebiller?

22 A. No.

23 Q. Would you be able to quantify a reseller's
24 costs for such items as customer assistance,

25 administration, billing, collection or bad debt?

(MASON - CROSS BY HARLOW)

982

1 A. No.

2 Q. Do you have any personal knowledge of what
3 MetroNet's operating profits were, say, last year?

4 A. No.

5 Q. Mr. Mason, you seem critical of the resale
6 of Centrex-type services. Is that a fair statement?

7 A. I think that's a fair statement.

8 Q. Do you believe the Centrex Plus proposal is
9 designed in a way that will curtail the problems that
10 you see occurring currently with Centrex resale?

11 A. Referring to my earlier answer I think it's
12 a step in the right direction. There are some other
13 items in terms of pricing I would like to see done.

14 Q. Was this one of the goals in redesigning
15 the Centrex Plus product to eliminate the problems you
16 perceive with regard to resale?

17 A. I think there was an effort to reduce
18 arbitrage with 1FB's.

19 Q. Just so there's no mistake about it, you
20 considered what MetroNet does to fit within this, quote,
21 arbitrage category?

22 A. Yes, I do.

23 Q. Directing your attention next to page 14 of
24 your testimony, lines 22 through 26. Just generally

25 referring to it, there's a figure in there that you

(MASON - CROSS BY HARLOW)

983

1 believe to be the amount of revenue that US West is
2 losing as a result of resale; is that correct?

3 A. That's correct.

4 Q. Is my assumption correct that that figure
5 does not take into account any possible stimulation of
6 demand for lines as a result of the lower rates
7 available to CentraFlex III and Centron joint users?

8 A. It is a simple subtraction of our average
9 1FB rate from CentraFlex III rates.

10 Q. So in other words it doesn't take into
11 account the possibility that joint users of CentraFlex
12 III and Centron might order more lines than they would
13 if they were 1FB customers?

14 A. No. It's a simple rate differential
15 between the two services.

16 Q. Would you agree that there might even be a
17 stimulation of demand as a result of those lower
18 rates?

19 A. CentraFlex III and Centron, that's
20 possible.

21 Q. In response to MetroNet's data request No.
22 19 to US West, US West responded that it is
23 appropriate to assume the same number of trunks and
24 NAFs to serve a customer with either a PBX or a

25 Centrex. Do you recall that?

(MASON - CROSS BY HARLOW)

984

1 A. I don't recall that, although I may have
2 provided -- I agree with the answer. I'm not sure I
3 provided a specific one.

4 Q. Is it also appropriate to assume that the
5 number of NAFs would be less than the number of
6 station lines or I guess NACs is the other --

7 A. Or equal to. Would not be greater than.

8 Q. Would it be appropriate, without the
9 qualification of were equal to, would it be
10 appropriate to assume that the number of NAFs would be
11 less than the number of NACs?

12 A. It is unless you choose the 100 percent
13 nonblocking operation.

14 Q. Would it also be appropriate to assume that
15 a PBX customer would have fewer trunks than stations?

16 A. Yes.

17 Q. Would it also be appropriate to assume that
18 a key system customer would have fewer 1FB lines than
19 stations?

20 A. Well, yes. The qualification I was
21 thinking of it's not necessarily a 1FB and given
22 Washington structure it could be a complex line.

23 Q. And is that a 1FL?

24 A. You know, I don't know the USOC.

25 Q. In Exhibit No. 72 which is DKM-2 to your
(MASON - CROSS BY HARLOW)

985

1 testimony, you assume that the 25 line Centrex resale
2 customer would still order five lines each if they
3 were direct customers of US West; is that correct?

4 A. That is correct.

5 Q. Isn't it possible that they might well
6 decide to drop to four lines, given that the fifth
7 line will cost them about \$100 more than four lines
8 because they would be rated as complex lines?

9 A. That's possible.

10 Q. What is the monthly rate per line for
11 simple business lines for a customer in Seattle?

12 A. 28.20 I believe.

13 Q. And the rate per line for the same customer
14 with five or more lines would be?

15 A. 42.10.

16 Q. Thank you for finishing my question.

17 A. I'm sorry.

18 Q. As long as we get it in the record.
19 The rate for hunting is the same regardless of the
20 number of lines; isn't that correct?

21 A. Yes.

22 Q. And the average feature rate as used in
23 Exhibit 72 would also be the same no matter the number
24 of lines, for purposes of your illustration?

25 A. Within a reasonable range. I believe I did

(MASON - CROSS BY HARLOW)

986

1 this for a small business customer. I would actually
2 expect the feature revenue for larger customers to be
3 smaller because they would often provide that by their
4 own switch.

5 Q. But calculated on the basis of your DKM-2,
6 Exhibit 72, would be the same?

7 A. Yes.

8 Q. Number of lines doesn't change the number;
9 is that correct?

10 A. As I say, within reason. Reasonable close
11 proximity of five lines. I wouldn't want to say that
12 for 20 lines that that would be the case.

13 Q. Isn't it true that there's almost never a
14 need for hunting on the last line in a group?

15 A. Depends. I'm not familiar with
16 Washington's tariffs. In some places we charge for
17 that anyway, regardless, but the answer is depends on
18 the type of hunting is the answer.

19 Q. Well, don't most customers order hunting
20 where once it gets to the last number in a group, if
21 that number is tied up it doesn't need to further
22 hunt?

23 A. I don't know that.

24 Q. At page 14 of your testimony, in particular

25 I would ask you to focus on lines 11 and 12 of your

(MASON - CROSS BY HARLOW)

987

1 testimony, full sentence. You state that the Centrex
2 Plus rate you derived in the example above, which, I
3 believe, refers to DKM-5 or Exhibit 75, provides
4 "ample margin for resellers to continue to operate."
5 Do you see that?

6 A. Yes, I do.

7 Q. And that example, which is Exhibit 75,
8 assumes that all of the customers of the reseller are
9 in one location; isn't that correct?

