

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In the Matter of the Continued)
4 Costing and Pricing of) Docket No. UT-003013
5 Unbundled Network Elements and) Volume XXVIII
6 Transport and Termination.) Pages 3468 to 3696
7 _____)

8 A hearing in the above matter was held on
9 April 18, 2001, at 9:00 a.m., at 1300 South Evergreen
10 Park Drive Southwest, Room 206, Olympia, Washington,
11 before Administrative Law Judge LAWRENCE BERG and
12 Chairwoman MARILYN SHOWALTER and DR. DAVID GABEL.

13 The parties were present as follows:

14 THE WASHINGTON UTILITIES AND TRANSPORTATION
15 COMMISSION, by GREGORY J. TRAUTMAN and MARY TENNYSON,
16 Assistant Attorneys General, 1400 South Evergreen Park
17 Drive Southwest, Post Office Box 40128, Olympia,
18 Washington, 98504-0128.

19 QWEST CORPORATION, by LISA ANDERL, Attorney
20 at Law, 1600 Seventh Avenue, Suite 3206, Seattle,
21 Washington 98191.

22 VERIZON NORTHWEST, INC., by JENNIFER L.
23 MCCLELLAN and MEREDITH B. MILES and JEFF EDWARDS,
24 Attorneys at Law, Hunton and Williams, 951 East Byrd
25 Street, Richmond, Virginia 23219.

26 RHYTHMS LINKS, INC. AND TRACER, by ARTHUR A.
27 BUTLER, Attorney at Law, Ater Wynne, LLP, 601 Union
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29 WORLDCOM, INC., by ANN HOPFENBECK, Attorney
30 at Law, 707 - 17th Street, Suite 3600, Denver, Colorado
31 80202.

32 Joan E. Kinn, CCR, RPR
33 Court Reporter

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1 ELECTRIC LIGHTWAVE INC.; ADVANCED TELECOM
2 GROUP, INC.; AT&T COMMUNICATIONS OF THE PACIFIC
3 NORTHWEST, INC.; MCLEOD USA TELECOMMUNICATIONS SERVICES
4 INC.; FOCAL COMMUNICATIONS CORPORATION OF WASHINGTON;
5 AND XO WASHINGTON, INC.; by MARY STEELE, Attorney at
6 Law, Davis, Wright, Tremaine, LLP, 1501 Fourth Avenue,
7 Suite 2600, Seattle, Washington 98101.

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

2 JUDGE BERG: This is a continued hearing in
3 Docket Number UT-003013. Today's date is April 18,
4 2001. We begin today's session with the testimony
5 cross-examination of AT&T witness Ms. Natalie Baker.

6 Ms. Baker, if you will please stand and raise
7 your right hand.

8

9 Whereupon,

10 N A T A L I E B A K E R,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13

14 JUDGE BERG: Thank you. Exhibits relating to
15 Ms. Baker's testimony were identified on the record
16 during yesterday's session.

17 At this time, Ms. Steele, would you please go
18 ahead and introduce and identify your witness.

19 M S . S T E E L E : Thank you.

20

21 D I R E C T E X A M I N A T I O N

22 B Y M S . S T E E L E :

23 Q. Ms. Baker, will you state your full name for
24 the record and provide your address, please.

25 A. Certainly, it's Natalie J. Baker, my address

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1 is 1875 Lawrence, L-A-W-R-E-N-C-E, Street, Denver,
2 Colorado 80202.

3 Q. Do you have in front of you what has been
4 marked as Exhibit T-1270, which is your reply testimony,
5 as well as E-1270, the errata to your reply testimony,
6 and the exhibits to that testimony which have been
7 marked Exhibits 1271 through 1276?

8 A. They're not marked, but -- I don't think
9 they're marked, but anyway, I believe I have everything.

10 Q. And did you prepare or cause to be prepared
11 your testimony?

12 A. I'm sorry?

13 Q. Did you prepare or cause your testimony to be
14 prepared?

15 A. Yes, I did.

16 Q. And if I asked you the same questions today,
17 would your answers be the same?

18 A. Yes.

19 MS. STEELE: With that, I would like to move
20 for the admission of Exhibits T-1270 through 1276.

21 MS. ANDERL: No objection.

22 JUDGE BERG: Those exhibits are admitted.

23 MS. STEELE: And the witness is available for
24 cross-examination.

25 JUDGE BERG: Ms. Anderl.

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1 MS. ANDERL: Thank you, Your Honor.

2

3 C R O S S - E X A M I N A T I O N

4 BY MS. ANDERL:

5 Q. Good morning, Ms. Baker.

6 A. Good morning.

7 Q. I'm Lisa Anderl representing Qwest. I have a
8 few questions for you this morning. Is it a correct
9 statement of your testimony that you're here today to
10 present AT&T's recommendations regarding the appropriate
11 prices and terms and conditions for access to incumbent
12 owned building cable?

13 A. In part, yes.

14 Q. And to the extent that that's not a complete
15 description of the purpose of your testimony, what did I
16 leave out?

17 A. It's only incomplete in the sense that this
18 is, as I'm sure the parties are aware, a very contested
19 issue in the 271 proceedings that continue. As they
20 continue, this issue is evolving, and additional terms
21 and conditions are being negotiated. There is some
22 question as to whether or not prices would be associated
23 with those additional terms and conditions.

24 This testimony was filed in October,
25 approximately six months ago, and therefore I would

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1 suggest that it is incomplete to the extent it does not
2 include some of those other issues that have arisen in
3 the interim.

4 Q. So to the extent that the process is not
5 static and continues to evolve and that your testimony
6 has not been updated to reflect that, it's incomplete in
7 that regard?

8 A. That's correct.

9 Q. All right. Are you familiar with AT&T's
10 complaint against Qwest in Washington regarding access
11 to building cable?

12 A. Generally I am, yes.

13 Q. Are you aware of whether access terms and
14 conditions are also at issue in that complaint?

15 A. Well, I believe, in general terms, I believe
16 that where we are is that the Commission has established
17 that we are to, in fact, get access to what I call --
18 what I now refer to as on premise wire and also for the
19 parties to continue through the -- through the ongoing
20 process that surrounds all of this to negotiate pricing.
21 That's my understanding generally.

22 Q. So is it your testimony that your
23 understanding of that complaint is that terms and
24 conditions are not at issue in that complaint?

25 A. Well, I think they are.

03477

1 Q. Okay, I just needed to understand your
2 answer.

3 In October, you recommended that the
4 Commission establish a separate track in this docket.
5 Is that still your recommendation?

6 A. It is.

7 Q. And is it AT&T's or your recommendation that
8 that be a separate track for full formal resolution,
9 pre-filed testimony, hearings, et cetera, for both costs
10 and prices and terms and conditions, or is it something
11 other than that?

12 A. Well, first and foremost, it would be cost
13 and price. And to the extent terms and conditions are
14 not easily bifurcated from cost and price, as frequently
15 they're not, then I guess that would have to be a part
16 of it as well, were that not to be fully exposed in the
17 271 workshop process.

18 Q. Are you aware of whether or not a separate
19 track for filing responsive testimony on costs and
20 prices was established in this phase of the docket?

21 A. For this particular issue?

22 Q. For costs and prices for on premises wire,
23 yes.

24 A. Other than this piece of it, no. It's not my
25 understanding there's a separate track for this.

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1 Q. You were not advised by your counsel that
2 there was a separate filing track with an opportunity to
3 present responsive testimony on costs and prices?

4 A. Well, what I have here is reply testimony.
5 Is that not the same thing? Is there something
6 different? I'm not sure if I understand your question.
7 I think I did file reply testimony.

8 Q. Were you advised of an opportunity to file
9 additional reply testimony in March?

10 A. Oh, there was an opportunity to file rebuttal
11 to your pricing proposal, that's correct.

12 Q. When AT&T accesses Qwest's building cable,
13 and it's Qwest owned building cable in my question, does
14 AT&T agree that that is a subloop element?

15 A. Yes.

16 Q. And subloops are an unbundled network
17 element?

18 A. Correct.

19 Q. Are you aware of whether or not there is a
20 standard industry practice for ordering of unbundled
21 network elements?

22 A. Standard to?

23 Q. Industry standard.

24 A. No, I'm not aware that there's a industry
25 wide if you mean national standard for ordering

03479

1 subloops.

2 Q. Are you aware of whether or not the ordering
3 and billing forum or OBF has promulgated a standard for
4 ordering unbundled network elements?

5 A. Oh, I understand that there's some ongoing
6 reference to that in the building access order, yes, but
7 not to the -- I'm not -- I'm not familiar with all of
8 the particulars.

9 Q. Is an order for an unbundled network element
10 generally submitted via a form called an LSR or local
11 service request?

12 A. Well, I know that that is the -- that's what
13 Qwest is proposing in this -- for this particular
14 subloop element.

15 Q. I'm asking you about unbundled network
16 elements generally.

17 A. For Qwest?

18 Q. Yes.

19 A. I know that there is a process called an LSR,
20 that's correct.

21 Q. And do you know if AT&T uses LSRs generally
22 to order unbundled network elements from Qwest?

23 A. You know, I don't know the answer to that.

24 Q. Do you know AT&T's position on whether it is
25 willing to submit an LSR to Qwest to obtain subloops?

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1 A. I believe the last I heard of this, which was
2 a couple of weeks ago, that this was part of the ongoing
3 negotiation, and that as far as I know where the process
4 was was that some discussion of this was going on. The
5 question was timing, whether it had to be submitted
6 prior to access to the MDU or thereafter, and I don't
7 know any more than that as to where it is today. So I
8 don't know if we have agreed to it or not I guess is the
9 answer.

10 Q. You don't know AT&T's position on that?

11 A. I believe our position is we would prefer not
12 to be encumbered by that. We don't think it's
13 necessary. But where it is in the negotiation process,
14 I have no idea.

15 Q. Do you know whether or not AT&T submits an
16 LSR for number portability when it wishes to obtain a
17 customer and the number has to be ported?

18 A. I presume we do, but I don't have any
19 personal involvement in that process. So to the extent
20 it's more -- the answer is more precise than that, I
21 can't tell you.

22 Q. Do you know how many customers AT&T has in
23 Washington that are located in MDUs?

24 A. I know generally how many customers we
25 believe are located in MDUs. I have no idea how many

03481

1 customers we have.

2 Q. When you say how many customers you believe
3 are located in MDUs, what do you mean?

4 A. Well, I generally know that the -- with
5 respect to the census data, we estimate that there are
6 something like 29% of the residential consumers in this
7 state currently residing in MDUs. I don't know the
8 answer for business, and I don't know how many of those
9 customers we currently serve.

10 Q. Did you make an inquiry to try to find that
11 information out --

12 A. No.

13 Q. -- before you testified today?

14 A. No, I didn't.

15 Q. And your testimony is that access to
16 customers of MDUs is critical for local competition; is
17 that right?

18 A. Correct.

19 Q. But you don't know how well AT&T has done in
20 that regard in Washington?

21 A. No, I'm not. That's -- I'm not involved with
22 anything having to do with marketing in the company.

23 Q. You think that's purely a marketing question?

24 A. Well, I think it is to the extent that it
25 leads to other kinds of -- it leads to exposure to other

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1 kinds of information which you know full well would
2 prevent me from being able to look at your cost study,
3 so the answer to any and all marketing questions is that
4 I don't seek that information out. We have a barrier in
5 the company just so that kind of situation doesn't
6 arise. So I know what I know from reading public
7 information just like everybody else in this room.

8 Q. And you believe that having knowledge of how
9 many customers AT&T currently serves in MDUs is
10 information that you should not be privy to?

11 A. Not necessarily, I just explained to you why
12 I'm not -- not that I'm not interested in it, why I
13 would not purposely go seek out that information.

14 Q. To the extent that there is a price
15 established for building cable when Qwest owns the
16 building cable or access to the building terminal, would
17 AT&T agree that Qwest has to bill AT&T for that element?

18 A. No, as a matter of fact, we would -- we would
19 -- because it is so unclear as to what the price for
20 this particular element, and I'm talking about a piece
21 of wire the size of a toothpick that maybe spans a few
22 feet, maybe spans a few hundred feet, oftentimes is
23 zero, we have had a great deal of difficulty arriving at
24 just exactly how it should be priced. So we are in
25 somewhat of a quandary trying to figure out what is the

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1 right price, and we are in the process, and it's an
2 evolving process, of doing just that, trying to make
3 some -- make some modifications to our own pricing
4 methodology to arrive at an appropriate cost in the
5 event that Qwest and/or Verizon for that matter owns or
6 controls a piece of wire.

7 And as I said, in many instances, the length
8 of that wire is zero, so -- and we're talking about a
9 wire that literally is the size of a toothpick, so our
10 recommendation at least from the cable side of the
11 business is that it ought to be zero. And it would cost
12 you a lot more money to bill us for something that's
13 zero, it seems to us, than it is -- than makes it
14 worthwhile in the first instance.

15 MS. ANDERL: Your Honor, I move that the
16 answer be stricken and request that the question be read
17 back and the witness be directed to answer the question.
18 I asked specifically for the witness to assume that a
19 price had been established and simply asked about
20 billing the element. The question was virtually a yes
21 or no question. The answer was virtually wholly
22 nonresponsive.

23 MS. STEELE: I disagree that the answer was
24 nonresponsive. In fact, what Ms. Baker stated was
25 directly in response to the question, and that is

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1 because of the cost of the element itself, it made no
2 sense to bill for that element, and that was I think
3 directly responsive to the question.

4 JUDGE BERG: You know, Ms. Anderl, I didn't
5 hear that there was a presumption that a cost should
6 apply, that this was a hypothetical question. The
7 answer I was expecting from the witness was to respond
8 as to whether or not a price should be attached, and
9 that is the answer that I heard as well.

10 MS. ANDERL: Very well, Your Honor, I will
11 reask the question.

12 BY MS. ANDERL:

13 Q. Ms. Baker, assume that the Commission orders
14 a price for the subloop element that is the building
15 cable. Would you agree that Qwest would have a right to
16 bill AT&T for its access to that element?

17 A. Yes.

18 Q. And would you agree that in order for Qwest
19 to be able to bill it, Qwest must know in each instance
20 when AT&T has obtained the element?

21 A. Yes.

22 Q. Now turn to your testimony, if you would,
23 please, that's been identified for the record as Exhibit
24 T-1270, and I'm looking at page 16, lines 7 through 11.
25 Did you perform any cost analysis for purposes of this

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1 docket to determine what impact there was on Qwest's
2 total loop cost by inclusion of the intrabuilding cable?

3 A. Yes.

4 Q. And did you include that analysis in your
5 testimony?

6 A. I believe I did.

7 Q. Where is that?

8 A. I would say that that analysis starts right
9 from the point that you just directed me to all the way
10 through to your discussion of geographic or my response
11 to the notion of geographic de-averaging and all the way
12 through to page 21. So that whole discussion it seems
13 to me is indeed a discussion of and an analysis of the
14 rate proposal that Qwest provided.

15 Q. What I asked you for was whether you
16 performed any cost analysis to determine for purposes of
17 this docket what impact there was on Qwest's total loop
18 cost by inclusion of the intrabuilding cable, and did
19 you understand that to be the question?

20 A. I did understand that to be the question.

21 Q. And is your answer --

22 A. And my answer is the same.

23 Q. Did you quantify the impact?

24 A. It's very clear what the impact is. You have
25 proposed a 70/30 split between distribution and feeder,

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1 two thirds of which you are proposing to be the price
2 for this piece of distribution, which is -- or excuse
3 me. You're proposing that intrabuilding cable around
4 premise wire be priced the equivalent of distribution.
5 The analysis that's done here is meant to convey that
6 what we're talking about is something that is a subloop
7 or a, excuse me, some subset of distribution from the
8 point of -- the minimum point of entry to the demark,
9 the demark being the piece that we're interested in. To
10 the extent that this suggests it ought to be two thirds
11 of the price of the total loop, that's the analysis that
12 I was teeing up here. I'm not sure I understand further
13 than that what you're looking for.