10 A. That is correct.

11 Q. Do you believe this is a realistic
12 assumption?

13 A. It's one assumption.

14 MR. HARLOW: Judge, at this time I would
15 like to show the witness what will be a confidential
16 exhibit and it's confidential data of MetroNet.
17 MetroNet has authorized the witness to see it but I
18 would ask the witness to return include the exhibit at
19 the conclusion of the cross-examination.

20 COMMISSIONER CASAD: Wait a minute. Hold
21 it. Question of process. He's going to have the
22 witness look at a confidential document and respond to
23 it and then return it at the end of the questioning so
24 it will not be a part of the record.

25 MR. HARLOW: It will still be part of the

(MASON - CROSS BY HARLOW)

988

1 record. I intend to have it marked and made a part of
2 the record but since the witness hasn't signed on the
3 protective order I don't want him to keep it and take
4 it with him.

5 COMMISSIONER CASAD: You are divesting it
6 of its confidential nature.

7 MR. HARLOW: Yes. But my client has
8 approved.

9 COMMISSIONER CASAD: Why can't it go into
10 the record as a nonconfidential document?

11 MR. HARLOW: It would be data that MetroNet
12 doesn't want its competitors to have but doesn't
13 object to US West having this data since it's
14 available to US West anyway through their own internal
15 business records.

16 COMMISSIONER CASAD: We've tried very
17 energetically in the past to limit the number of
18 confidential documents that we have in our process
19 here, and have tried to alleviate the necessity for
20 confidential documents as much as possible. I'm a
21 little concerned about a situation where this witness
22 who has not signed a protective order, you are
23 essentially to use a military parlance declassifying
24 this document and making it available to him so that

25 he can respond to it, but for purpose of the record

(MASON - CROSS BY HARLOW)

989

1 and other purposes, it's remaining classified and
2 proprietary. And seems to be a contradiction in terms
3 to me.

4 FROM THE AUDIENCE: Declassified.

5 MR. HARLOW: Smaller businesses can make
6 these snap decisions.

7 JUDGE BALLASH: I've been handed a one-page
8 document stated at the bottom MetroNet's responses to
9 second data request of US West and its item No. 13. I
10 will note for the record at the top it indicates
11 "confidential per protective order in WUTC docket." I
12 will draw a line through that line since it is my
13 understanding that MetroNet no longer considers this
14 document confidential. That document will be marked
15 as Exhibit No. 85 for identification.

16 (Marked Exhibit No. 85.)

17 Q. Will you please take a moment to
18 familiarize yourself with the request and the
19 response. It's not very long.

20 A. All right.

21 Q. The data request sought the number of
22 locations of MetroNet's current customer base having
23 20 or more lines and 50 or more lines. Will you
24 accept subject to check that this data is available to

25 US West through its own records?

(MASON - CROSS BY HARLOW)

990

1 A. I'm sure it is.

2 Q. And so this data either through this data
3 request response or through US West's own internal
4 records was potentially available to you at the time
5 you prepared your testimony?

6 A. Yes.

7 Q. Will you accept subject to check that based
8 on this data request response less than one percent of
9 MetroNet's customers' locations have more than 50
10 lines?

11 A. Yes.

12 Q. So necessarily less than one percent of
13 MetroNet's customers' locations have 100 lines as
14 used in your example in Exhibit 75?

15 A. That's correct.

16 MR. HARLOW: MetroNet offers Exhibit 85.

17 JUDGE BALLASH: Any objection?

18 MR. SHAW: No objection if the company
19 through this witness, Mr. Mason, is specifically
20 authorized to check MetroNet's proprietary data that's
21 in the possession of the company. We did not have
22 recourse to MetroNet's proprietary data in the
23 possession of the company as a customer to prepare our
24 testimony in this case. We did not think that's

25 appropriate. I have no objection to the exhibit as

(MASON - CROSS BY HARLOW)

991

1 long as we are permitted to check it in our own
2 records to make sure of its accuracy.

3 JUDGE BALLASH: Is that a problem, Mr.
4 Harlow?

5 MR. HARLOW: No, we have no objection. I
6 wasn't aware of this safe harbor dividing line.

7 JUDGE BALLASH: Exhibit 85 will be admitted
8 into the record subject to check by US West.

9 (Admitted Exhibit No. 85.)

10 Q. For the record, I am going to hand him
11 what's been marked as Exhibit 57 in this proceeding
12 and admitted. Mr. Mason, you don't disagree with any
13 of Ms. Murray's calculations per se, do you?

14 A. No, I don't.

15 Q. So Ms. Murray's calculations of the total
16 cost per line for Centrex Plus do not include the
17 joint user service fee of \$18.75 per month; is that
18 correct?

19 A. I believe that's true.

20 Q. Using your assumption in Exhibit No. 75, of
21 the five lines per customer, if you included the joint
22 user service fee, would you accept subject to check
23 that that would add an average of \$3.75 to the cost
24 per line?

25 A. I will subject to check.

(MASON - CROSS BY HARLOW)

992

1 Q. Subject to check that the cost per line for
2 one to 20 lines as calculated in Ms. Murray's exhibit
3 for Centrex Plus would be \$33.48?

4 A. That's the addition of those two?

5 Q. Yes.

6 A. I would.

7 Q. Referring to Exhibit 85, isn't it true that
8 the vast majority of MetroNet's locations would
9 qualify only for the one to 20 line pricing?

10 A. That is correct.

11 Q. And that would be \$33.48 compared to the
12 \$27.46 you calculated in Exhibit 75?

13 A. That is correct.

14 Q. Given your apparent lack of knowledge of
15 the cost structure of MetroNet's business, would you
16 still be able to testify that at a line cost of \$33.48
17 MetroNet could still earn a, quote, ample profit margin
18 under Centrex Plus?

19 A. Well, what was your first statement?

20 Q. Given your apparent lack of knowledge based
21 on your previous testimony of MetroNet's cost
22 structure, do you still think that you would be able
23 to testify that at a line cost of \$33.48 MetroNet
24 could still earn what you termed an ample profit under

25 Centrex Plus?

(MASON - CROSS BY HARLOW)

993

1 A. Yes, I would.

2 Q. What is the basis for that testimony if you
3 don't know MetroNet's costs?

4 A. Simply again, looking at the revenues that
5 US West would derive from 1 FB service and what you
6 now indicated would be MetroNet's the difference of a
7 comparably priced systems, in my mind is still over
8 \$15 and I have got some slightly different numbers
9 than you do, but \$15 is the number that I am looking
10 at.

11 Q. You're looking at just revenues?

12 A. Yes.

13 Q. Do you understand the term profits to mean
14 revenues minus costs?

15 A. Yes, I do.

16 Q. And you don't have any access to any cost
17 data?

18 A. I didn't say I didn't have access to it; I
19 said I didn't review it.

20 MR. HARLOW: That's all I have.

21

22

23 CROSS-EXAMINATION

24 BY MR. LUDVIGSEN:

25 Q. Good afternoon, Mr. Mason. Got a few

(MASON - CROSS BY LUDVIGSEN)

994

1 questions here. Beginning on page 14, lines 20
2 through 26 of your testimony.

3 A. 20 through 26?

4 Q. 20 through 26. You've done a calculation
5 of what you think the potential revenue loss is there.
6 Have you done a similar calculation to show what the
7 potential contribution loss would be?

8 A. I have not.

9 Q. You haven't taken into account, then, any
10 reduction in US West costs for, let's say, billing,
11 uncollectibles or those types of things?

12 A. I have not. This is purely revenue.

13 Q. So we don't know whether or not US West may
14 be financially better off by having resellers in the
15 market or not based on your testimony here?

16 A. Based on what I presented I have simply not
17 done that calculation.

18 Q. Looking at page 8, line 26. You talk about
19 on behalf of their customers. Do you regard ETI
20 and MetroNet as your customers for US West?

21 A. Yes.

22 Q. Do you regard the people that they're
23 providing service to as your customers also?

24 A. In the context of this statement, no.

25 Q. Do you regard them as a subscriber to your

(MASON - CROSS BY LUDVIGSEN)

995

1 service?

2 A. Indirectly, yes, they are.

3 Q. Not directly. Is it your understanding

4 that MetroNet and ETI are primarily reselling to

5 business customers?

6 A. Yes.

7 Q. And that they in fact in dealing with you

8 are really represented by ETI and MetroNet?

9 A. Yes.

10 Q. Is it your understanding that generally US

11 West will not take orders or something directly from

12 one of ETI's customers, that they refer them back to,

13 for example, ETI?

14 A. I don't know the specific arrangement. I

15 do believe in certain circumstances we do deal

16 directly with the customers.

17 JUDGE BALLASH: I've been handed a one-page

18 document entitled WNU-24. Schedule 63, Directory

19 Listings, original sheet 63-14. That document will be

20 marked as Exhibit No. 86 for identification.

21 (Marked Exhibit No. 86.)

22 Q. Showing you what's been marked as Exhibit

23 86, and will you accept subject to check that this

24 was part of the tariffs that were provided by US West

25 to MetroNet data request No. 24?

(MASON - CROSS BY LUDVIGSEN)

996

1 A. I would accept that subject to check.

2 Q. And that this is the current tariff that's
3 in effect for directory listings?

4 A. I would accept it subject to check.

5 Q. Based on the responses that you've just
6 given me as defining a customer then, would you say
7 then that probably under rates B2 would be the
8 definition that should be applied to US West -- I mean
9 to MetroNet's customers in providing additional
10 listings?

11 A. Based on the words that are here I would
12 say yes. I have not previously reviewed this tariff.

13 MR. LUDVIGSEN: I will offer Exhibit 86.

14 JUDGE BALLASH: Any objection?

15 MR. SHAW: None.

16 JUDGE BALLASH: Exhibit 86 will be admitted
17 into the record.

18 (Admitted Exhibit No. 86.)

19 Q. I think beginning on page 6 of your
20 testimony you talk about your small business unit and
21 then continue on from there to describe the effort of
22 US West to deal with and provide services to the small
23 business customers; is that correct?

24 A. That is correct.

25

MR. LUDVIGSEN: Your Honor, this is a

(MASON - CROSS BY LUDVIGSEN)

997

1 confidential exhibit and it's from US West, unless
2 they want to waive it.

3 COMMISSIONER CASAD: Well, I guess within
4 the company, have they -- have their people signed a
5 protective order or is he exempt because this is
6 company data?

7 MR. SHAW: We perceive the latter, that
8 since he's a company employee, he's entitled to see
9 company data.

10 JUDGE BALLASH: I've been handed a two-page
11 document which is US West Communications response to
12 ETI data request No. 18. That document will be marked
13 as confidential Exhibit C87 for identification.

14 (Marked Exhibit No. C87.)

15 Q. You have before you, then, exhibit which
16 has been marked for identification C87?

17 A. I do.

18 Q. That is a listing that asks for the number
19 of calls that were placed to the business service
20 center, how many of those calls were answered and how
21 many of those calls were blocked or not answered?

22 A. That is correct.

23 MR. LUDVIGSEN: I will offer Exhibit C87.

24 JUDGE BALLASH: Any objection to the

25 admission of Exhibit C87?

(MASON - CROSS BY LUDVIGSEN)

998

1 MR. SHAW: No objection.

2 JUDGE BALLASH: Exhibit C87 will be
3 admitted into the record.

4 (Admitted Exhibit No. C87.)

5 JUDGE BALLASH: I've been handed a two-page
6 document which is entitled US West Communications
7 Response to ETI Data Request No. 24. That document
8 will be marked as Exhibit No. 88 for identification.

9 (Marked Exhibit No. 88.)