14 Q. Okay. Going back to page 16.

15 A. Sure.

16 Q. On lines 13 through 15, you state:
17 It must be concluded that one and/or
18 both of these carriers has a Commission
19 ordered loop rate that is overstated.

20 A. Correct.

21 Q. And what I was looking for was whether or not
22 you had attempted to quantify -- well, first of all, let
23 me ask you, does that statement apply to Qwest?

24 A. I would say that it doesn't apply to Qwest.

25 Q. Does it --

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1 A. Given that -- do you want me to finish?

2 Q. I'm sorry, I needed to hear whether you said
3 does or doesn't.

4 A. No, I would say -- I would suggest that it
5 does not apply to Qwest. What I was trying to indicate
6 here was you have two different carriers with two
7 different opinions about how this piece of wire ought to
8 be priced, one saying it was included in the price of
9 the loop originally, the other saying it was impossible
10 for it to be included in the price of the loop
11 originally. Since both of these loop prices presumably
12 were established using the same methodology, then both
13 of these methodologies can not be correct.

14 Q. Now if AT&T orders an entire loop from Qwest,
15 do you have that in mind?

16 A. Sure.

17 Q. And the customer who is served by that loop
18 is in a multiple dwelling unit with Qwest owned building
19 cable, do you also have that in mind?

20 A. Sure.

21 Q. Does AT&T expect to be provided with the loop
22 facility all the way from the central office to the
23 customer including the intrapremises cable?

24 A. AT&T would expect that consistent with the
25 UNE Remand Order and the clarification of what a loop is

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1 in that order that what we buy is the point from -- the
2 point of origination of a loop all the way to the
3 demark. And since on premise wire is from the minimum
4 point of entry to the demark, that would suggest that
5 that's inclusive of both pieces in the event you own or
6 control the piece from the MPOE to the demark, but it
7 seems to me it doesn't make any difference since the
8 Remand Order has clarified that a loop terminates at the
9 demark, which is also where the on premise wire would
10 end if it were relevant.

11 Q. So is your answer yes?

12 A. You're going to have to repeat your question
13 now. I think I answered it, but.

14 Q. My question was whether AT&T expects to
15 receive the entire loop facility all the way to the
16 customer when it orders an entire loop?

17 A. Oh, yes, of course, well, all the way to the
18 demark.

19 Q. Turn in your testimony Exhibit T-1270 to page
20 33, if you would for me.

21 A. Certainly.

22 Q. Now you state at lines 15 and 16 that AT&T
23 should be allowed to cross connect directly to the
24 existing basement building terminal; is that correct?

25 A. Correct.

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1 Q. And does that statement also apply -- well,
2 would the statement also be true if we eliminated the
3 word basement in your view?

4 A. Yes.

5 Q. So where there's a separate terminal box on
6 the outside of the building?

7 A. Where there's an accessible terminal anywhere
8 between the minimum point of entry and the demark on
9 either end.

10 Q. Now on page 34, line 15, you reference
11 construction of a single point of interconnection; do
12 you see that?

13 A. Yes, ma'am, I do.

14 Q. Could you please explain to me how the
15 concept of constructing a single point of
16 interconnection fits with the concept discussed on the
17 previous page of connecting to the existing building
18 terminal?

19 A. Yes, I think that with respect to the
20 building -- well, I think it's clear now that we have
21 the building access order, which obviously I only had a
22 press release for when this particular piece of
23 testimony was written, but in the event that there are
24 multiple CLECs and needing access to a group of
25 buildings in more of a campus environment, I think the

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1 direction is that there should be at the request of the
2 CLECs a single point of interconnection.

3 And I'm not sure why there might be a
4 difference here. I mean they could be one and the same.
5 I'm not -- I don't believe I'm answering your question
6 very well, but I'm not sure I understand it either. A
7 single point of interconnection is just what it is, a
8 place where more than one carrier can interconnect. And
9 whether it's in a basement or inside a building or
10 outside a building or in a closet on a floor of a
11 building, it's --

12 Q. Let me see if I understand your testimony;
13 let me break it down. Is it your testimony that the
14 single point of interconnection could be the existing
15 building terminal?

16 A. It could be.

17 Q. And in that case, no additional construction
18 would be necessary?

19 A. As long as people can connect there directly,
20 of course.

21 Q. Well --

22 A. And I think what -- I think maybe to clarify
23 what's going on here is, in this particular piece of
24 testimony, and perhaps it's confusing, but we had at the
25 time experience in New York and New Jersey to call on,

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1 particularly with Verizon and their particular
2 recommendation here, which was not a recommendation in
3 our view. And so given our experience with Verizon in
4 those two states where we were being asked to -- and
5 also the complaint that had yet to be resolved here, we
6 were quite concerned that this was not getting the
7 attention it deserved. So there are multiple issues
8 here. Some have to do with direct connect, some have to
9 do with whether or not a single point of interconnection
10 is necessary. And there are three or four different
11 examples here that are being offered up for that
12 purpose.

13 Q. Is it possible that in some instances such as
14 you described earlier where there is a campus
15 environment and multiple CLECs want access to those
16 customers that a new single point of interconnection
17 would have to be constructed?

18 A. Perhaps.

19 Q. One that did not exist before?

20 A. Perhaps.

21 Q. And does AT&T have a recommendation to this
22 Commission on who should be responsible for the cost of
23 the construction for that single point of
24 interconnection?

25 A. Well, I think in the -- in the situation

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1 where we're asking for something that is -- this is no
2 different than collocation or anything else, where in a
3 situation where AT&T asks for something that is solely
4 for their use, they expect to pay. In the situation
5 where -- and to absorb the costs for that. In a
6 situation where a particular point needs to be
7 constructed so that competition can materialize and
8 happen, then that I think is the responsibility of the
9 ILEC.

10 Q. Could you clarify that last statement for me?
11 In other words, are you saying if more than one CLEC is
12 going to use it, then the ILEC should pay for it?

13 A. No, the point is if there is no other means
14 to connect to a facility that has multiple tenants, then
15 I think it is the responsibility of the ILEC to
16 undertake -- I think that's what the FCC said as well,
17 that there has to be a single point of interconnection.

18 Q. All right, and let's accept for purposes of
19 today that the ILEC is going to construct the single
20 point of interconnection. My question for you is simply
21 what is AT&T's recommendation on who should bear the
22 cost?

23 A. The ILEC should bear the cost, because the
24 compensation to the ILEC from us is through a recurring
25 charge per pair per month for the cable itself, excuse

03493

1 me, for the wires themselves, however many pair we're
2 buying at a time.

3 Q. Does that compensation include the
4 incremental additional costs that would be incurred to
5 construct a single point of interconnection?

6 A. As a matter of fact, it does. The
7 methodology that we employ includes the terminal, and
8 that's what that would be at that point.

9 Q. Have you reviewed Ms. Million's February 7
10 testimony?

11 A. Yes, I have.

12 Q. And the cost study there?

13 A. Yes.

14 Q. And do you recall that her testimony stated
15 that the cost study did not include a separate building
16 terminal?

17 A. Yes, I know her -- yes, I understand that.

18 Q. Okay. On page 35, you recommend, of your
19 testimony, same exhibit, T-1270, you recommend a proxy
20 price for intrabuilding cable of 53 cents per pair per
21 month for Qwest. Is that still your recommendation?

22 A. It depends. If the Commission decides that
23 this issue is important enough to set it aside and to
24 have a fuller inquiry, then that would be the
25 recommendation. If the -- that's the recommendation

03494

1 that we're proposing be an interim price. In the event
2 that that not occur, this was the only pricing proposal
3 we have made. Quite frankly, since the first time I
4 have been involved in this, the pricing proposal we're
5 making right now is zero subject to true up.

6 Q. Did you include within your testimony or your
7 exhibits a cost study to support that 53 cent per pair
8 rate that you proposed?

9 A. The only -- the only cost backup for that
10 would be the cost backup that was involved in the case
11 in which this was established to begin with. No, I
12 didn't, not with this piece of testimony, I did not.
13 That was an established price, and at the time we --
14 that was the best recommendation we had.

15 Q. And in your testimony, you clarified that the
16 intrabuilding cable is not the same thing as the NID;
17 isn't that true?

18 A. Correct.

19 Q. Regarding your Exhibit 1272.

20 A. Would you just tell me which one that is; I
21 don't have them marked?

22 Q. Okay.

23 A. If you wouldn't mind.

24 Q. It's the Massachusetts order, NJB-2.

25 A. Thank you.

03495

1 Q. No problem. I wrote your cross up without
2 the exhibit numbers as well, so I just had to look
3 myself.

4 A. That's fine.

5 THE WITNESS: Your Honor, I need to get my
6 handkerchief, I have a runny nose, I'm sorry.

7 JUDGE BERG: No need to apologize. We'll be
8 off the record just for a moment.

9 (Discussion off the record.)

10 JUDGE BERG: We'll be back on the record.

11 MS. ANDERL: Thank you.

12 BY MS. ANDERL:

13 Q. Ms. Baker, do you have the Massachusetts
14 order?

15 A. Yes, I do.

16 Q. All right, that's Exhibit 1272.

17 A. Now I feel better.

18 Q. That document addresses access to poles,
19 ducts, conduits, and support structure; is that correct?

20 A. Yes.

21 Q. Does it address anywhere directly access to
22 intrabuilding cable?

23 A. Well, indirectly, yes, because that's exactly
24 -- that's part of what's at issue with MTE access is
25 access to poles, conduits, right of way, and anything

03496

1 associated with building in an MTE environment.

2 Q. Okay. My question was, does it directly
3 address intrabuilding cable?

4 A. Yes.

5 Q. Where?

6 A. Oh, man, let me just see if I referenced this
7 before I go looking through here. Can you -- oh, okay.
8 All right, page 45, number 2, analysis and findings,
9 which is exactly what's in my testimony.

10 Q. Where does it reference intrabuilding cable?

11 A. The reference to:
12 A utility that itself competes in the
13 markets for telecommunications and cable
14 services, either directly or through an
15 affiliate or an associated company, must
16 not use its ownership and control of
17 pole attachments, ducts, conduits.

18 CHAIRWOMAN SHOWALTER: Slow down.

19 THE WITNESS: I'm sorry.

20 A. (Reading.)
21 And rights of way to favor itself or its
22 affiliates. Preferential treatment
23 discriminates against unaffiliated
24 competitors and prevents the development
25 of a competitive market.

03497

1 BY MS. ANDERL:

2 Q. Okay. Does it say intrabuilding cable there
3 anywhere?

4 A. It does not say intrabuilding cable.

5 Q. Or any reference to intrabuilding cable in
6 that whole order?

7 A. That in my opinion is the reference to
8 intrabuilding cable, but if you're looking for the words
9 intrabuilding cable, they are not there.

10 Q. Well, a telephone pole is not intrabuilding
11 cable, is it?

12 A. No, ma'am.

13 Q. And is a conduit?

14 A. Could be. Well, the conduit itself, no. The
15 wire inside it, perhaps.

16 Q. Is it --

17 A. The right of way is the major issue.

18 Q. Is a duct intrabuilding cable?

19 A. No.

20 Q. And intrabuilding cable may run across a
21 right of way; is that correct?

22 A. Yes.

23 Q. But intrabuilding cable is not a right of
24 way?

25 A. Not in and of itself, that's correct.

03498

1 Q. Thank you.
2 Ms. Baker, does AT&T own any intrabuilding
3 cable in Washington?
4 A. Does AT&T own any?
5 Q. Yes.
6 A. I have no idea. I doubt it.
7 Q. If AT&T did own intrabuilding cable in
8 Washington, would AT&T agree that -- well, does AT&T
9 believe that it should have exclusive access to that
10 intrabuilding cable?
11 A. If we have it?
12 Q. Yes.
13 A. No.
14 Q. Let me ask you about your NJB-6, which is
15 Exhibit 1276 for the record. That is a stipulation on
16 poles, ducts, conduits, and rights of way; is that
17 correct?
18 A. And maps and records, yes.
19 Q. Maps and records. The maps and records are
20 limited to maps and records for poles and conduits; is
21 that correct?
22 A. And cableplexes.
23 Q. Okay. In your view does that stipulation
24 encompass intrabuilding cable?
25 A. That's -- that was the purpose of -- yes.

03499

1 Q. Is that your signature on that document?

2 A. No.

3 Q. Okay. Does it say intrabuilding cable
4 anywhere on that document?

5 A. No, it doesn't.

6 Q. Okay. Isn't it correct that the FCC has
7 permitted an incumbent ten days to perform an inventory
8 or to determine ownership of the inside wire in a
9 particular MDU or MTE?

10 A. Yes.

11 MS. ANDERL: I have no further questions.

12 Thank you, Ms. Baker.

13 THE WITNESS: You're welcome.

14 JUDGE BERG: Ms. Miles?

15 MS. MILES: Yes.

16

17 C R O S S - E X A M I N A T I O N

18 BY MS. MILES:

19 Q. Hi, Ms. Baker.

20 A. How are you?

21 Q. I'm Meredith Miles representing Verizon.

22 A. Okay.

23 Q. And I just have a couple of areas to cover

24 with you today. First, are you aware that Verizon

25 witness Dennis Trimble filed an errata to his testimony

03500

1 regarding Verizon's recommendation regarding
2 intrabuilding cable?

3 A. No, I'm not, as a matter of fact.

4 Q. Okay. Then I'm going to have you turn to --
5 I'm going to give you a copy of that, which is Exhibit
6 EE-1190 in this proceeding, if that's okay with you.

7 A. Sure, great.

8 Q. Maybe not, we'll see if we can work through
9 this on our own. If Verizon filed an errata in this
10 case in which Verizon agreed with you on two positions,
11 number one would be that a separate path in this docket
12 should be created to address the issues surrounding
13 intrabuilding cable terms and conditions, costs and
14 prices, and number two that the interim rate to charge
15 for intrabuilding cable up until the permanent setting
16 of rates would be Verizon's cost for the NID monthly
17 recurring and nonrecurring, if that's what Verizon did,
18 which I will represent that they did in Dennis Trimble's
19 errata testimony, do those two points today agree with
20 AT&T's position?

21 A. Yes, in fact, one of those is in his
22 testimony, by the by, it's not an errata.

23 Q. That's correct.

24 A. But I didn't see a price proposal, so yes.

25 Q. So you would be amenable to that suggestion

03501

1 if I guess it was a March 30th errata in which he stated
2 that Verizon would be amenable to charging the NID
3 nonrecurring charge and monthly recurring charge on an
4 interim basis until permanent rates are set?

5 A. Let me just be clear. The chart -- the
6 proposal that we made as an interim was the NID, and
7 that charge I believe is 84 cents, and that would be per
8 pair per month recurring, no nonrecurring, just a
9 recurring per pair per month charge. That's where we
10 are on that.

11 Q. That's what your position is?

12 A. Is that your understanding?

13 Q. I believe ours included nonrecurring charge
14 also.

15 A. That I don't know.

16 Q. Okay.

17 A. I'm not aware of that.

18 Q. Okay, well, I'm glad I could inform you of
19 it.

20 A. What is it, care to tell?

21 CHAIRWOMAN SHOWALTER: I'm going to ask the
22 witness to pay close attention to the questions. Your
23 answers in my mind are wondering off. It makes it very
24 difficult for me to follow the train of thought and line
25 of questioning that the attorneys have. I don't know if

03502

1 it makes it hard for them or not, but it makes it hard
2 for me. So pay attention to the question asked, and
3 answer that only.