10 Q. You have before you what's been marked as
11 Exhibit 88?

12 A. I do.

13 Q. And that's one of the data requests that
14 you helped to prepare in answer to US West?

15 A. That is correct.

16 Q. And that shows the number of contact
17 employees by month that are working for US West in the
18 business service center?

19 A. That is correct.

20 MR. LUDVIGSEN: I will offer Exhibit 88.

21 JUDGE BALLASH: Any objection?

22 MR. SHAW: None.

23 JUDGE BALLASH: Exhibit No. 88 will be
24 admitted into the record.

25 (Admitted Exhibit 88.)

(MASON - CROSS BY LUDVIGSEN)

999

1 COMMISSIONER CASAD: For what purpose is
2 this being offered?

3 MR. LUDVIGSEN: Well, I will get to that,
4 Commissioner.

5 Q. You've talked about earlier service that US
6 West has provided for business, small business
7 customers. And as a part of that generally don't you
8 encourage customers of US West to attempt to provide
9 like P1 service or subscribe to P1 service so that
10 you only have one blocked call out of each 100?

11 A. P1 being a reference to -- not a technical
12 person.

13 Q. Not P1. Generally isn't the US West policy
14 in the marketing department to encourage customers to
15 subscribe to sufficient lines and trunks so as to only
16 have one blocked call per 100 calls?

17 A. I would accept that subject to check. I
18 have not gotten into all of that detail.

19 Q. And at least in providing service, then, to
20 your customers, those people that are calling your
21 business office, we could sit down and compare the
22 number of blocked calls that you have for each call
23 attempt and see what type of service you are providing
24 to people that are trying to get ahold of you in

25 looking at Exhibit 87?

(MASON - CROSS BY LUDVIGSEN)

1000

1 A. I would just caution you that what's called
2 a completed call or a not completed call isn't
3 necessarily blocked. There could be hang-ups on the
4 interim, other reasons, people hang up themselves
5 either because they're tired of waiting or they get
6 another call on another line so they simply drop off.

7 Q. So you may have some qualifications as to
8 why people may in fact decide not to hang on to the
9 line?

10 A. That is correct.

11 Q. In addition, we get an idea with the cost
12 cutting of the effect that you're having with the
13 number of employees and what effect that may have on
14 the service that you're providing to a number of
15 customers by comparing Exhibit 88 to Exhibit 87?

16 A. Again, you can draw some correlation there?
17 I would caution that there are other employees who
18 address the small business market other than the
19 business service center.

20 Q. And looking at that, I believe you have
21 telephone account managers?

22 A. That is correct.

23 Q. That's one of the groups that would respond
24 to small business group. And I believe in response to

25 data request No. 19 from ETI, US West has said that

(MASON - CROSS BY LUDVIGSEN)

1001

1 you have approximately 1200 accounts per account
2 manager?

3 A. I believe that was the number.

4 Q. 1250, excuse me. And that they're
5 primarily just telephone contacts, they don't usually
6 make premises visits?

7 A. There are some premises people in the CCC.

8 Q. And how many premises people do you have?

9 A. I believe it was three. I would have to
10 check the number.

11 Q. And I think two of those are located in
12 Seattle, and one of those people are located in
13 Vancouver?

14 A. I believe that's correct or Portland.

15 Q. Portland. And on an average I believe you
16 told us that they make like four to five visits a
17 week?

18 A. I believe that's true.

19 Q. Now, looking at page 7, line 23. There
20 you've laid out that US West tries to make a
21 determination as to what services small or a medium
22 size businesses need.

23 A. That is correct.

24 JUDGE BALLASH: I've been handed a

25 multi-page document called US West Telecommunications

(MASON - CROSS BY LUDVIGSEN)

1002

1 Response to ETI Data Request No. 22. That document
2 will be marked as Exhibit No. 89 for identification.

3 (Marked Exhibit No. 89.)

4 Q. I've shown you what's been marked as
5 Exhibit 89 for identification. Is that one of the
6 document requests you prepared in response to ETI?

7 A. I responded to so many in different areas.
8 I believe I did. I would accept it subject to check.
9 It does appear to be an accurate representation of
10 Centron 1.

11 Q. And these are the features that US West
12 generally considers its small, medium size customers
13 want or need?

14 A. Yes.

15 Q. And those are the ones primarily offered to
16 them that they can afford to purchase in small
17 quantities?

18 A. That is correct.

19 MR. LUDVIGSEN: Offer Exhibit 89.

20 JUDGE BALLASH: Any objection?

21 MR. SHAW: None.

22 JUDGE BALLASH: Exhibit No. 89 will be
23 admitted into the record.

24 (Admitted Exhibit No. 89.)

25 MR. LUDVIGSEN: I have no further

(MASON - CROSS BY LUDVIGSEN)

1003

1 questions, Your Honor.

2 COMMISSIONER CASAD: May I ask a question
3 of counsel? I want to go back and make sure I
4 understand the correlation between Exhibits 87 and
5 88, and if I understood your questions, Exhibit 88 was
6 of value for what reason?

7 MR. LUDVIGSEN: Exhibit 88 shows the number
8 of customers that, as I understand it, from US West
9 and Mr. Mason can confirm this if I am wrong or right,
10 Exhibit 88 shows the number of contact employees US
11 West has that are available to take telephone calls
12 from small and medium-sized businesses. This goes to
13 the question about the level and quality of service
14 that US West is able to provide to small and medium-
15 sized businesses.

16 COMMISSIONER CASAD: Doesn't he in his
17 testimony state exactly that?

18 MR. LUDVIGSEN: Could you give me a
19 reference?

20 COMMISSIONER CASAD: Yes. On page 6 he
21 says BSC offers a customer demand basis. In other
22 words, the center is designed to respond to telephone
23 customer calls. On page 6, starting at line 19, "the
24 business service center operates on customer demand

25 basis, in other words, this center is designed to

(MASON - CROSS BY LUDVIGSEN)

1004

1 respond to customer telephone calls. In Washington
2 almost 100 US West Corporation customer contact
3 employees handle between 45,000 and 55,000 calls per
4 month." Am I correct in correlating that 100 to the
5 100 that you were attempting to point out in this
6 exhibit?