4 THE WITNESS: Okay.

5 BY MS. MILES:

6 Q. In your testimony, that's something I think
7 you have, Exhibit 1270, you cite and quote portions of
8 the UNE Remand Order, which is the FCC's order in its CC
9 Docket 9698 issued November 5th, 1999; is that right?

10 A. Yes.

11 Q. Okay. And the portions of that order that
12 you quote and cite relate to subloops in general?

13 A. Right.

14 Q. And also to intrabuilding cable specifically
15 in some cases; is that right?

16 A. Yes.

17 Q. Okay. Now isn't it true that in that portion
18 of the UNE Remand Order, the FCC identifies the subloop
19 intrabuilding cable as an unbundled network element?

20 A. Yes.

21 Q. Okay. But prior to that, the FCC had not
22 identified intrabuilding cable as a separate unbundled
23 network element; is that right?

24 A. Right.

25 Q. Okay. Now would you agree with me that rates

03503

1 for individual unbundled network elements are generally
2 based on an ILEC's forward looking incremental costs for
3 that unbundled network element?

4 A. Yes.

5 Q. Okay. Is that notion sometimes referred to
6 as TELRIC?

7 A. Yes.

8 Q. Okay. So because intrabuilding riser cable
9 has been listed as an unbundled network element now by
10 the FCC, shouldn't the rates for that element be based
11 on an ILEC's forward looking costs for that element?

12 A. Yes.

13 Q. Okay. And in order to set such rates,
14 wouldn't a commission need to consider cost studies
15 specific to ILECs' intrabuilding cable to set rates
16 based on these costs?

17 A. Yes.

18 Q. Okay. Have any such cost studies been filed
19 in this proceeding?

20 A. The only one that I have seen is the cost
21 study that was in Ms. Million's testimony.

22 Q. Okay.

23 A. For Qwest.

24 Q. Now are you familiar with a distinction
25 between states that have adopted a minimum point of

03504

1 entry versus a maximum point of entry?

2 A. No, I'm not familiar with the term maximum
3 point of entry.

4 Q. Do you know whether or to what extent Verizon
5 owns any intrabuilding cable in Washington?

6 A. No, I'm not.

7 Q. If Verizon does not own building cable in a
8 specific building, then who owns that building cable?

9 A. I would assume the building owner owns it.

10 Q. Okay. In that case, the Verizon owned
11 facilities would stop at the demarcation point?

12 A. Yes.

13 Q. Okay. Now in that scenario that we just
14 talked about where the building owner owns the cable and
15 Verizon's facilities would stop at the demarcation
16 point, if AT&T wanted access to the intrabuilding cable
17 in that building, wouldn't it need to deal directly with
18 the owner of that building?

19 A. Yes.

20 Q. Now if you would turn with me to page 14 of
21 your testimony, which is Exhibit 1270, lines 14 through
22 18, you say:

23 Building owners including building
24 owners in Washington have informed AT&T
25 that utilities such as QWC and VNI often

03505

1 own or control defacto the intrabuilding
2 cabling on their property necessary to
3 access their tenants.

4 What do you mean by that?

5 A. That either the -- that in a situation where
6 Verizon in this instance owns or controls access to that
7 cable, you, in fact, do just that, you own it or you
8 control it, and we need to obviously work with you in
9 order to get access to that wire.

10 Q. So you're making a distinction between owning
11 it and controlling it?

12 A. Well, there really is no distinction from our
13 perspective. If you own it or you control it, the
14 answer is the same, we need to negotiate and also set a
15 rate with Verizon and/or Qwest to access that wire in
16 order to serve customers.

17 Q. Well, if Verizon doesn't own it, how can it
18 control the access?

19 A. Well, that goes to the heart of contracts
20 between the telecommunications carriers, the nature of
21 the contracts between the carriers and the building
22 owners, and our ability to get through that in order to
23 serve customers. There -- it is a concern certainly. I
24 mean from a pricing standpoint, if you control it rather
25 than own it, obviously we have an issue there. But to

03506

1 the extent you control it whether or not you own it, we
2 still need to work with you in order to get access.

3 Q. So there your concept of control is related
4 to contract between --

5 A. Yes.

6 Q. Okay, the contract between the ILEC and the
7 building owner?

8 A. Yes.

9 Q. Okay. So is it AT&T's position that if the
10 building owner owns the cable and Verizon does not,
11 Verizon may still have some obligation with respect to
12 providing AT&T access to that building cable?

13 A. Yes, and in all of our proposals, you will
14 see that we say with respect to price own or control, so
15 we are compensating you in either situation. If you
16 have the ability to clear the path through the jungle,
17 if you will, if you're controlling the wire, we still
18 need to be able to access that wire however you're
19 controlling it, whether it's contractually or whatever.
20 So the answer to the question is, our proposal from a
21 pricing standpoint is that when you own or control,
22 whatever that means, to the extent you control the
23 access, we need obviously to work with you to get to the
24 customer.

25 Q. Is it your understanding that the UNE Remand

03507

1 Order ordered ILECs to provide access to intrabuilding
2 cable it did not own, does not own?

3 A. Well, yes. Yes, to the extent that we need
4 to. First of all, we need to be able to interconnect.
5 Secondly, it's not just a question of ownership per se,
6 because in some instances, as you have pointed out,
7 ownership is not clear cut at this point in time. But
8 the -- but the point is there's a control issue as well,
9 and that's oftentimes more difficult than the ownership
10 issue. So to the extent there's an impediment to a CLEC
11 or AT&T in this instance trying to provide service to a
12 customer, we need to be able to work through that issue.

13 Q. Does every building owner have a long-term
14 contract with the ILEC that serves its building?

15 A. I have no idea.

16 Q. Do you know?

17 A. I presume every does not, but to the extent
18 that they do, I don't know.

19 Q. Can you point to any place in the UNE Remand
20 Order where the FCC sets out this obligation with
21 respect to building cable that it may "control" and not
22 own?

23 A. You mean where they use the phrase own or
24 control?

25 Q. Sure.

03508

1 A. I think perhaps the better order to refer to
2 there is the MDU access order, but -- and it's related.
3 I know that's not the question you asked, but that is
4 the related order.

5 Q. Well, can I refer you to -- well, I didn't
6 plan on doing this, I think we gave out copies of the
7 UNE Remand Order yesterday.

8 A. I've got one here, just tell me the
9 paragraph.

10 Q. 210.

11 CHAIRWOMAN SHOWALTER: What date?

12 MS. MILES: November 5th, 1999.

13 CHAIRWOMAN SHOWALTER: What page are you on?

14 MS. MILES: I'm on page 97 on mine, but it
15 might not be the same, it's Paragraph 210.

16 BY MS. MILES:

17 Q. Are you there?

18 A. (Nodding.)

19 Q. Do you see I think there in the middle of the
20 paragraph, it states:

21 Such access would give competitors
22 unbundled access to the inside wire
23 subloop element in cases where the
24 incumbent owns and controls wire inside
25 the customer's premises.

03509

1 Do you see that?

2 A. Yes, I do.

3 Q. Now it says owns and controls, not owns or
4 controls; is that right?

5 A. Yes.

6 Q. Okay. Switching subjects here, if I could
7 refer you back to your testimony, Exhibit 1270, at pages
8 16 and 17, and I believe Ms. Anderl covered this with
9 respect to Qwest, and I just have a question about
10 Verizon.

11 A. Sure.

12 Q. Here you say that if Verizon included
13 intrabuilding cable in its loop rate, then its loop rate
14 would be overstated; is that correct?

15 A. Could you direct me to what lines you're
16 referring to?

17 Q. At line 20 and I guess it goes over to the
18 next page as well. I think that's with respect to
19 Verizon.

20 A. Yes, okay.

21 Q. Do you happen to be aware that Verizon
22 witness Kevin Collins replied to this suggestion in his
23 rebuttal testimony dated February --

24 A. Yes, I saw that.

25 Q. Okay. Did he state that Verizon did not, in

03510

1 fact, include intrabuilding riser cable cost in its loop
2 cost?

3 A. Yes, I think he did say that.

4 Q. Then would this statement no longer be
5 applicable?

6 A. No, not at all.

7 Q. Meaning it no longer would be applicable?

8 A. No, it isn't -- it is applicable. This
9 Commission established loop rates for two carriers using
10 the same methodology. Each carrier is saying that they
11 -- in one case it's included, in another it isn't.
12 Mr. -- I'm sorry, what was his name?

13 Q. Collins.

14 A. Collins suggests that the loop ends at the
15 NID, if I read his testimony correctly. If you have
16 only costed to the NID, it may or may not in fact
17 include all that's now defined as loop, which loop ends
18 at demark. That means it could be before the NID,
19 inside the NID, or outside the NID. So I'm not sure
20 that his rejoinder to my testimony is, in fact, correct.
21 I don't know, but I don't -- but I think there is still
22 a question.

23 Q. Well, in that scenario, isn't it just as
24 possible that the loop rate is understated?

25 A. I wouldn't think so, not -- not given that

03511

1 one carrier includes it and the other doesn't. One may
2 be, but the one that includes it, no.

3 Q. I was talking about Verizon specifically.

4 A. Right, I understand that, but my original
5 concern was that we have two different -- two carriers
6 saying their loop costs were arrived at using -- under
7 two different scenarios. But this Commission, at least
8 if I understand the order correctly, used the same
9 methodology in each case. So one or the other is, it
10 seems to me, overstating or understating as the case may
11 be. I'm not sure that I'm clear based on this piece of
12 testimony that that isn't what occurred.

13 Q. All right. Can you turn with me to page 22
14 of your testimony.

15 A. Sure.

16 Q. Exhibit 1270. Here you begin and discuss at
17 length a proposal Verizon purportedly submitted in New
18 Jersey with respect to building cable; isn't that right?

19 A. Correct.

20 Q. Okay. Has Verizon made this, the proposal
21 you referenced, in this proceeding?

22 A. No, not to my knowledge.

23 Q. So on the questions following from pages 22
24 through 25 where you reference Verizon's proposal,
25 you're referring to the New Jersey proposal as you

03512

1 defined it; is that right?

2 A. That's correct.

3 Q. What was the context of that New Jersey
4 proposal?

5 A. I believe that was a UNE case, if I'm not
6 mistaken. And I apologize, I had put in a footnote here
7 to cite to that, and obviously it didn't make it, I
8 apologize. I thought there was a UNE case, well, there
9 was a UNE case going on in New York, and there was also
10 some sort of a trial. And if I'm -- if I'm remembering
11 this correctly, there was testimony filed in New York
12 first and then in New Jersey, and I believe this was in
13 response to the New Jersey proposal.

14 Q. Okay. Was that filed by Bell Atlantic?

15 A. Well, as opposed to?

16 Q. GTE.

17 A. Oh, you know, I don't know. I thought it was
18 Verizon New Jersey. I thought it was being referred to
19 as Verizon New Jersey.

20 Q. Okay. Could you turn to I guess it's your
21 NJB-6, Exhibit 1276.

22 A. Yes.

23 Q. Or actually NJB-5, sorry, it's 1275. This is
24 an illustration entitled Verizon New Jersey proposal.

25 A. Right.

03513

1 Q. Did you create this illustration?

2 A. I created -- yes, I created the illustration
3 from -- but from an exhibit that was used in New Jersey.

4 Q. But this wasn't produced by Verizon?

5 A. No, this was produced by AT&T.

6 Q. All right.

7 A. This is a depiction of the proposal
8 basically, our understanding of it.

9 Q. Last issue, if you could turn back in your
10 testimony to page 27, that's Exhibit 1270. And then the
11 Q and A on line 5, that begins on line 5, you're
12 discussing the best practices presumption as stated in
13 the FCC's UNE Remand Order?

14 A. Yes.

15 Q. Dated November 5, 1999; is that correct?

16 A. Yes.

17 Q. In fact, here you quote the portion of that
18 order which you state incorporates the best practice
19 presumption; is that right?

20 A. Yes.

21 Q. Okay. And that section says that:
22 Once one state has determined that it is
23 technically feasible to unbundle
24 subloops at a designated point, it will
25 be presumed that it is technically

03514

1 feasible for any incumbent LEC in any
2 other state to unbundle the loop at the
3 same point everywhere.

4 Is that what the FCC UNE Remand Order says?

5 A. Yes.

6 Q. Okay. Is it AT&T's position that the best
7 practices presumption applies to all terms and
8 conditions applicable or only to the question of whether
9 or not it is technically feasible to unbundle subloops
10 at a designated point?

11 A. I mean it's our position that best practices
12 is an attempt on the part of the FCC to establish some
13 sort of floor for all of this. The order itself is,
14 with respect to subloops, is, you know, is characterized
15 by words like flexible and broad and range of options.
16 So our interpretation of this is that the FCC is
17 attempting to establish not a precise point necessarily,
18 but a guideline or a standard for other states to follow
19 so that this isn't relitigated everywhere and that --
20 and to make an assumption that once some sort of
21 interconnection point has been established in one
22 jurisdiction, it's presumably appropriate for others
23 unless proven to the contrary.

24 And I know that's a longer answer than you
25 may have wanted, but I think the whole subloop portion

03515

1 of the UNE Remand Order is about flexibility, is about
2 access, is about range of options, about redefinitions
3 and reclarifications. So in that context, that's how we
4 read best practices.

5 Q. So it's AT&T's position that it's not limited
6 to -- the best practices presumption is not limited to a
7 point for access, but includes all the terms and
8 conditions another state may --

9 A. Yes, I think that's -- I think that's a fair
10 characterization.

11 Q. Have the states that have addressed this
12 issue identified identical terms and conditions with
13 respect to inside wire?

14 A. Identical to whom?

15 Q. Each other.

16 A. Oh, I have no idea, probably there are word
17 differences and what have you. I think conceptually is
18 more important than --

19 Q. So how would this Commission under your best
20 practices assumption determine which terms and
21 conditions should apply in Washington?

22 A. Well, with respect to -- I presume with
23 respect to interconnection, first and foremost it's I
24 think very important to understand and to conceptualize
25 properly what we're talking about, which is a piece of

03516

1 wire. And I'm, you know, all due respect, I'm not
2 trying to be smart here, but it's the size of a
3 toothpick that runs between the minimum point of entry
4 and the demark.

5 And that length could be zero and is zero on
6 a number of occasions. It could be several hundred
7 feet. It could be just a few feet. We're talking about
8 the last few feet to a very sizable base of customers.
9 30% of the residential consumers live in multiple
10 dwelling units. We're talking about a little tiny piece
11 of wire that we want to connect to to provide people
12 service. So that, I think, is what's important. That's
13 the essence of this issue.

14 Q. So what you're referring to is the
15 feasibility of access, technical feasibility of access
16 to a building cable?

17 A. Yes.

18 Q. Okay. On the same page we were referring to
19 a little while ago, beginning on line 18, you talk
20 about --

21 A. My testimony?

22 Q. Yes, sorry, Exhibit 1270, page 27, line 18;
23 are you there?

24 A. The Massachusetts?

25 Q. Exactly.

03517

1 A. Got it.

2 Q. Okay. And there you state that Massachusetts
3 has established best practices that are applicable to
4 Verizon in Washington; is that correct?

5 A. Yes.

6 Q. And you have attached a Massachusetts order
7 that you believe contains those best practices?

8 A. In part. There's -- there is the phrase in
9 there that I was reviewing with Ms. Anderl that is in
10 our opinion a reference to this issue.

11 Q. So that order does not contain what you think
12 this Commission should adopt under the best practices
13 presumption?

14 A. Well, I think it provides a guideline. It
15 provides a floor. That's what we interpret best
16 practices to mean, that it's a floor. Certainly a state
17 has the -- has the prerogative and certainly is
18 encouraged to adopt better practices than the floor in
19 order to provide access to this particular significant
20 customer base.

21 Q. Is that Massachusetts order the result of a
22 252 arbitration under the Telecommunications Act?

23 A. I don't know actually.

24 Q. Well, let's turn to Exhibit 1272, which is
25 your NJB-2.

03518

1 A. Got it.

2 Q. And on the title page there, what is the
3 title of this order?

4 A. Order Establishing Complaint and Enforcement
5 Procedures to Ensure that Telecommunications Carriers
6 and Cable System Operators have Nondiscriminatory Access
7 to Utility Poles, Ducts, Conduits, and Rights of Way,
8 and to Enhance Consumer Access to Telecommunications
9 Services.

10 Q. Then does it say orders promulgating final
11 regulations?

12 A. Yes.

13 Q. Do you know if that's referring to state
14 regulations?

15 A. I presume so.

16 Q. Okay. Last subject I think now finally for
17 real, on page 35, 34 and 35 of Exhibit 1270, your
18 testimony, there you are discussing access to cable
19 plant maps.

20 A. Yes.

21 Q. And you reference the stipulation between
22 Southwestern Bell and AT&T?

23 A. Yes.

24 Q. In what context was that stipulation entered
25 into?

03519

1 A. I don't know. By that, do you mean what
2 proceeding exactly?

3 Q. Not necessarily what proceeding number, but
4 just a general context.

5 A. I don't know what case it was.

6 Q. Were you involved in it?

7 A. No, I only appear in the 14 states in the U S
8 West territory.

9 Q. So do you know if it was a negotiated
10 stipulation?

11 A. Well, I presume since it's a stipulation it
12 was, but in what case I don't know.

13 Q. And back in your testimony where I just
14 pointed you, you state that AT&T needs access to
15 Verizon's or Qwest's cable plant maps for the purpose,
16 and I will give you lines, page 34, lines 14, 15, and
17 16, so you can determine whether Verizon or Qwest is
18 meeting its obligation to construct a single point of
19 interconnection; is that correct?

20 A. Yes.

21 Q. Okay. Could AT&T get that information, the
22 information it needs to make that determination, from
23 the building owner?

24 A. In the event the building owner has that
25 information, I suspect so.

03520

1 Q. Okay. Now presuming that that's a valid
2 purpose, if there were other ways of providing AT&T
3 access to information that would allow it to make that
4 determination, would that serve AT&T's needs?

5 A. If there were some other, sure, if there were
6 some other way to get at it, I presume we wouldn't make
7 this request.

8 MS. MILES: That's all I have.

9 JUDGE BERG: We'll take our morning break and
10 be back on the record at 11:05 a.m.

11 (Recess taken.)

12 JUDGE BERG: Dr. Gabel.

13

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

15 BY DR. GABEL:

16 Q. Good morning, Ms. Baker. I would like to ask
17 you to turn to Exhibit 1270. That's your reply
18 testimony, page 16, lines 9 to 15. I'm having a hard
19 time understanding the conclusion that appears at lines
20 13 to 15, and that is, why does the testimony of Qwest
21 and Verizon lead to the, on the topic of riser cable or
22 intrabuilding cable, why does that lead to the
23 conclusion that the Commission ordered loop rate must be
24 overstated?

25 A. In the original testimony filed by Qwest and

03521

1 by Verizon in this case, each of the pricing witnesses
2 that addressed this issue had a, it seemed to me, had a
3 different concern with respect to how this particular
4 rate element should be costed, hence priced.

5 And the original testimony, I believe, of
6 Verizon suggested that A, that they weren't sure they
7 owned any of this particular on premise wire; B, it
8 should be BFR in the event that they did; and C, that no
9 cost study was capable of producing this particular
10 result.

11 And so the conclusion there, it seems to me,
12 the logical conclusion is then that unlike the
13 explanation offered by Qwest, which was it's part of
14 distribution, you've got one party saying it can't be
15 costed using the methodology that was used to cost loops
16 in this state, and you've got another party saying it's
17 part of, it's an integral part of a subloop element of a
18 loop that was cost in this state.

19 My interpretation of that was some sort of
20 dysfunction there between how could each of those loop
21 rates be either stated properly, overstated, or
22 understated given they were -- the methodology upon
23 which those loop rates were arrived at, correct me if
24 I'm wrong, was the same methodology. Yet on the one
25 hand you have one carrier saying it's included, and the

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1 other carrier saying it's not included, and furthermore,
2 it's impossible to include it. So my conclusion is that
3 if it's included in one particular situation and not in
4 the other, but both were arrived at using the same
5 methodology, how can they both be correct. That was the
6 question I was getting at.

7 Q. And if I understood the response you just
8 provided, you stated that the cost could be understated
9 or overstated, but in your testimony you said that costs
10 are overstated. And so, again, I'm having a hard time
11 following your logic of why the omission of
12 intrabuilding cables would lead to an overstatement of
13 costs.

14 A. Hm, if in the situation -- if it's the case
15 that it should not be included in the price of the loop
16 and in one case it was, then it seems to me that that
17 would lead to the conclusion that it could be
18 overstated, not that it was, but that it could be. If
19 on the other hand it should be included and wasn't, I
20 agree that in that situation it would be understated.

21 Q. You agree with whom?

22 A. Well, I'm generally generically agreeing that
23 it could be understated.

24 Q. All right. Is it your understanding that
25 when the Commission established the loop rates in the

03523

1 prior docket that it gave consideration to both the
2 incumbent's loop models as well as BCPM as well as the
3 Hatfield model?

4 A. That's my understanding.

5 Q. And is it your understanding that the
6 Hatfield model includes intrabuilding cable?

7 A. It does.

8 Q. And they do it through an investment that's
9 referred to as riser cable; is that correct?

10 A. The investments are cable, the internal SAI,
11 and yeah, those are the two investments, if I'm
12 recalling correctly.

13 Q. So it, just to be --

14 A. And today part of distribution.

15 Q. Okay. So it would be, I just want to -- it's
16 your understanding that the Hatfield model does include
17 the costs of intrabuilding cable?

18 A. Yes.

19 Q. Okay.

20 A. But it doesn't report it as a separate rate
21 element, and that's the evolutionary process, if you
22 will, of the model that we're undertaking now is to get
23 it to produce that as a separate element.

24 Q. Okay. This morning when you testified, you
25 talked about the thinness of the intrabuilding cable,

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1 and you said that the length could be zero. Could you
2 explain how the length could be zero?

3 A. Yes. If intrabuilding cable, on premise
4 wire, inside wire, you know, the like, if the definition
5 is, if you accept our definition, which is, is the piece
6 of wire between the MPOE, the minimum point of entry,
7 the most -- that's the first practical point of
8 interconnection, and the demarcation point, and if those
9 are one and the same, then it would be, I think an
10 engineer would agree with me that that's a zero
11 distance. But you could direct that question to
12 Mr. Weiss since he's an engineer. But that was the
13 intent. The other thing is we're talking about 24, 26
14 gauge pairs, which as I'm sure you're aware is a very
15 thin piece of wire.

16 Q. Is the demarcation point synonymous with the
17 network interface splice?

18 A. No, not always, it could be. But it can be
19 in front of the NID, in the NID itself, or on the other
20 side.

21 Q. And it would be there would be a distance
22 between the demarcation point and the network interface
23 device when the intrabuilding cable is owned by the
24 landlord?

25 A. Well, I, you know, I don't know the answer to

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1 that in all cases. I think that what's relevant here is
2 not the NID itself unless it also is the one and the
3 same with the MPOE, but it is, regardless of what we
4 call it, it is that difference between the minimum point
5 of entry and the demark. And the NID is really not --
6 and that's the reason I filed the errata to my testimony
7 by the by, because I think that confused the issue.

8 The NID may or may not be co-terminous with
9 that point as well. And it's a particularly confusing
10 semantical issue in MTEs, because unlike a residential
11 situation, a NID is a demark for all intents and
12 purposes. But here you have a different situation where
13 you may have a piece, an additional piece of wire. You
14 may or may not.

15 Q. Okay. In the same Exhibit 1270, may I ask
16 you to turn to page 21, lines 18 to 21.

17 A. Yes, I'm there.

18 Q. Here I understand your testimony to state
19 that the intermediate cross connect may be unnecessary
20 or is unnecessary. Would you explain to me what you
21 mean by an intermediate cross connect and why you then
22 conclude that it is an unnecessary investment?

23 A. Yes, this actually, this discussion actually
24 starts a little bit further on, and it's an entire
25 discussion about something called a field connection

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1 point. That was and is a proposal that a special
2 intermediate connection point be established for CLECs
3 for which they pay both a nonrecurring charge to
4 construct it to begin with and also for a minimum number
5 of pairs of these wires. And that is what we're talking
6 about as an intermediate cross connect device, a stand
7 alone interconnection contraption, if you will,
8 specifically built for this particular purpose, and
9 unnecessarily so in our view. And that's really the
10 point, that it's not a necessary, in all cases, a
11 necessary structure for this particular situation.

12 Q. I'm sorry, I didn't follow, and why is it
13 unnecessary?

14 A. It's simply an intermediate device for the
15 sole purpose of creating an unnecessary intermediate
16 point of connection when that point of connection could
17 be at the MPOE. It's just -- it's simply constructing,
18 not unlike spot frames in a central office. If they're
19 required for some particular purpose, that's one thing.
20 But to build an intermediate device for the sole purpose
21 of building an intermediate device when it's unnecessary
22 adds cost, adds points of failure, that sort of thing.
23 So in our view, the field connection point is
24 unnecessary.

25 And to the extent we wanted something like

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1 that, it should be permissive. We would ask for it, we
2 would expect to pay for it. But for it to be mandated,
3 and that was the concern we had, it was being mandated
4 as the only way to accomplish this access.

5 Q. You have been asked this morning about the
6 best practices adopted in different states, and I would
7 like to ask you just a question that's specific to
8 Washington, which you may or may not want or be able to
9 answer. Maybe you just want to leave this to the brief.
10 But are you aware of any Washington statute that deals
11 with the CLECs obtaining access to intrabuilding cable?

12 A. I'm not.

13 Q. All right. At page 35 of your testimony, you
14 discuss your recommendation for an interim price of 53
15 cents and 84 cents, and you point out that these are the
16 recurring rates for the network interface devices. Why
17 in your opinion is the price of the network interface
18 device the appropriate proxy price for intrabuilding
19 cable?

20 A. Well, again, I would say that six months ago
21 or so in October when we filed this testimony, this
22 issue was just beginning to surface as an issue that we
23 needed to further refine our pricing methodology to
24 address. And at that point in time, there were a number
25 of 271 workshops that were underway in several states

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1 and also negotiations for building access. And clearly
2 Qwest in particular in this case was asking to get paid
3 for this, and at the time it was two thirds of the
4 distribution loop. Well, or I mean excuse me, two
5 thirds of the loop price, meaning the distribution
6 piece. And clearly we weren't -- in addition to this
7 field connection point and some other recurring and
8 nonrecurring charges.

9 And we were fairly certain that the entire
10 distribution portion of the loop was inappropriate. We
11 weren't completely certain what was. The closest thing
12 that we thought would serve as a proxy for what we're
13 looking to interconnect to, which is a pair of wires,
14 was the NID. That was the best thing that we had at the
15 time that was publicly available that we -- that we
16 thought was a reasonable recommendation, a TELRIC price
17 for something that looks like, looks kind of like the
18 same thing only in a residential application for this
19 particular application. And I must say at the time
20 knowing full well that we thought this was overstated as
21 well. So that's where that came from, that's the
22 rationale.

23 Q. Turning back a page to page 34 of Exhibit
24 1270, you discuss an attachment which is Southwestern
25 Bell Telephone Company's agreement to provide certain

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1 information to AT&T, and you point out that the
2 agreement calls for access to pole and conduit maps as
3 well as cable plant maps in two business days' notice.
4 Does this agreement include intrabuilding cable?

5 A. Well, it includes the documents that are
6 necessary for us to know where that's located. That's
7 the point of this particular stipulation, that it is
8 some sort of quick information to AT&T to be able to
9 quickly establish where interconnection can occur and
10 also get customers up and running.

11 Q. And that agreement includes intrabuilding
12 cable?

13 A. Well, this is applicable to intrabuilding
14 cable, that's correct.

15

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

17 BY CHAIRWOMAN SHOWALTER:

18 Q. Well, can you just clarify your answer?

19 A. Sure.

20 Q. Does it, is it relevant to --

21 A. Yes, ma'am.

22 Q. But does it include?

23 A. It's relevant to.

24 Q. But does not include directly?

25 A. It doesn't contain the words intrabuilding

03530

1 cable, but the notion of being able to access, the means
2 to access intrabuilding cable is embedded, if I can use
3 that word, in that particular paragraph. That's -- it
4 -- the information that AT&T seeks and is offered up in
5 that document is information about where points of
6 interconnection are in the network that allow us to
7 determine where it is we can interconnect our cable or
8 our wire. I'm sorry if that's not clear, but that's
9 what it is.

10

E X A M I N A T I O N

11 BY DR. GABEL:

12 Q. And lastly, could I ask you to turn to page
13 17 of your testimony, lines 6 to 10.

14 A. (Complies.)

15 Q. Now here am I correct, Ms. Baker, you're
16 comparing the wholesale rate for the loop with the
17 current residential retail rate for local service?

18 A. Yes.

19 Q. And are you providing that comparison as a
20 way of evaluating the profitability of serving the
21 residential market?

22 A. I'm providing it as a, if I may, I'm
23 recalling from Mr. Gillan's theme yesterday, providing
24 that as a means to suggest that there are only limited
25

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1 ways in which CLECs can compete, and some of those have
2 been disrupted by one means or another. Here is a
3 particularly ripe group of customers that are fairly
4 easily accessed given the right sets of terms and
5 conditions, and that we have a carrier in this
6 particular situation, namely AT&T, with a facilities
7 based offering, which has been, I think, very much a,
8 for lack of a better word, a bias of this Commission for
9 facilities based competition. I don't mean bias in a
10 bad sense. I mean bias in that a preferable, if that's
11 a better word, means of competition.

12 So what I'm saying here is that we have a
13 situation where we have a residential retail rate, and
14 we're looking at trying to get access here to
15 residential retail customers, that is itself in the
16 state quite a bit lower by a whole lot than the current
17 loop price. So from the standpoint of us buying whole
18 loops to compete with residential customers against the
19 incumbent, that's, at least the first level of analysis,
20 pretty well foreclosed. But here sits a facilities
21 based competitor who is saying, okay, we can serve these
22 consumers, this whole group of consumers, through a
23 different strategy, which is access to this piece of
24 wire in the event consumers want service under that
25 scenario.

03532

1 So the answer is, yes, there is a, you know,
2 there is a distinct barrier there with respect to
3 residential service.

4 Q. Okay. So my question was, were you using or
5 was this portion of your testimony offering your opinion
6 on the profitability of providing residential service
7 using the unbundled loop, and at the end of your
8 response I understood you to respond yes. So I would
9 like, is that a correct understanding of your response?

10 A. Yeah, it's a general statement in that
11 direction. I would agree with that.

12 Q. All right. Now am I correct, Ms. Baker, that
13 you have testified two or three years ago before this
14 Commission in its universal service proceeding?

15 A. That's correct.

16 Q. And one of the issues which you addressed was
17 the profitability of serving the residential telephone
18 market where you and AT&T introduced evidence on what
19 was the relationship between the revenue from
20 residential customers and the cost of serving
21 residential customers?

22 A. Yes.

23 Q. Okay. And in that analysis which you offered
24 in that prior proceeding, what did you use as your
25 revenue, metric for the revenue that was derived from

03533

1 residential customers?