7 MR. LUDVIGSEN: Yes. Those two match up.

8 COMMISSIONER CASAD: Why offer the exhibit?
9 It's contained in the testimony.

10 MR. LUDVIGSEN: I think that you need to
11 match that exhibit up with the previous exhibit which
12 is confidential Exhibit 87, and I think that it goes
13 to --

14 COMMISSIONER CASAD: That was my original
15 question. Now, how do you match that up with 87?

16 MR. LUDVIGSEN: Both of these show on a
17 month-to-month basis the number of customers and the
18 number of calls that they're receiving. And I can't
19 discuss C87, at least at this point, in detail but I
20 think that a comparison between the two could be used
21 to reach the conclusion that US West is not in the
22 current environment able to offer a high level of
23 quality of service to small and medium-sized
24 businesses.

25 COMMISSIONER CASAD: Thank you.

(MASON - CROSS BY LUDVIGSEN)

1005

1 JUDGE BALLASH: Any questions for the
2 witness?

3 CHAIRMAN NELSON: No.

4 COMMISSIONER CASAD: I've been waiting to
5 meet this gentleman for a long time. I think, if I'm
6 correct, you're what is referred to as a marketeer
7 and all the lawyers say you're the guy who makes them
8 present these half-baked ideas to the Commission?

9 THE WITNESS: Has Mr. Shaw been saying
10 that?

11 COMMISSIONER CASAD: All the operating
12 people ever say these are the guys who make us do
13 these things so damn fast that we really aren't able
14 to give them the attention they deserve. And in the
15 past you've been kind of a gray eminence and I've
16 never seen one face to face.

17 THE WITNESS: Mr. Braden was the person
18 this morning.

19 COMMISSIONER CASAD: My failure to
20 distinguish. It's a pleasure to see one. How do you
21 do. I only have one question and that is that it was
22 mentioned on pricing of business lines when you make
23 the jump from five -- pricing for four business lines
24 is at \$12 or whatever it is and when you make the jump

25 there's an incremental jump. Am I correct, did we not

(MASON - CROSS BY LUDVIGSEN)

1006

1 approve or was a tariff filed seeking to adjust that
2 price ratio? Are you aware of any such thing?

3 THE WITNESS: I am aware we have been
4 contemplating that. I am not sure that anything has
5 been filed.

6 COMMISSIONER CASAD: Thank you very much.

7 JUDGE BALLASH: Any other questions for
8 this witness?

9 COMMISSION PARDINI: I have none.

10 JUDGE BALLASH: I have two questions,
11 Mr. Mason. In response to earlier questions from
12 Mr. Harlow with respect to your testimony at page 14,
13 line 17 to 19, you discussed minimum criteria that
14 would need to be met for resale to be appropriate. I
15 believe, as I understand your testimony, those
16 criteria were, number one, resale would have to be
17 legal under the public service laws; number two,
18 Centrex Plus would be the product resold; number
19 three, contribution would need to be paid, and you
20 propose that such contribution would probably be best
21 charged through the network access register.

22 If these are the criteria that in your
23 opinion would improve the standing of Centrex resale,
24 I'm curious as to why the company did not propose

25 these criteria as a policy basis for resale in this

(MASON - CROSS BY LUDVIGSEN)

1007

1 proceeding. I note that you do suggest on page 15
2 that the Commission may want to consider a general
3 reduction in business rates to stimulate small
4 business growth.

5 THE WITNESS: I think it was my opinion and
6 that of the company that this particular proceeding is
7 probably not the forum to debate the whole Centrex
8 resale issue. You're probably aware there have been
9 extensive dockets in Minnesota and Oregon dealing with
10 this. It's a very complex issue. I think at the
11 most, at this point, if the Commission is interested
12 in doing that, they should set it aside, establish a
13 separate docket and deal with Centrex resale at that
14 time as opposed to tying up the Centrex Plus offering.

15 JUDGE BALLASH: With respect to the
16 criteria you mentioned, the last criteria, that
17 contribution be paid through the network access
18 register or NAR. Could you explain why if Centrex
19 Plus is already priced above its cost, including some
20 contribution, there would be a need for additional
21 contribution when the service is purchased for resale
22 purposes?

23 THE WITNESS: Let me clarify that third
24 point. The company's position is there should be some

25 recognition of the revenue loss, and as I've been

(MASON - CROSS BY LUDVIGSEN)

1008

1 questioned today potentially relative to contribution
2 loss through some mechanism, we believe there should
3 be a partial recovery of that. There are options to
4 doing that. You could have a measured NAR. You can't
5 establish a surcharge on the NAR. You could
6 restructure business rate so the differential were
7 less than it is today. There are variety of ways to
8 address that. So I don't want to be taken, it's a
9 specific proposal, the company would only say it
10 should be a premium on the NAR, but it is a
11 recognition that there's revenue loss and I think we
12 could comment if we went through the analysis in a
13 full case there's contribution loss and that needs to
14 be made up so that the general ratepayer doesn't
15 suffer.

16 JUDGE BALLASH: Exactly where is that
17 contribution loss?

18 THE WITNESS: If you go through the
19 analysis, which I have not done, I'm convinced that
20 taking the revenue loss from a 1FB and translating it
21 to Centrex that that reduces the contribution to the
22 corporation.

23 JUDGE BALLASH: Thank you. Redirect for
24 this witness?

1 REDIRECT EXAMINATION

2 BY MR. SHAW:

3 Q. Mr. Mason, in regard to the Judge's last
4 questions, is it common in the current tariffs of the
5 company in Washington and indeed in all states, to
6 charge an additional contribution level to carriers as
7 reflected by carrier access charges?