2 A. What we were -- what we were attempting to do
3 in universal service, and it's not completely unrelated
4 to what's going on here, is to say -- is to provide
5 methodologies for sizing a subsidy in the event a
6 subsidy were necessary. Now the comparison is slightly
7 different. Here I'm talking about a wholesale cost of a
8 loop versus the retail price of just basic local
9 exchange service.

10 The appropriate way to size a subsidy,
11 however, is to carry that beyond just the price of basic
12 local exchange service, because there is a basket of
13 services in the local basket, if you will, that use the
14 same local facilities that provide revenue to carriers
15 that also help offset the cost of that service.

16 At the time we were, as you I'm sure recall,
17 working with the 25/75 state/federal situation, and the
18 FCC had established revenue, the revenue bench mark
19 concept. They have since gone to a cost bench mark
20 concept. Nonetheless, the conclusions are similar,
21 which is it's -- at the end of the day, the important
22 issue is not what subsidizes, what but the question is,
23 is it profitable for carriers to serve customers. And
24 if the answer is yes, then you obviously don't want to
25 tax the people of this state further to subsidize for

03534

1 that particular situation.

2 So the revenues that we used in that analysis
3 for purposes of determining whether or not a subsidy was
4 necessary were local service revenues, vertical service
5 revenues, mostly regulated revenues, and then I think we
6 also made the point that there are some other revenues
7 such as Yellow Pages and White Pages and what have you
8 that are also sources of revenue used for the same
9 purpose, and they should be taken into account for that
10 particular calculation as well.

11 Q. And the revenue, the value that you used in
12 your analysis, was it in the range of \$31; does that
13 number sound familiar to you?

14 A. Well, that was the FCC's revenue bench mark.
15 Actually at the time, we were comparing Qwest revenues,
16 expected revenues, for -- actually from their own
17 statement of their revenues going further back to the
18 arbitration, they had provided some revenue information
19 as a nonproprietary at the time, so if I land on the
20 right number, everybody knows it was a nonproprietary
21 pricing exhibit, and they at the time had I think
22 reported in the neighborhood of \$32 for residential and
23 \$58 and change for business compared to the \$31 and \$51
24 revenue bench marks that the FCC had adopted as the
25 nationwide bench marks.

03535

1 DR. GABEL: Thank you, I have no further
2 questions.

3 JUDGE BERG: Ms. Baker, I just have two
4 questions.

5

6

E X A M I N A T I O N

7 BY JUDGE BERG:

8 Q. If an intermediate cross connect is utilized,
9 would it still be necessary for a CLEC to interconnect
10 at the MPOE?

11 A. An intermediate cross connect is not
12 necessary in our view. The MPOE is where we want to
13 cross connect, the minimum point of entry, wherever it
14 is, on the building, inside the building, in the
15 basement, in a closet. An intermediate, a field
16 connection point, is that what you're talking about?

17 Q. No, I'm just asking whether -- I understand
18 that from AT&T's position that it's not an ideal place.
19 What I'm trying to understand is whether there are also
20 additional costs imposed as a result of an intermediate
21 cross connect in addition to costs that are still
22 incurred for interconnection at the MPOE or whether this
23 is a less desirable replacement for interconnection at
24 the MPOE?

25 A. I think it was meant to be a less desirable

03536

1 interconnection point other than the MPOE. That was
2 the, I suspect, the intended purpose.

3 Q. All right, that's right on the money.

4 Also, how is a, with regards to your
5 reference to the FCC UNE Remand Order where it mentions
6 the -- establishes a best practices presumption.

7 A. Yes, sir.

8 Q. How does or how is a best practices
9 presumption different from a most favored nations
10 provision? Are they synonymous? I have heard, I read
11 most favored nations in the FCC about --

12 A. ICAs.

13 Q. What's an ICA?

14 A. Interconnection agreement.

15 Q. Oh, okay.

16 A. I think that's where you have come across
17 that provision, if I'm not mistaken.

18 Well, I think that they are designed,
19 conceptually designed to accomplish the same thing,
20 which is to enhance the ability of CLECs to compete with
21 incumbents given the obstacles that they face. So, you
22 know, I think with respect to intent, they're probably
23 very similar.

24 However, I suspect that the most favored
25 nation component of the interconnection agreements is

03537

1 probably better addressed by a lawyer, because I think
2 they are -- they go to the heart of some of the issues
3 in the contractual agreements, so I might refrain from
4 that. But I think that in general, they're trying to
5 create a situation to reduce obstacles to competition.

6 JUDGE BERG: All right, thank you.

7 THE WITNESS: Yes.

8 JUDGE BERG: Madam Chairwoman?

9

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

11 BY CHAIRWOMAN SHOWALTER:

12 Q. Regarding the intermediate cross connect
13 device, in evaluating whether it's necessary or not
14 necessary, does it make any difference if there are more
15 than one CLEC trying to interconnect? I guess and maybe
16 the way, if there are more than one, is it more
17 reasonable to have one?

18 A. Well, it might be, but I think that the issue
19 is location, number one, and what are we really talking
20 about in terms of what's being constructed. A single
21 point of interconnection is required where one doesn't
22 exist. It's one thing to take a single, you know,
23 what's known as a 66 block, but what it looks like is a
24 metal ice cube tray with little slots in it where you
25 stick wires in it, if I can, in my nonengineering

03538

1 description. But the position of that as opposed to out
2 in the north 40 building another box and then charging
3 people for wire all the way back into a building
4 unnecessarily is really the distinction here. A single
5 point of interconnection should be at the minimum point
6 of entry.

7 Q. Okay.

8 A. And that can be on the building, you know, as
9 I said before, inside the building, whatever. But to
10 construct something that is remote from the building has
11 a number of issues. It's expensive to do, number one.
12 Number two, there were some minimum pair requirements in
13 all of that, so.

14 Q. Well, my only question was, does it make a
15 difference in the analysis whether there is one or more
16 than one CLEC trying to interconnect? From what you
17 say, it sounds as if that's really not a factor.

18 A. I think it goes to the heart of what's the
19 obligation, and the obligation is that there needs to be
20 a single point of interconnection. Now what that --
21 what that -- what that comprises in our view is what I
22 just described, not a very expensive undertaking that's
23 removed from the building itself. And in the -- yes, I
24 mean the answer is there does need to be a single point
25 of interconnection. But what it looks like, where it

03539

1 is, how much it costs is the heart of the issue.

2 Q. Okay. My only question, and I don't know
3 what your answer is as to what it is or how much it
4 costs or where it is, does that analysis vary depending
5 on whether there is only one CLEC trying to interconnect
6 or several? That is, does that factor, the presence of
7 let's say eight CLECs trying to interconnect, does that
8 make a difference at all in your analysis as to whether
9 there should or shouldn't be an intermediate cross
10 connect device?

11 A. There should not be an intermediate cross
12 connect device irrespective of the number of
13 interconnectors.

14 Q. Okay.

15 A. Does that help?

16 Q. That is in answer to my question.

17 You mentioned a couple of times the thinness
18 of the wires that are at issue here. Why is that
19 relevant, or what is the significance of it being a thin
20 wire?

21 A. Well, the significance of it is that I think
22 that words paint pictures, and the significance, the
23 difference between a cable, for example, and a wire I
24 think is significant. And we have been using the word
25 intrabuilding cable, we have been using, I use -- I am

03540

1 now using the term on premise wire because that's what
2 we're talking about, wire. We're talking about the
3 ability to -- for our technicians to go place their own
4 NID on a building, run their cable, and connect to a
5 piece, to two wires, a pair of wires, that will then
6 give them access to a customer.

7 And in some ways, the issue has gathered a
8 lot of momentum and a lot of -- I think it has conjured
9 up a lot of impression about what's involved that's
10 inflated basically. So I emphasize the fact that what
11 we are talking about here is our ability to access very
12 thin gauged wire, not cables running for great lengths,
13 not intermediate connection points and all of the costs
14 involved.

15 If you -- I guess another way to do this is
16 to say, you know, if I'm trying to explain to somebody
17 what I'm talking about, if I start with the customer
18 instead of starting out at the central office and moving
19 back in, if I start with the customer, you're connected
20 to the telephone network through a pair of wires, and
21 that's what we're looking to have access to. And by
22 access, we mean we just want to connect to those at the,
23 in a multiple tenant environment, at the minimum point
24 of entry and, you know, between the -- and pay for
25 whatever the distance is between the minimum point of

03541

1 entry and the demark on a per pair monthly recurring
2 basis, having that cover all of the expense involved in
3 all of this, because that's all it is.

4 Q. So the point of mentioning the thickness or
5 thinness of the wire is to give a visual --

6 A. Yes.

7 Q. -- sense of what we're doing. But I take it
8 it doesn't affect, does it, the analysis of what the
9 price is or what the arrangement should be?

10 A. Oh, I think it does. That's my point.

11 Q. And it --

12 A. I think it does affect it quite significantly
13 unless -- because when you start to talk about
14 interconnection, intermediate devices, when you start to
15 talk about minimum points of entry, even when -- even in
16 the FCC's order when you talk about one must move the
17 MPOE from wherever it is today to the property line, I
18 think conjures up the notion that, at least for me it
19 did, that somebody is actually picking up something of
20 substance and moving it from one place to the other,
21 when in fact what you're doing is redesignating a point
22 on a piece of wire where you can stick an interconnect
23 device.

24 CHAIRWOMAN SHOWALTER: Okay, thank you.

25 JUDGE BERG: Let's be off the record for a

03542

1 moment.

2 (Discussion off the record.)

3 JUDGE BERG: Ms. Anderl.

4 MS. ANDERL: Thank you, Your Honor.

5 JUDGE BERG: Ideally, we would like to finish
6 in five minutes.

7 MS. ANDERL: I understand, I will do my best.

8

9 R E C R O S S - E X A M I N A T I O N

10 BY MS. ANDERL:

11 Q. Ms. Baker, did you review Ms. Million's cost
12 study?

13 A. I did.

14 Q. Do you have an understanding of what portion
15 of the cost produced by that study is attributable to
16 the building terminal and what portion of the cost is
17 attributable to the wire?

18 A. I do not.

19 Q. Would you accept subject to your check that
20 less than 10% of the investment in the study is
21 attributable to the wire and that the majority of the
22 investment which produces the cost is attributable to
23 the building terminal?

24 A. Just one second here, just give me one
25 second. Yes, I would.

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1 Q. Okay, thank you. Now let's go back to the
2 question that you just talked about with the Chairwoman,
3 and I'm hopeful that the issues are just semantics, and
4 I want to make sure that we have an understanding here.
5 You and I talked earlier about single point of
6 interconnection; is that right?

7 A. Yes.

8 Q. And we also talked about constructing a new
9 single point of interconnection if necessary.

10 A. Yes.

11 Q. Now when the Chairwoman asked you about an
12 intermediate cross connect device, did you understand
13 that to be something different from or the same as a new
14 single point of interconnection?

15 A. I understood it to be different, and the
16 reason I say that is because we do have an issue here of
17 an intermediate interconnection point, which is
18 different in my view from a single point of
19 interconnection that is what the FCC has indicated
20 should be made available in the event there isn't one.

21 Q. Okay. Well, then let's go back then and
22 reask those questions if I can capture the concept
23 there. Does it make any difference to your analysis of
24 whether an existing single point of interconnection can
25 be used or a new one must be constructed, in answering

03544

1 that question, does it make any difference whether there
2 is one CLEC wanting access or multiple CLECs wanting
3 access?

4 A. (Shaking head.)

5 Q. I believe that you responded earlier that
6 sometimes in a campus environment where multiple CLECs
7 want access to customers, it might be better to
8 construct a single point of interconnection. Did I
9 misunderstand your testimony?

10 A. Well, if there isn't one in existence, it has
11 to be constructed, or it has to be designated is really
12 a better word. That's another, there it is, you know,
13 constructed versus designated.

14 Q. Have you ever physically -- have you seen
15 some of the building terminals that are at issue?

16 A. In Washington?

17 Q. Yes.

18 A. No, not in Washington.

19 Q. How about in Colorado?

20 A. Yes.

21 Q. And would you agree that sometimes they get
22 full?

23 A. Perhaps.

24 Q. What happens when they're full?

25 A. I have no idea.

03545

1 Q. Would you refer to your testimony Exhibit
2 1270 at page 31.

3 A. Page, I'm sorry, what was that?

4 Q. 31.

5 A. Sure.

6 Q. You have a quote there from the FCC, and the
7 last sentence in that quote discusses a circumstance
8 under which the incumbent is required to construct a
9 single point of interconnection.

10 A. Correct.

11 Q. Did you understand that word construct to
12 mean only designate or in some instances mean actually
13 build a new one?

14 A. I'm sure it could be either.

15 Q. And in the circumstance where a building
16 terminal is full or multiple CLECs want access to it and
17 would exceed its capacity, would you agree that in
18 either one of those cases, it might be required that a
19 new one might actually have to be built rather than
20 simply designated?

21 A. I think that, if I may suggest, it might be
22 helpful for you to direct these questions to our witness
23 Mr. Weiss, who is far more knowledgeable about outside
24 plant than I am. I'm not sure that I'm going to be able
25 to clarify these things as clearly as he can, and I --

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1 and I'm really -- I'm quite concerned that I'm going to
2 continue to confuse the issue rather than clarify. And
3 that is his expertise, so I think it would be far better
4 to direct those questions to him.

5 MS. ANDERL: Fair enough, I have no more
6 questions.

7 JUDGE BERG: Okay.

8 Ms. Miles?

9 MS. MILES: No.

10 JUDGE BERG: All right, then we will take a
11 break, and we will close up redirect when we come back
12 at 1:15.

13 (Luncheon recess taken at 11:50 a.m.).

14

15 A F T E R N O O N S E S S I O N

16 (1:30 p.m.)

17

18 JUDGE BERG: This is a continuation of the
19 testimony cross-examination of Ms. Natalie Baker.

20 Ms. Steele, was there some redirect you would
21 like to conduct with this witness?

22 MS. STEELE: I do have a very few questions.

23

24

25

03547

1 R E D I R E C T E X A M I N A T I O N

2 BY MS. STEELE:

3 Q. Ms. Baker, you were asked by Chairwoman
4 Showalter whether it made a difference as to the
5 necessity for a single point of interconnection if there
6 were multiple CLECs who wanted to interconnect with the
7 building wire, I'm sorry, with the on premises wire, and
8 your answer was no. Can you tell me why that is the
9 case?

10 MS. ANDERL: And, Your Honor, I guess at this
11 point I would object, because when I tried to explore
12 this with Ms. Baker, she directed me to Mr. Weiss. So I
13 don't know that there is a special qualification with
14 this witness or foundation for her to enter that
15 explanation into the record given her last statements in
16 response to my cross.

17 JUDGE BERG: Well, let's see if she can
18 answer, and if so, you can explore why she couldn't
19 answer before but can answer it now as well as conduct
20 other follow-up questions, so the objection is
21 overruled.

22 A. The number of competitors, simply stated, I
23 think that it's not an issue of the number of
24 competitors. You have a building, it has a number of
25 tenants, presumably those people are all today have

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1 telephone service, that means they all have wires
2 leading to some sort of place where they all are
3 gathered together either in a closet or at the MPOE or
4 whatever. But at any rate, the point is that the number
5 of competitors, it seems to me, is not the issue. It's
6 access to, it's competitive access to the people that
7 live in the building. So a single point of
8 interconnection where one does not currently exist is
9 necessary, and that's precisely, I believe, what the FCC
10 order, in particular the UNE Remand Order, was trying to
11 get at.

12 And I would also say that with respect to
13 further technical details about those kinds of points of
14 interconnection, Mr. Weiss is an engineer and can
15 explain the various permutations of all of that. I
16 don't feel like I'm the right person to do that, and
17 that was, you know, as best I could, I was trying to
18 differentiate between a single point of interconnection
19 and this intermediate interconnection frame that we were
20 talking about, so that's what I was trying to clear up.