8 A. Yes.

9 Q. Is it your understanding that MetroNet and
10 ETI are telecommunications companies, common carriers
11 registered with this Commission and with tariffs on
12 file with this Commission?

13 A. I believe they are.

14 Q. Are you aware of other instances where this
15 Commission has approved the placing of higher charges
16 on resellers of local service and specifically I have
17 in mind so-called EAS bridges.

18 A. I am familiar with that.

19 Q. Are you familiar with the dockets involving
20 a company called Metrolink that took place before this
21 Commission a couple of years ago?

22 A. I am generally familiar with it.

23 Q. Do you understand that the Commission
24 agreed with and accepted the proposed tariff

25 modifications of US West to place carrier access

(MASON - REDIRECT BY SHAW)

1010

1 charges on those companies that were providing
2 interexchange service by linking together overlapping
3 extended area services with various facilities and
4 equipment that they owned?

5 A. Yes. That's my understanding.

6 Q. Do you see any analogies between Centrex
7 resellers and EAS resellers?

8 A. I think it's a similar issue where I talked
9 about what I call rate arbitrage between a 1FB and a
10 Centrex customer and toll rates and EAS which are flat
11 rate. To me there's a fairly close parallel.

12 Q. In the case of the EAS situation, the
13 company has toll rates in which it charges a
14 relatively large contribution?

15 A. That is correct.

16 Q. But in the case of EAS the company provides
17 same service, interexchange service at a flat rate
18 with much lower contribution?

19 A. I don't know what the contribution is. It
20 is true it's a flat rate, though.

21 Q. And to call between two overlapping EAS's
22 a customer of US West would have to pay the much
23 higher toll rate?

24 A. That is correct.

25 Q. But a company like MetroLink could have and

(MASON - REDIRECT BY SHAW)

1011

1 did link together the overlapping EAS's with their
2 facilities, not paying carrier access charges and
3 arbitrage, the company's toll rates against its EAS
4 rates?

5 A. That's my understanding.

6 Q. And again, to solve that problem the
7 Commission agreed that carrier access charges should
8 apply to EAS bridgers?

9 A. That is correct.

10 Q. Are you aware that the company has become
11 aware that the intervenor in this case MetroNet is
12 bridging EAS service without paying carrier access
13 charges?

14 MR. HARLOW: I am going to have to object
15 unless there's some foundation. I think that the
16 witness is giving testimony that was probably spoonfed
17 to him by his counsel at one of the breaks.

18 JUDGE BALLASH: Can you give us some
19 foundation, Mr. Shaw?

20 MR. SHAW: Well, I'm just starting to lay
21 it. I just asked him if he was aware of that fact and
22 he hasn't answered the question yet.

23 JUDGE BALLASH: Mr. Harlow.

24 MR. HARLOW: That assumes a fact not in

25 evidence when you frame it, are you aware of a fact,

(MASON - REDIRECT BY SHAW)

1012

1 and I think there needs to be some kind of foundation
2 laid, what has he reviewed, what is the source of his
3 knowledge, did it come from Mr. Shaw at the break or
4 did he look at some Commission document?

5 JUDGE BALLASH: I will allow the question
6 if those questions are also asked.

7 Q. Do you recall the question?

8 A. Could you restate it.

9 Q. Yes. Are you aware that the company has
10 become aware that an intervenor in this case MetroNet
11 is providing a EAS bridging service without paying
12 carrier access charges?

13 A. I am aware that a letter has been written
14 from the company indicating that, yes.

15 Q. You have seen a copy of that letter from
16 the company to MetroNet dated February 4, advising
17 MetroNet that the company alleges they are doing this
18 --

19 MR. HARLOW: Judge, I object. Are you
20 done?

21 MR. SHAW: No, I'm not.

22 Q. -- and informing MetroNet to either start
23 paying carrier access charges or the facilities
24 providing that service will be disconnected.

25

MR. HARLOW: Your Honor, I object. I've

(MASON - REDIRECT BY SHAW)

1013

1 turned around, my client hasn't seen a copy of this
2 letter. This sounds like evidence that's been
3 fabricated for this proceeding. The date of the
4 letter as I understand it was February 4. What was
5 that, last Friday, Mr. Shaw? It's Monday. We didn't
6 go into the office and get our mail today. I think
7 it's highly improper. I urge the Commission to
8 reconsider its ruling on my earlier objection.
9 There's simply no foundation and to have this sprung
10 on us without having the document in front of us based
11 on self-serving statements, apparently in some letter
12 US West itself wrote is very improper, particularly
13 coming as it is so late in the proceeding on redirect,
14 and furthermore, I don't see what relevance this has.
15 We're dealing with hearsay that's created by the
16 proponent, created by US West itself, and I don't
17 think that this is within the scope of the witness'
18 expertise such that evidence rule 703 applies and
19 allows this kind of testimony to be given as hearsay.

20 MR. SHAW: Your Honor, I don't believe it
21 is hearsay, first of all, because Mr. Mason is an
22 employee of the company and has testified that he is
23 aware that the company has sent this letter. The
24 whole subject was opened up by Mr. Harlow on

25 cross-examination when he asked the witness if he

(MASON - REDIRECT BY SHAW)

1014

1 thought it was fair for the company to either change
2 or withdraw service that a company like MetroNet had
3 built its business around. Previous questions in
4 regard to EAS bridging were to provide the record
5 with the reference to where in fact the company did
6 just that in connection with EAS resale and the
7 Commission agreed with the company's position.

8 In fact, it was the same position that the
9 staff took. This is all relevant, opened up by
10 MetroNet on cross-examination and I don't plan to take
11 this any further than I have but I think it's all
12 admissible.