21 MS. STEELE: I don't have anything else.

22 JUDGE BERG: Ms. Anderl?

23 MS. ANDERL: No, nothing, Your Honor.

24 MS. MILES: Nothing.

25

03549

E X A M I N A T I O N

1

2 BY JUDGE BERG:

3 Q. Ms. Baker, I had one point of clarification.

4 I understand that the minimum point of entry could be

5 the same as the NID, before the NID, or after the NID.

6 I also understand that the definition of the loop which

7 the FCC has addressed to be provided is the facility

8 from the originating office to the demarcation. Is the

9 demarcation synonymous with the minimum point of entry
10 in an MTE?

11 A. It could be.

12 Q. All right, and what else could it be?

13 A. What else could be?

14 Q. The point of demarcation be besides the

15 minimum point of entry?

16 A. Well, the demarcation is a point in the
17 network that is a notion of who controls what. On one
18 side, the facility is controlled by the telephone
19 company or the company. And on the other side,
20 ownership is assumed by whomever, building owner. So
21 the demarcation point is a point on the network, whereas
22 a NID is a physical interconnection device. But the
23 loop is now defined to end at the demarcation point,
24 wherever that is. The change of control of the
25 facilities I presume is the best way to explain that.

03550

1 Q. All right. So if the minimum point of entry
2 was on the MTE side of the NID, then that would be
3 synonymous with the demarcation. But if the point of
4 entry, for example, was before the NID, it would then be
5 the NID?

6 A. Let me see if I can -- if I can say this
7 back. We're trying to distinguish between the minimum
8 point of entry and the demark or the --

9 Q. Well, it seems the NID comes into it, but
10 that -- I'm trying, yes, that's my main thrust, but it
11 seems like the point of -- the demarcation is not a
12 concept --

13 A. Physical thing.

14 Q. It's a physical thing.

15 A. Well, it's a point.

16 Q. It's a point.

17 A. Where control changes.

18 Q. Yes, and --

19 A. The NID is just a physical attach -- a
20 physical thing where you can connect something to.

21 Q. So do you know where else control might
22 change other than a minimum point of entry?

23 A. No, change is at the demark, and the demark
24 and the minimum point of entry could be the same, or
25 they might be separate.

03551

1 Q. All right.

2 A. Separated from each other by a piece of wire.

3 Q. And what exists at the demarcation; is it one
4 of our little ice cube trays, or is it something like
5 that?

6 A. No, the ice cube tray would be the minimum
7 point of entry.

8 Q. Okay. And so that wire that would possibly
9 extend between the minimum point of entry or the NID and
10 the demarcation, what is at the end of the demarcation,
11 at the end of that wire that leads to the demarcation?

12 A. What is at the end of it?

13 Q. Yes.

14 A. There's some sort of -- the boundaries, how's
15 this, the boundaries between MPOE and demark, or said
16 differently, the customer side of the MPOE has
17 accessible -- has -- is bound by accessible terminals.

18 Q. Okay.

19 A. And that's --

20 Q. So some kind of terminal?

21 A. Sure.

22 Q. All right. Where one wire connects on one
23 side?

24 A. On your house, it is the NID. If you have a,
25 you know, if you live in a single family residence, for

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1 example.

2 JUDGE BERG: Okay, thank you.

3 THE WITNESS: Yes, sir.

4 JUDGE BERG: All right, Ms. Baker, thank you

5 very much --

6 THE WITNESS: Thank you.

7 JUDGE BERG: -- for being present and

8 testifying. You're excused from the hearing.

9 We will be off the record.

10 (Discussion off the record.)

11 JUDGE BERG: Ms. Steele, I understand that

12 AT&T had previously sponsored exhibits on behalf of

13 witnesses England and Stanker; is that correct?

14 MS. STEELE: That's correct, and those

15 exhibits will not be offered. We will withdraw that

16 testimony. Those include Exhibits T-1280 and T-1290

17 through 1293.

18 JUDGE BERG: All right, those exhibits are

19 withdrawn.

20 At this point in the transcript, I would

21 request that the reporter enter the exhibit numbers and

22 exhibit descriptions for Exhibits T-1330 through E-1346

23 as listed on pages 12 and 13 of the exhibit list updated

24 4/17/01 as if read into the record in their entirety.

25

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1 (The following exhibits were identified in
2 conjunction with the testimony of THOMAS H. WEISS.)
3 Exhibit T-1330, CT-1330 is Part B Responsive
4 Testimony of Thomas H. Weiss (THW-T)(THW-1TC). Exhibit
5 C-1331 is Joint Intervenors Errata to Weiss Response
6 Testimony (THW-2C). Exhibit 1332, C-1332 is Revisions
7 of Verizon's NRCs (THW-3/3C). Exhibit T-1333, CT-1333
8 is Part B Supplemental Responsive Testimony of Weiss
9 (THW-4T/THW-4TC). Exhibit 1334 is Optical/Digital Plant
10 Utilization Factor (11/1/00)(THW-5). Exhibit 1335 is
11 OC3 UDIT as Adjusted (THW-6). Exhibit 1336 is OC12 UDIT
12 as Adjusted (THW-7). Exhibit 1337 is Joint CLEC's
13 Response to Qwest's DR 6. Exhibit 1338 is Joint CLEC's
14 Response to Qwest's DR 7. Exhibit 1339 is Joint CLEC's
15 Response to Qwest's DR 9. Exhibit 1340 is Joint CLEC's
16 Response to Qwest's DR 10. Exhibit 1341 is Joint CLEC's
17 Response to Qwest's DR 11. Exhibit 1342 is Joint CLEC's
18 Response to Qwest's DR 12. Exhibit 1343 is Joint CLEC's
19 Response to Qwest's DR 14. Exhibit 1344 is Joint CLEC's
20 Response to Qwest's DR 15. Exhibit E-1345 is Errata
21 Testimony dated 3/26/01. Exhibit E-1346 is Errata
22 Testimony dated 4/12/01.

23

24 JUDGE BERG: Mr. Weiss, if you will please
25 stand and raise your right hand.

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1

2 Whereupon,

3

THOMAS H. WEISS,

4 having been first duly sworn, was called as a witness

5 herein and was examined and testified as follows:

6

7

JUDGE BERG: Thank you, sir.

8

Ms. Steele.

9

10 DIRECT EXAMINATION

11 BY MS. STEELE:

12

Q. Mr. Weiss, will state your full name for the
13 record and provide your address, please.

14

A. My full name is Thomas H. Weiss, W-E-I-S-S.
15 My address is 205 East Spring Street, Fuquay, that's
16 F-U-Q-U-A-Y - V-A-R-I-N-A, North Carolina 27526.

17

Q. And do you have in front of you your Part B
18 responsive testimony, which in this record is Exhibits
19 T-1330 and CT-1330, as well as errata to that testimony,
20 which is Exhibit C-1331, and an exhibit revisions to
21 Verizon's NRCs, which is 1332 and C-1332?

22

A. Yes, I have all of those documents.

23

Q. Do you also have your Part B Supplemental
24 Responsive testimony which is T-1333 and CT-1333, along
25 with exhibits to that testimony which are marked as

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1 Exhibits 1334 through 1336?

2 A. Yes, I do.

3 Q. And then errata to your initial testimony
4 marked as Exhibits E-1345, dated March 26, 2001, and
5 E-1346, dated April 12th, 2001?

6 A. Yes, I have those.

7 Q. And did you prepare or cause to be prepared
8 these documents?

9 A. I did.

10 Q. And if you were asked these same questions
11 today, would your responses be the same?

12 A. They would.

13 MS. STEELE: I would request the admission of
14 the testimony and the exhibits.

15 MS. ANDERL: No objection.

16 MS. STEELE: And Mr. Weiss is available for
17 cross-examination.

18 JUDGE BERG: All right, Exhibits T-1330
19 through 1336 and E-1345 and E-1346 are admitted.

20 Ms. Anderl.

21 MS. ANDERL: Thank you, Your Honor.

22

23 C R O S S - E X A M I N A T I O N

24 BY MS. ANDERL:

25 Q. Good afternoon, Mr. Weiss.

03556

1 A. Good afternoon.

2 Q. I'm Lisa Anderl, I represent Qwest. I have a
3 number of areas that I would like to explore with you
4 today. First though, let me caution you that I will
5 attempt to ask you questions that do not call for a
6 response which contains a confidential number. If you
7 think that I have done so, if you could signal me before
8 you provide it or alternatively just direct us to a
9 place in the testimony or on the confidential exhibit
10 where the number is shown rather than stating it for the
11 record, I think that will make our lives all a bit
12 easier.

13 A. I will.

14 Q. Thank you. You're here today, Mr. Weiss,
15 representing a number of CLECs; is that correct?

16 A. That is correct, yes.

17 Q. And if I could go through them, is it correct
18 that your testimony is presented on behalf of ATG?

19 A. Yes.

20 Q. And ELI?

21 A. That's correct.

22 Q. New Edge?

23 A. That's right.

24 Q. XO, Nextlink?

25 A. Nextlink, yes.

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1 Q. North Point?

2 A. Yes.

3 Q. GST?

4 A. That's correct.

5 Q. Global Crossing?

6 A. That's right.

7 Q. WorldCom?

8 A. That's correct.

9 Q. And a company we sometimes refer to as
10 AT&T/TCG?

11 A. Yes.

12 Q. Thank you. Is it fair to describe each of
13 those carriers as a CLEC or competitive local exchange
14 company?

15 A. That's my understanding, yes, that's how I
16 know them to be.

17 Q. And in your opinion, in the provision of
18 local service, are they subject to competitive
19 pressures?

20 A. Are they subject to competitive pressures, to
21 the extent that they're -- that they are in the market,
22 certainly they're subject to competitive pressures. But
23 from what I know about many of these companies, they are
24 not moving into this market in a very competitive way.

25 Q. Are some of those CLECs facilities based

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1 providers, to your knowledge?

2 A. I can't say one way or the other whether
3 they're facilities based or UNE based.

4 Q. Did you talk to any employees of ATG prior to
5 preparing your testimony for this proceeding for
6 purposes of that testimony preparation?

7 A. No, I did not.

8 Q. Same question with regard to ELI?

9 A. No, I did not.

10 Q. Same question with regard to Nextlink?

11 A. Well, I don't mean to imply that -- you ask
12 about employees. I spoke with people that represent
13 them, notably Mr. Klick and Mr. Pitkin and their staffs.

14 Q. We'll get there.

15 A. Okay.

16 Q. Nextlink?

17 A. No.

18 Q. Okay. If I, as opposed to going through the
19 whole list, did you speak with, to your knowledge,
20 employees of any of the nine CLECs?

21 A. Well, to my knowledge, I spoke to no
22 employees of any of these companies save AT&T.

23 Q. Who did you speak with at AT&T?

24 A. Natalie Baker.

25 Q. Any other employees?

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1 A. No.

2 Q. And you spoke with Mr. Klick?

3 A. Mr. Klick, Mr. Pitkin, and certain members of
4 their staff.

5 Q. Did you speak with any members of your own
6 staff?

7 A. My staff is huge.

8 Q. Okay, so --

9 A. It's me.

10 Q. Is it you? I was going to get there, but I
11 thought I would skip ahead on that.

12 A. No, I -- the relation -- I have a
13 relationship with other people in the industry that I
14 can call on. And if I need a witness, for example, to
15 do cost of capital, I can call on that fellow and say,
16 you know, we have -- we need some cost of capital
17 testimony and so forth.

18 Q. Did you feel the need to call on any outside
19 advisors for purposes of preparing your testimony for
20 this proceeding?

21 A. No, I didn't.

22 Q. And I gather you spoke with counsel for the
23 companies you represent?

24 A. Certainly, yes.

25 Q. Let me ask you about your education and

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1 experience a little bit. Your undergraduate education
2 was in electrical engineering; is that correct?

3 A. That's correct.

4 Q. Did you pursue graduate studies in
5 engineering?

6 A. Well, I took graduate courses as an
7 undergraduate. I qualified to do that, but I did not
8 take any courses aimed at a degree at an -- an advanced
9 degree in electrical engineering.

10 Q. Your first job for a telecommunications
11 company was as a supervising plant extension engineer;
12 is that right?

13 A. My first job as a professional in the
14 telecommunications industry was in that area. I worked
15 in craft for AT&T for a year or so.

16 Q. What did you do for AT&T?

17 A. I was an equipment maintenance man.

18 Q. Helping pay the tuition?

19 A. Well, that too, yes.

20 Q. Did you do that while you were in school?

21 A. Yes.

22 Q. Okay. And so your first job post graduation
23 was as a supervising plant extension engineer?

24 A. That's correct.

25 Q. What does a person with that job title do?

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1 A. In that position, I was responsible for
2 planning the plant expansion for a seven state operating
3 area, General Telephone Company or GTE Corporation at
4 that time. It was in Alabama, South Carolina, North
5 Carolina, West Virginia, Virginia, Tennessee. I don't
6 remember the other states. But did I say Alabama?

7 Q. Yes, you did.

8 A. Yes, okay. In any event, my responsibilities
9 encompassed all of the plants in all of those states,
10 and basically the job was as a long range planner. I
11 decided or I made recommendations to executive
12 management and supported those recommendations with
13 statistics, studies, and so forth as to what I thought
14 the networks should do in terms of evolution there in
15 the southeast. Typically I would recommend the
16 installation of a brand new toll center, for example,
17 which was eventually built in Dothan, Alabama. Or I
18 would give direction as to how my studies revealed the
19 company should be going in terms of marketing vertical
20 services and things of that nature, which vertical
21 services to market and how much they would cost.

22 Q. Did you make decisions or recommendations
23 about the proper design of network facilities to serve a
24 particular customer or area?

25 A. In a general way I did. Basically what I

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1 would do is say, okay, we need to put a large toll
2 switch in this area, and from that toll switch, we need
3 to produce high usage trunk groups going to city A or
4 city B, and then we would need some dial final groups
5 going to certain other areas of the state. I would
6 recommend the size of the switch. In other words, I
7 would have to do some preliminary engineering in order
8 to draw conclusions about what the costs would be, that
9 is the investment costs would be. And then I would
10 recommend those to executive management and tell them
11 what I thought should be done. And then they would
12 query me sometimes for days at a time in formal meetings
13 in that case, kind of like a Ph.D. dissertation.

14 Q. Were these mostly interoffice type
15 facilities?

16 A. Oh, no, no, they were local loop plant,
17 switching, interoffice transport, interconnections with
18 other carriers. Back in those -- back in those times,
19 we didn't have interconnections with, you know, a
20 variety of carriers like we do today like
21 interconnection arrangements. We simply connected with
22 the Bell system company. Part of the analysis, of
23 course, would be what could we expect from this
24 arrangement from a division of revenue standpoint.

25 Q. Now I asked you a little bit ago about

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1 whether or not you had the responsibility for making
2 decisions or recommendations about the proper design of
3 network facilities to serve a particular customer or
4 area, and your response, if I recall, was generally that
5 you did.

6 A. Yes.

7 Q. And --

8 A. I didn't mean to imply that I sat down and
9 did the blood and guts engineering with a slide rule.
10 What I did, I sat down and did the preliminary
11 engineering in order to draw conclusions about what the
12 costs would be.

13 Q. Okay. Now what type of a person, what type
14 of a job function performs the actual blood and guts
15 engineering?

16 A. Well, in my second position with GTE, I was
17 Alabama division engineering manager, and I had people
18 that worked for me at that time that literally sat down
19 with, if you will, the slide rule and computed just how
20 long a loop would have to be and how it should be
21 configured, whether it would be 26 gauge, 24 gauge,
22 should we load it, should we put in loop extenders and
23 things of that nature. That's what I call blood and
24 guts engineering.

25 Q. As the division engineering manager, the

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1 people who performed those functions worked for you; is
2 that right?

3 A. That's correct.

4 Q. Well, give me an example of a job title that
5 someone like that would have, just plant engineer?

6 A. Plant engineer, outside plant engineer, or
7 switching engineer, building engineer. I had
8 responsibility for all the buildings in Alabama, the
9 construction of them as well as the maintenance and
10 upkeep.

11 Q. Did you ever work as an outside plant
12 engineer?

13 A. Yes, I did, as a matter of fact. Frequently
14 we would encounter strikes, as I'm certain you folks are
15 aware, and I would find myself down there literally
16 doing the blood and guts engineering.

17 Q. For how long of a period of time?

18 A. Oh, these would be for three month periods or
19 so.

20 Q. Is it correct that the last time you would
21 have done that would have been in the 1975 time frame?

22 A. Well, no, because you folks may know of a --
23 down in New Mexico, I was hired by a subdivision north
24 of Santa Fe that I believe was owned partly by Jack
25 Nicholas, and they hired me to work with your folks in

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1 New Mexico to design a system to serve this particular
2 area of the state. The telephone company was reluctant
3 to serve them, and I was hired to kind of help the
4 telephone company reach the conclusion that they could
5 serve them and that they could serve them fairly and,
6 you know, without losing money, and that entailed
7 literally doing some blood and guts engineering, and
8 that was back in the early '90's, '94, '95.

9 Q. How many customers were there in that
10 subdivision?

11 A. It was a very, very exclusive subdivision, I
12 don't know, maybe 600. I know we put in a very
13 extensive loop carrier system in there.

14 Q. Mr. Weiss, your first consulting job was in
15 1978; is that correct?

16 A. That's correct.

17 Q. And you have been a consultant since then?

18 A. Continuously since then I have consulted in
19 the regulatory arena as well as in the management
20 consulting arena.

21 Q. And in that period of time, did the -- I just
22 have to make an aside here, the record is going to look
23 just great once we're done saying blood and guts 500
24 times -- but since that time, other than the Santa Fe
25 job, in the past 23 years, have you done any blood and

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1 guts engineering?

2 A. Yes, I worked for a company in Alaska by the
3 name of GCI Communication, and we have been involved,
4 arbitrations with the local carriers up there, and I
5 have had to do some blood and guts engineering on a
6 very, very -- on the very equipment that we're dealing
7 with here, DS1s, DS3s, and so forth.

8 Q. When was that?

9 A. As far as I know, that's still ongoing. It's
10 stopped now for a bit while they reconnoiter about the
11 arbitration, but it was as recently as last year.

12 Q. Whose network were you engineering?

13 A. We were not -- we were not engineering a
14 network. We were engineering a recommendation for, as
15 an example, DS1 capable loops or DS3 capable loops.

16 Q. So you were --

17 A. OC12s or whatever.

18 Q. So you were not designing, you were not
19 making recommendations for a plant that was actually
20 going to be installed?

21 A. Well, I had to, yes. I had to make a
22 recommendation -- what I had to do was literally design
23 it so that we could determine just what price GCI would
24 have to pay for this equipment.

25 Q. I guess my question is, was a construction

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1 job actually going to result from your engineering
2 recommendations?

3 A. No.

4 Q. Okay. So Weiss Consulting is you; is that
5 right?

6 A. That's correct.

7 Q. Okay. And I believe you stated in your
8 testimony that you have testified in 23 states in about
9 130 proceedings. Has that maybe gone up since then but
10 still generally correct?

11 A. Probably gone up a little bit since then.

12 Q. How many of those proceedings involved
13 unbundled network element costs?

14 A. Just about virtually everything that I have
15 done since about 1996 has in one way or another involved
16 unbundled network elements, and these proceedings tend
17 to take a life of their own, take on a life of their
18 own. They just kind of continue and continue and
19 continue.

20 I was involved, for example, in New Mexico
21 with the arbitration between U S West and AT&T. I
22 represented the state in that case; I worked for the
23 attorney general. I did an extensive analysis of
24 interconnection and unbundled network elements for the
25 Vermont Public Service Board, which incidentally adopted

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1 all of my recommendations. I am still involved in and
2 have been involved since about 1994 with the State of
3 Rhode Island in connection with the pricing of unbundled
4 network elements and interconnection with respect to
5 Verizon in Rhode Island.

6 Incidentally, a decision came out in that
7 case just the other day, just earlier last week, last
8 week sometime, and all of my recommendations precisely
9 were adopted in that case, and many of them are the same
10 recommendations I'm making here, for example, the 85%
11 fill factor.

12 Q. Okay. So New Mexico, Vermont, Rhode Island,
13 and Alaska; any others that you can think of?

14 A. Right now that's all I can conjure up for
15 you.

16 Q. Have you previously appeared in Washington?

17 A. Never.

18 Q. You state in your testimony that from October
19 1997 through March 2000, you were a consultant to a mid
20 sized Telco.

21 A. Yes, and I would -- at the time I wrote this
22 testimony, I was not given the authority to release the
23 name of that company. However, at this time, I have
24 been given that authority, and the name of the company
25 is Vermont Telephone Company. It's a 20,000 line

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1 telephone company in Vermont that found itself in some
2 very severe financial and regulatory problems. I was
3 recommended to that company by the state as a source of
4 engineering and management expertise to help that
5 company out of a -- out of that severe hole.

6 As part of that job, I had responsibility for
7 the entire company at one point or another. That
8 included the service ordering, it included the Internet
9 subsidiary, it included all the engineering, all of the
10 maintenance, it included all the commercial operations,
11 what we know is commercial operations, that is customer
12 contact work, it included relationships with the
13 National Exchange Carrier Association, with the state
14 regulators. It involved everything having to do with
15 the companies. In fact, I was basically the general
16 manager of the company for two years, and I continued to
17 do my other consulting work at that time, but I lived in
18 Vermont on that company's nickle.

19 Q. Okay. 20,000 lines, how many central
20 offices?

21 A. Well, there was one central offices, one
22 central office, but several wire centers.

23 Q. And can you explain for the record what the
24 distinction is there that you just made?

25 A. Sure. The principal central office was a DMS

03570

1 100 switch located in a town called Springfield,
2 Vermont, still is there. And in the various outlying
3 communities that were serviced by this telephone
4 company, there were remote switches or remote line units
5 or subscriber carrier units that fed into that central
6 office to that DMS 100 switch. And those various line
7 units and remote units are called wire centers.

8 Q. How many customers?

9 A. 20,000.

10 Q. Oh, you said 20,000 lines.

11 A. Well, 20,000 lines, 20,000 customers. You
12 know, today it might be 21,250. You know, I'm just
13 giving you a ball park number.

14 Q. Generally one to one, you didn't have a lot
15 of large business customers there where there's one
16 customer with lots of lines?

17 A. We had some large business customers. When I
18 tell you lines, I'm telling you total lines. I mean I'm
19 referring to PBX lines, Centrex trunks, business and
20 residential, single party lines, and so forth.
21 Incidentally, I would like you to know that that company
22 is the only company in the state of Vermont that has
23 prolifically deployed DSL to all of its customers in the
24 state, and the regulators are just absolutely ecstatic
25 about that. Something like 30% of all the customers

03571

1 enjoy DSL service up there right now. It's available to
2 everybody.

3 Q. Is Vtel an incumbent?

4 A. An incumbent?

5 Q. An incumbent telecommunications --

6 A. Oh, it's an incumbent local exchange carrier,
7 an ILEC, yes. It's also a long distance carrier.

8 Q. During the time that you were with the
9 company, did that company have any arbitration
10 proceedings under the Telecommunications Act?

11 A. It came close, did not.

12 Q. Okay.

13 A. We -- I was able to convince the CLEC that it
14 didn't need to come after us right then.

15 Q. So you negotiated an interconnection
16 agreement with a CLEC?

17 A. We negotiated for the CLEC not to come into
18 our territory.

19 Q. How many DS3 circuits did Vtel provision
20 during the time that you were there, if you recall?

21 A. Well, you know, we had DS3s all over the --
22 all over our operating territory. Typically we would
23 bring in several carrier systems on a DS3, or we would
24 bring in remote line unit with OC3s, which is three
25 DS3s, I mean several, I don't know precisely how many.

03572

1 Q. Mr. Weiss, do you have any expertise in
2 performance testing for high capacity circuits?

3 A. It depends on what you mean by performance
4 testing. You know, basically I know what you're looking
5 for. I have not literally run the test equipment, if
6 that's what you're asking.

7 Q. Do you know why the tests are run?

8 A. Certainly I know why they're run.

9 Q. Can you tell me?

10 A. To ensure that performance is up to par, that
11 there are no troubles in the system, to the extent that
12 there are troubles, to find out where they are.

13 Q. Did Vtel performance test its high capacity
14 circuits before it turned them over to the customer?

15 A. Oh, very definitely.

16 Q. Let me just ask you a couple of background
17 questions about your familiarity with OSS, operations
18 support systems, and with Qwest's OSS in particular.
19 First, do you have a general understanding that the FCC
20 has determined that an incumbent's OSS are an unbundled
21 network element?

22 A. Yes.

23 Q. So is it your understanding then the Act, the
24 Telecommunications Act, requires Qwest to allow access
25 to its existing OSS?

03573

1 A. Yes.

2 Q. Do you believe that the incumbent is required
3 under the Act to upgrade its OSS in order to provide
4 greater mechanization for flow through for CLEC orders
5 than for its own orders?

6 A. It's my understanding not only of the Act,
7 but the FCC rules pursuant to the Act, developed
8 pursuant to the Act, that the incumbent has an
9 obligation to produce an OSS system for the use by CLECs
10 which represents a very forward looking, a series of
11 very forward looking techniques for completing the
12 transactions between a CLEC and the ILEC.

13 Q. So it's your belief that the incumbent is
14 required to upgrade its OSS in a manner beyond that
15 which is required for mere access to the existing OSS?

16 A. You're referring to, when you say mere access
17 to the OSS, you're referring to Qwest's own access to
18 its own OSS; is that true?

19 Q. No, a CLEC's access to Qwest's existing OSS.

20 A. A CLEC's access to Qwest's OSS, as I
21 explained just a moment ago, would be as automated as is
22 technologically possible. That is what I believe that
23 the Act and the FCC's rules require.

24 Q. Is there any particular place in the Act or
25 the FCC's rules that you can point me to?

03574

1 A. Certainly, any statement in the FCC's rules
2 that require forward looking approach would necessarily
3 imply in this particular case that the most advanced
4 technologies should be applied to these
5 interconnections, or to these relationships, I'm sorry.

6 Q. Are you familiar with statements -- well, let
7 me leave that.

8 So is it your testimony that Qwest is
9 required to do more than just permit access to its
10 existing OSS?

11 A. Yes, it is my testimony that Qwest needs to
12 provide, with its OSS system, it needs to be a system
13 that can function automatically to the maximum extent
14 possible so as to minimize the need for human
15 interaction I guess you could say.

16 Q. Okay. And even if that level of
17 mechanization is not present in Qwest's OSS today, is it
18 your testimony that Qwest is required to perform
19 necessary upgrades to obtain that level?

20 A. It's not only my testimony they should be
21 required to do it, but every telephone company of which
22 I'm aware, most particularly the Bell operating
23 companies, the former Bell operating companies, are
24 striving to reach that goal.

25 Q. Have you ever designed an operational support

03575

1 system?

2 A. No, but I reviewed the OSS that was utilized
3 by Bell Atlantic in the Northeast.

4 Q. When was that?

5 A. That was in connection with the Vermont
6 Public Service Board Case Number 5713 and in connection
7 with Rhode Island PUC Docket Number 2681.

8 Q. Have you ever performed a modification to an
9 operational support system?

10 A. I have not literally performed them. I do
11 not have the programming expertise that would enable me
12 to go in there and do the "blood and guts" programming
13 to do that sort of thing.

14 Q. Have you ever purchased an upgrade for an
15 operational support system?

16 A. Well, I personally don't. I mean I don't
17 have a need for one. But Vermont Telephone Company, one
18 of our basic problems in that company in the very
19 beginning was the fact that we had a very, very poor
20 what you might call retail operation support system, and
21 I was instrumental in having that system changed out.

22 Q. Did you make any purchasing decisions in that
23 regard?

24 A. I made plenty of purchasing decisions and
25 recommendations. I did not make the purchases myself,

03576

1 of course, since I wasn't the CEO. My title at that
2 company was Vice President Operations Research.

3 Q. Now let's talk a little bit about your
4 analysis of Qwest's recurring cost studies. You are not
5 independently sponsoring any cost models or cost studies
6 in this proceeding, are you?

7 A. No, I am not.

8 Q. And are you appearing today as a cost
9 analyst?

10 A. Well, I am a cost analyst. I don't know
11 whether you would say I was appearing as a cost analyst.
12 I don't know how you characterize my appearance. I am
13 here as an expert witness on behalf of the carriers we
14 discussed, and I'm addressing cost issues, yes.

15 Q. And engineering assumptions?

16 A. Well, I'm really addressing investment cost
17 issues in terms of the recurring charges. I'm not
18 addressing the recurring charges themselves, that is to
19 say the determination of what "cost" would be on a
20 monthly basis to support any given service. Just the
21 investment side is what I'm working on, what I
22 recommended here.

23 Q. Talking about the local loop facility, is it
24 your understanding that a loop is a facility between a
25 central office and a customer?

03577

1 A. Oh, it's the loop, is between the central
2 office main frame and terminates on the NID, network
3 interface device.

4 Q. And is the network interface device located
5 at an end user customer premises?

6 A. Yes.

7 Q. In your evaluation of Qwest's recurring
8 costs, did you assume that the network within which the
9 services or elements would be provided is a network for
10 only DS1 and DS3 capable loops or is a network that
11 delivers voice traffic as well?

12 A. Well, first of all, let me correct you, I'm
13 not analyzing Qwest's recurring costs. I am analyzing
14 the investments that are used in developing those
15 recurring costs.

16 Q. In your evaluation of Qwest's investments,
17 did you assume that the network within which the
18 services would be provided as a network were only DS1
19 and DS3 capable loops?

20 A. No, I didn't.

21 Q. Or a network that delivers voice traffic as
22 well?

23 A. A network that delivers a whole series of
24 traffic, data, voice, vertical services, what have you.

25 Q. Now we're going to be talking a little bit

03578

1 about these investments and the changes that you
2 recommend be made, and I want to make sure that we do
3 agree on terminology. When I talk about direct costs,
4 do you understand that to mean the cost before
5 application of fill factors and TIFs?

6 A. That's not the interpretation that Qwest puts
7 on the term. Qwest doesn't even use that term.

8 Q. How shall we refer to that element of cost
9 before fill factors and TIFs; can we call it material
10 investment costs?

11 A. Let's call it material investment costs.

12 Q. Okay. Now you reviewed Qwest's material
13 investment costs and found them to be consistent with
14 your experience; is that correct?

15 A. They were consistent with my general
16 experience. I did not have the time in this docket or
17 in this case to review Qwest's actual costs, investment
18 costs, for these various pieces of equipment. The
19 reason, I don't know, you know, there wasn't enough
20 time. But if I had the time to do it, I would have gone
21 to Qwest's own Washington CPR records to verify that the
22 numbers that Qwest used in the study were the correct
23 numbers. I did not have that opportunity to do that in
24 this case.

25 Q. You're not recommending any changes to

03579

1 Qwest's material investment costs, are you?

2 A. No. For example, I'm not recommending any
3 changes in the prices that Qwest has in its studies
4 relative to, for example, a relay rack or a line card or
5 things of that nature. My recommendations in this case
6 go to those factors that are applied to the investments
7 in line cards and relay racks and things of that nature.