13 MR. HARLOW: Judge, I need to respond.
14 This is a very inflammatory issue in my opinion
15 because everybody knows how the Commission feels about
16 EAS bridgers. All right. Let me just put it in blunt
17 terms. I don't know what Mr. Shaw is talking about.
18 My client hasn't seen this letter. My client doesn't
19 know what Mr. Shaw is talking about in these
20 questions. He's raising it as an inflammatory issue
21 with the last witness when there's no chance to rebut.
22 I cannot effectively cross-examine. I don't see what
23 it has to do with this proceeding. I never used the
24 term EAS bridgers in my cross of Mr. Mason. When I

25 did cross Mr. Mason on the changing of service my

(MASON - REDIRECT BY SHAW)

1015

1 questions had to do with the joint use of a Centrex
2 service and if I inadvertently, according to Mr. Shaw,
3 opened that up that was clearly not my intent. I have
4 no idea what Mr. Shaw is talking about and I don't
5 think it's appropriate for him to get into an area
6 that's potentially prejudicial to my client, given the
7 lack of foundation, and the fact that this is total
8 rank hearsay. Could MetroNet write a letter -- have
9 written a letter to US West last Friday that Mr. Mason
10 hadn't got and I could have crossed Mr. Mason on that
11 and gotten everything that I wrote to US West into
12 this record. Clearly not. This is very
13 inappropriate. I object strenuously object.

14 (Discussion off the record.)

15 JUDGE BALLASH: Take a break for the
16 Commission to consider this.

17 (Recess.)

18 JUDGE BALLASH: Let's be back on the record
19 after the break. While we were off the record the
20 Commission had an opportunity to consider the
21 objection to Mr. Shaw's question and the objection
22 will be sustained on principles of fairness.

23 Mr. Shaw.

24 Q. Mr. Mason, directing your attention to

25 Exhibit C87 and Exhibit 88 that Mr. Casad asked you a

(MASON - REDIRECT BY SHAW)

1016

1 series of questions about. Directing your attention
2 to C87 and the first vertical column, attempted calls.
3 Is there further observation that needs to be made
4 about those raw numbers that are indicated there?

5 A. Well, I would simply point out, and I
6 actually have not computed the average based on the
7 response that was provided. I did have a later copy
8 that went through November and the call volumes in
9 1992 are lower than the call volumes in 1991 which, in
10 drawing a correlation to the number of employees, does
11 give some indication that we're simply sizing the
12 force of the call volumes.

13 Q. In regard to Exhibit 88 which indicates a
14 number of Washington business service center employees
15 over a 12-month period in two years. Are these all
16 the employees that are available to respond to
17 requests by small business customers in the business
18 office?

19 A. As we discussed with some of the
20 cross-examination questions, there are other employees
21 who contact small business customers, the
22 communications consulting center, CCC was also
23 mentioned, and I might mention this was not asked for
24 by any of the intervenors. If you looked at the

25 number of employees in the CCC during that same period

(MASON - REDIRECT BY SHAW)

1017

1 of time, it went from 20 -- it increased -- I think
2 we're considering this proprietary, are we?

3 Q. You're the client.

4 A. I will make them not proprietary. There
5 was a large increase in the number of employees in the
6 CCC from 20 to 32 over the same period of time, which
7 does leave the number of employees somewhat less, but
8 it is not as dramatic as simply looking at the
9 business service center numbers would make it. I
10 would also point out that there can be a variety of
11 reasons for change in levels within the business
12 service center including system changes,
13 simplification of procedures in the office, larger
14 expanse of control, management. It wouldn't directly
15 affect the number of service reps and that was the
16 total number that was provided.

17 Q. Turning your attention to Exhibit 89 which
18 lists the features available in Centron I. Do you
19 consider these features to be sophisticated features?

20 A. No, I don't. In response to Mr. Harlow's
21 exhibit where he did show me the features that were
22 being subscribed to by MetroNet customers, I do not
23 consider those sophisticated features either. The
24 features in Centron I are basically custom calling

25 features that have been packaged together with a few

(MASON - REDIRECT BY SHAW)

1018

1 additional features added on. Sophisticated features
2 are more like what PBXs and larger Centrex types of
3 systems provide so that that is my reference to
4 sophisticated features and why that isn't inconsistent
5 with the lists produced.

6 Q. Can you give me an example or two of
7 sophisticated features that large PBX or large
8 Centrex-type customers would sometimes be looking for?

9 A. Automatic call distribution would be one.
10 There's a variety of internal transferring functions.
11 Some of the toll detail recording. Those types of
12 things.

13 Q. Thank you.

14 MR. SHAW: I have nothing further.

15 JUDGE BALLASH: Recross by staff.

16

17 RECCROSS-EXAMINATION

18 BY MS. BROWN:

19 Q. You were asked some questions about resale
20 service, and you indicated the company uses the joint
21 user tariff from MetroNet. Are you aware of the US
22 West tariff schedule 14 which covers resale of
23 service?

24 A. Yes.

25 Q. Is it your testimony that MetroNet does not

(MASON - RE CROSS BY BROWN)

1019

1 qualify as a customer under that schedule?

2 A. I would have to review the specific tariff.

3 I would say between 14, 15, 16 and 17 there is -- I

4 think you can argue a variety of ways as to how to

5 classify MetroNet and ETI. They're not consistent.

6 Q. I have here a copy of original sheet 14-1

7 schedule 14, resale of service.

8 JUDGE BALLASH: That document will be

9 marked as Exhibit No. 90 for identification.

10 (Marked Exhibit No. 90.)

11 Q. Like to direct your attention to condition

12 L of the tariff, please. Could you please read that?

13 A. "Resale of service is limited to the

14 following company-provided services, CentraFlex III,

15 IV," and there's a parenthetical note that "no longer

16 offered to new customers after August 28, 1986." And

17 number two, Centron.

18 Q. Based on that, is it your belief that

19 MetroNet does not qualify or does qualify as a

20 customer?

21 A. Reading that individual statement I would

22 assume they do. As I've indicated, there are other

23 places in the tariffs 14, 15, 16 and 17 that state

24 just the opposite.

25 Q. When US West filed several tariffs at issue
(MASON - RE CROSS BY BROWN) 1020

1 in this proceeding, why did the company not file
2 tariff revisions to schedule 14 to eliminate condition
3 L from the tariff?

4 A. I think Judge Ballash earlier asked me what
5 I would consider -- the same question, why didn't we
6 address resale. We didn't think this was the
7 appropriate docket to do that in. It is a very
8 complex issue and if the Commission desires to address
9 that we should have a separate docket and not make it
10 a part of Centrex Plus. This issue is already
11 complicated enough.

12 Q. I would like to get back to the shared
13 tenant service buildings. Do you believe that those
14 buildings are filled by a single end user or by
15 multiple end users?

16 A. Multiple typically.

17 Q. Do these multiple end users share corporate
18 affiliations?

19 A. Generally -- they don't have to.

20 Q. Thank you.

21 JUDGE BALLASH: Any other questions for
22 this witness?

23 COMMISSIONER CASAD: I have another
24 question I would like to ask.

25

(MASON - EXAMINATION BY COMMISSIONER CASAD)

1021

1 EXAMINATION

2 BY COMMISSIONER CASAD:

3 Q. You're saying, Mr. Mason, that you have on
4 file with the Commission four or five tariffs and if I
5 just heard you correctly in referring to the tariff
6 that was offered, No. 90, you have other tariffs that
7 are on file that are current and effective and they
8 state just the opposite of this tariff?

9 A. Well, the reference I quoted was in the
10 joint user tariff, talking about resale is
11 specifically prohibited for the use of the joint user
12 tariff. Point I of schedule 16 which I quoted
13 earlier, "joint user is not designed for the resale of
14 telephone service."

15 Q. Simply the point I'm trying to get to is
16 are the tariffs you have on file -- do you have a
17 tariff on file which is currently effective as this
18 one is, which is just the opposite of what this one
19 says?

20 A. Oh, no. What I was trying to indicate
21 was as you get into the specifics of the Centrex
22 resale issue and what tariffs should apply to them, we
23 run into inconsistencies within our own tariff as to
24 how to treat that. For example, what is the

25 appropriate listing charge for this service.

(MASON - EXAMINATION BY COMMISSIONER CASAD) 1022

1 Q. Well, I guess we can't pursue it at great
2 depth. It disturbed me that you don't even know that
3 there are inconsistencies in your own tariffs and they
4 continue to exist and haven't been addressed, haven't
5 been clarified. Seems questionable to me.

6 A. Well, I think the point is we recognize
7 there's some inconsistencies. So far we have not
8 chose to propose like a resale tariff which in my mind
9 might be the solution to the dilemma I'm pointing out.
10 At some point we might do that.

11 Q. Well, are you living with a self-inflicted
12 wound?

13 A. I suspect we are.

14 Q. Thank you.

15 JUDGE BALLASH: Any other questions?

16 I have one follow-up question. When would
17 you anticipate filing such a tariff to confirm your
18 tariffs?

19 THE WITNESS: I don't know that we have any
20 plans at this moment. We have filed in a couple of
21 states where the Commission has heard the general
22 issue of Centrex resale and we are now filing tariffs
23 consistent with that.

24 MS. BROWN: Your Honor, I move the

25 admission of Exhibit 90.

(MASON - EXAMINATION BY COMMISSIONER CASAD)

1023

1 JUDGE BALLASH: Any objection?

2 Exhibit 90 will be admitted into the
3 record.

4 (Admitted Exhibit No. 90.)

5 JUDGE BALLASH: If there's no questions for
6 this witness --

7 MR. HARLOW: I didn't know you were calling
8 for all the lawyers.

9 JUDGE BALLASH: I had gone around the room.

10 MR. HARLOW: I misunderstood.

11

12 RE-CROSS-EXAMINATION

13 BY MR. HARLOW:

14 Q. Mr. Mason, you testified on response to
15 redirect by Mr. Shaw that you understood MetroNet to
16 be, I believe you used the term, quote, common
17 carrier; is that correct?

18 A. I think it's telecommunications company but
19 it may have been common carrier.

20 Q. Well, I just want to clarify, are you then
21 not testifying that you understand MetroNet to be a
22 common carrier?

23 A. I don't think I know that. I am assuming
24 they're a telecommunications company because they have

25 filed tariffs and as I understand the Washington

(MASON - RECROSS BY HARLOW)

1024

1 statutes that's a requirement.

2 Q. So your testimony would be limited to your
3 understanding that they have registered as a
4 telecommunications company with the Washington
5 Utilities and Transportation Commission?

6 A. Right.

7 Q. And your testimony doesn't go beyond that?

8 A. No.

9 MR. HARLOW: Your Honor, I would like to
10 request that the Commission take official notice of
11 MetroNet's current price list and I don't have a copy
12 with me at this time but I would be able to provide
13 copies to all counsel and if necessary to the
14 Commission.

15 JUDGE BALLASH: I think it would be
16 appropriate to admit it as an exhibit so why don't you
17 provide that at the next meeting.

18 MR. HARLOW: Later this week?

19 JUDGE BALLASH: Before we conclude the
20 hearing this week.

21 MR. HARLOW: I'm sure we can scare up a
22 copy somewhere.

23 JUDGE BALLASH: Anything further for this
24 witness?

25
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Thank you for your testimony. You may step

(MASON - RE CROSS BY HARLOW)

1025

down. We will reconvene the hearing at 9:00 a.m.
tomorrow morning. For the party's information it is
my understanding we have three witnesses available for
testimony. Dr. Cornell, Mr. Bryant and Dr. Zepp. The
estimated time for cross-examination on these three
witnesses is four and a half hours. We will then
conclude on Wednesday with Mr. Bier and possibly Mr.
Patterson. Let's be off the record. We'll stand in
recess until 9:00 a.m. tomorrow morning.

(Hearing adjourned at 4:45 p.m.)