8 Q. And we're going to be getting into fill
9 factors here in just a minute for this next segment.

10 A. Good, I love that subject.

11 Q. You and me both, Mr. Weiss. Let me see how I
12 can phrase this.

13 In evaluating Qwest's investment costs, did
14 you have to include any demand assumptions?

15 A. Yes. As a matter of fact, the fill factor
16 itself is the demand assumption.

17 Q. And as we get into that fill factor, which we
18 will in just a minute here, in determining the correct
19 or recommended fill factor in your view, did you include
20 in that demand, for example, from interexchange carriers
21 for DS1s and DS3s?

22 A. Not only that -- yes, I did.

23 Q. Thank you.

24 A. But not only did I include that, I included
25 the demand for DS1s and DS3s that would be derived from

03580

1 Qwest itself. And that's in -- that is consistent with
2 what the FCC has ruled at Section 51 of 47 CFR,
3 Paragraph 505(b) and (c) where it specifically says that
4 the price of these network elements would include or the
5 cost of the network elements would be spread over all
6 elements that Qwest provides, not just the elements that
7 it provides to competitors, and even to elements that it
8 provides itself.

9 Q. Does it say in that rule elements the
10 incumbent provides to itself?

11 A. Very specifically says that, yes.

12 Q. It has the words in it --

13 A. Yes.

14 Q. -- to itself?

15 A. Yes. I believe it has the words to itself.

16 Q. We'll check that on a break.

17 A. I am certain you will.

18 Q. Now we already talked about demand
19 assumption, which you have advised me is something that
20 we can use synonymously with fill; is that right?

21 A. Yes.

22 Q. Is it --

23 A. For purposes of a cost study such as this,
24 the demand is embodied in the fill factor, and you can
25 see that from an exhibit that I put in with my

03581

1 testimony.

2 Q. Can we refer to plant utilization as fill
3 also?

4 A. They're used synonymously, interchangeably in
5 the industry.

6 Q. I don't know if you have your testimony
7 marked with the exhibit numbers that the Administrative
8 Law Judge gave to them.

9 A. I think I do.

10 Q. Okay, Exhibit 1330 then, Mr. Weiss.

11 A. That's the original testimony, right?

12 Q. Yes, it is.

13 A. Okay, I have that.

14 Q. And if you would turn to page 10, please.

15 A. I have that. There's several proprietary
16 passages on that page.

17 Q. Right, and I'm not going to ask you about
18 those. Is it correct that your fill factor
19 recommendation in this case is a recommendation that
20 reflects a fill factor that in your view would be
21 experienced in a competitive market?

22 A. Yes, that's true.

23 Q. And so is it your view that in a competitive
24 telecommunications market, a carrier providing DS1 and
25 DS3 capable loops would experience an 85% fill factor?

03582

1 A. If they did not -- as I point out in my
2 testimony, there are several elements that go into that,
3 not the least of which is, for example, just in time
4 engineering or just in time delivery of products and so
5 forth. If they did not do that, if they did not attempt
6 to achieve a high fill ratio, they would in my opinion
7 be hurting themselves eventually in a competitive
8 market.

9 Q. Is it your belief that an 85% fill is
10 attainable?

11 A. Very definitely attainable. I demonstrate
12 that in my exhibit.

13 Q. We'll get to that too.

14 Mr. Weiss, did you assist counsel in the
15 preparation of any data request responses that you
16 recall?

17 A. Yes, I did.

18 Q. I would like you to turn, please, to what's
19 been identified as Cross-examination Exhibit 1338.

20 A. I don't have cross-examination exhibit
21 numbers; can you help me on that?

22 MS. STEELE: It's the response to Data
23 Request 7.

24 A. 1338 is 7?

25 Q. Joint CLEC's responses to Qwest's data

03583

1 requests, and this one is number 7.

2 A. I have that.

3 Q. You have that, good. Do you recognize that
4 as a response that you assisted in preparing?

5 I can withdraw that question.

6 A. Well, it's a legal question, you know.

7 Q. Well, let me ask you a better question. Did
8 you see the question before the response was prepared?

9 A. Oh, very definitely I did, yes.

10 Q. And --

11 A. And very definitely I will tell you that I
12 thought that this is not a response that we should have
13 made. But on the other hand, I'm not a lawyer, and I --
14 the lawyer drew up the response.

15 MS. ANDERL: Your Honor, I would move the
16 admission of Exhibit 1338.

17 MS. STEELE: And we would object to the
18 admission of this exhibit. The response is -- both the
19 question and the response are not relevant to this
20 proceeding. The utilization rates experienced by joint
21 intervenors, the question itself is not relevant because
22 the issue here is Qwest's utilization. And the
23 response, the objection, is not relevant. The fact that
24 an objection was made is not relevant. Further, Qwest
25 made no effort to seek additional response, made no

03584

1 motion to the Commission or even a request to Joint
2 Intervenor for additional information, and therefore
3 this should not be in evidence.

4 JUDGE BERG: Would you like to respond before
5 the Bench confers?

6 MS. ANDERL: Yes, Your Honor, absolutely.
7 The document has been authenticated as the Joint CLEC's
8 response. I believe that the question is highly
9 relevant given the foundation that we have laid with
10 Mr. Weiss, and I believe that the fact that the
11 Respondents, the Joint Intervenor, responded with an
12 objection claiming that the information is not relevant
13 ought to be admitted in this case. I believe that the
14 fills experienced by the CLECs is relevant to this
15 Commission's determination. I believe that the question
16 and response show that Qwest attempted to obtain that
17 information and was rebuffed by the Joint Intervenor.
18 I do not believe that there is any rule that requires us
19 to either contact the Joint Intervenor and ask again
20 nicely for more information or bring a motion to compel.

21 (Discussion on the Bench.)

22 JUDGE BERG: The objection is overruled,
23 Exhibit 1338 is admitted.

24 MS. ANDERL: Thank you, Your Honor. May I
25 proceed?

03585

1 JUDGE BERG: Yes.

2 BY MS. ANDERL:

3 Q. Mr. Weiss, did you ask any of your clients in
4 this proceeding what plant utilization they experienced
5 on their equipment used to provide local service?

6 A. No, I did not. It was not germane to my
7 analysis.

8 Q. Can you tell me specifically with regard to
9 the telecommunications industry whether you're aware of
10 a competitive market where there is a consistent 85%
11 fill factor achieved?

12 A. The fact of the matter is I'm not aware of
13 any place where there is a competitive market in
14 operation in the telecommunications industry as of yet,
15 so I can not say that I have seen an 85% fill factor
16 achieved.

17 Q. Is it correct that 85% fill is also sometimes
18 referred to as objective fill?

19 A. No, not in this case.

20 Q. Would you accept subject to your check that
21 this Commission has used those terms synonymously in
22 prior orders issued in other dockets?

23 A. I don't have to check. I already know that
24 to be the case, and I know that it applied to copper,
25 copper plant, copper feeder cable.

03586

1 Q. Did you read the Eighth Supplemental Order in
2 the first generic docket?

3 A. I did.

4 Q. Did you read the portion discussing fill
5 factor?

6 A. Yes, and that's where I believe that the
7 Commission referred to that as an objective fill for
8 copper cable.

9 Q. Are you aware of whether or not that
10 reference to fill factor also included fill on fiber
11 feeder facilities?

12 A. Well, it couldn't, because the objective fill
13 on fiber feeder is not 85%.

14 Q. What is objective fill, as you would like to
15 use that term, and then I think I might ask you to
16 accept that we will use objective and 85% synonymously
17 for purposes of my questions, but what is objective fill
18 as you would like to use the term?

19 A. Well, the objective fill is the fill that you
20 would like to achieve as a general proposition with
21 respect to copper cable plant, and that's been typical
22 throughout the telephone industry, at least the RBOC
23 industry, since I have been familiar with them, and
24 that's been a long time. The objective fill in that
25 context is the fill that you would hope to achieve, it's

03587

1 the fill that you would hope to achieve on average
2 before you replaced or engaged in the activities
3 necessary to add additional plant.

4 Q. Okay.

5 A. You will notice that my exhibit refers to a
6 95% fill.

7 Q. So to paraphrase your answer, is it correct
8 that in your view, objective fill is the level of
9 utilization at the point at which additional equipment
10 is what, ordered or installed, to meet demand?

11 A. You should begin installing the equipment at
12 about an 85% fill on copper cable, copper feeder. The
13 reason for that is the 15% difference between 85% and
14 100% resides around having spare capacity for
15 uncertainties in forecasts and things of that nature
16 plus defective pairs.

17 Q. So on copper, objective fill and 85% fill can
18 be used synonymously in your view?

19 A. In copper cable throughout the industry for
20 several years, even since AT&T was the owner of the
21 regional Bell operating companies, the objective fill
22 for copper feeder cable was 85%.

23 Q. What's the objective fill for copper
24 distribution cable?

25 A. There's really not an objective fill for

03588

1 copper distribution. Typically in the distribution
2 arena, you have sized plant to the ultimate size of the
3 community that you're serving, and you want to size it
4 so that you have, depending upon the type of community,
5 anywhere from two to five distribution pairs per lot.
6 In the more affluent communities, you go with five. In
7 the less affluent communities, you go with two.

8 JUDGE BERG: Mr. Weiss, you have the
9 advantage of being seated next to the water cooler.
10 Feel free to help yourself if that helps.

11 THE WITNESS: Thank you.

12 JUDGE BERG: Yes, sir.

13 BY MS. ANDERL:

14 Q. So five pairs per household in affluent
15 areas?

16 A. Yes.

17 Q. And what in --

18 A. Two.

19 Q. -- not so affluent areas?

20 A. Typically in a general kind of a middle class
21 neighborhood you would run three.

22 Q. And is that because it's simply too expensive
23 to add distribution cable?

24 A. No, because it's -- it's not that. It's that
25 you don't want to add cable that you're not going to

03589

1 need, and you don't put in pairs that you're probably
2 not going to need. And several studies have been done
3 to determine that at the various economic levels, you
4 would economically put in two pairs in certain
5 communities, three in others, and five in others.

6 Q. And I think I led you to misunderstand my
7 question.

8 A. Oh, I'm sorry.

9 Q. Is it correct that you place pairs, enough
10 pairs for ultimate demand because it is simply too
11 expensive to go back and add distribution cables
12 afterwards?

13 A. Oh, I see. You size for ultimate demand.
14 You try to size for the ultimate demand in the
15 distribution area. Now that doesn't mean that you put
16 in that number of pairs. You would size the structures,
17 for example, to handle enough pairs to serve that
18 community, you know, to the fullest extent. It doesn't
19 cost an awful lot to hang cable once you've got the
20 structure in.

21 Q. That's for perhaps aerial facilities?

22 A. Well, yeah, but of course if you're going to
23 put in buried facilities, it would cost the same amount
24 if you're putting in the first one or the 15th one.

25 Q. If you do it all at the same time?

03590

1 A. No, if you did it all at the same time, if
2 you put 15 cables in at one time, you would only bury
3 once, you would only open a trench once.

4 Q. Okay, but that --

5 A. If you put 15 different cables in at 15
6 yearly intervals, for example, you would incur the
7 trench opening cost 15 times.

8 Q. Okay, I think we're saying the same thing,
9 and since we seem to be talking past each other, I will
10 move on to my next question.

11 Can you please tell me if you agree with the
12 following statement for purposes of developing TELRIC
13 costs. A fill factor must be a reasonable projection of
14 the actual total usage of the element.

15 A. That's correct, and by total usage of the
16 element, I mean the usage of the element not only by
17 CLECs, but also by Qwest itself in this case, or Verizon
18 itself in this case, and anybody else that uses the
19 facilities that we're referring to.

20 Q. Let me talk to you about DS1 capable loops
21 for a little while. Are you aware of whether or not the
22 electronics equipment for provisioning DS1 capable loops
23 comes in discreet sizes or increments?

24 A. Yes, and I'm also aware of Ms. Million's
25 rebuttal testimony, and I would like at this time to set

03591

1 the record straight on that.

2 Q. Well, how long do you think it might take?

3 A. Well, I think it might -- it might shortcut
4 some of this cross-examination.

5 Q. Okay, well, and I understand that you filed
6 an errata.

7 A. No, it had nothing to do with the errata.

8 MS. ANDERL: Your Honor, may I consult with
9 counsel for AT&T?

10 JUDGE BERG: Yes, let's be off the record.
11 (Discussion off the record.)

12 MS. ANDERL: Okay, perhaps you can set the
13 record straight on redirect.

14 BY MS. ANDERL:

15 Q. Let me ask you some questions, and if the
16 questions result in your need to clarify a position that
17 you took earlier, that would be fine.

18 A. Sure.

19 Q. I don't mean to --

20 A. It's a position that Ms. Million took that I
21 believe is wrong.

22 Q. All right, then I can see where you would be
23 eager to make that statement.

24 What is the smallest increment, and let's go
25 back to remind you that we're talking about whether

03592

1 electronics equipment for provisioning DS1s comes in
2 discreet sizes or increments, and I think you agreed
3 with me that it does.

4 A. Right.

5 Q. What is the smallest increment of which you
6 are aware?

7 A. Four.

8 Q. And is it correct that electronics equipment
9 for provisioning a DS1 capable loop must be in place at
10 both the central office and the customer premises in
11 order to provision that loop to that customer?

12 A. Yes.

13 Q. If a customer has a demand for single DS1 or
14 DS1 capable loop at its premises, what will be the plant
15 utilization of the electronics equipment used to
16 provision that circuit in that instance?

17 A. Therein lies the rub, because this is where I
18 disagree with Ms. Million. Ms. Million is looking at
19 these circuits, DS1s and DS3s, in isolation. She's
20 looking at, okay, let's assume that I've got to run out,
21 consistent with this question, let's assume that I've
22 got a customer that wants a single DS1. Well, that
23 means that I've got to install a relay rack in the
24 central office and some equipment in the field. And the
25 relay rack in the central office comes with a minimum.

03593

1 You can't have a smaller number than 4 in that relay
2 rack in the CO. You add to it to get up to 28 DSIs in a
3 system.

4 But the point is that Ms. Million would look
5 at that as a single isolated case in which the fill
6 factor would be 25% on that particular piece of
7 equipment. Now with respect to the relay rack, the fill
8 factor would be a great deal smaller than that, because
9 the relay rack can hold 24 or 28 cards, so it would be 1
10 over 28 would be the fill factor I think that they're
11 aiming at here. But at best, the fill factor is 25% if
12 you look at things the way Ms. Million does.

13 The fact of the matter is the FCC says that
14 you're going to have to look at these things not in
15 connection with a single customer out there, but in
16 connection with all customers that utilize this
17 particular network element, and that includes customers
18 of Qwest, all the CLECs and anybody else that takes this
19 service through the ILEC.

20 JUDGE BERG: Mr. Weiss, I understand that
21 your purpose is to help educate the Bench and to provide
22 us with a broad view of where all the parties stand, but
23 quite frankly, I had trouble following the question and
24 an answer in this instance. I think you need to trust
25 your counsel to follow up where necessary and to file

03594

1 briefs contrasting positions unless you're specifically
2 asked to respond in that fashion.

3 And in this particular instance, what I heard
4 was a question directed to what your opinion or what
5 your beliefs are, and I really couldn't follow where
6 your position is on the subject because I was -- there
7 was too much emphasis on Ms. Million's position. So if
8 we could possibly take the question up again and try and
9 get to the heart of where you're at, it will help us a
10 great deal.

11 THE WITNESS: Okay.

12 JUDGE BERG: Thank you, sir.

13 BY MS. ANDERL:

14 Q. Okay, Mr. Weiss, let me see if I can recap a
15 little bit. I think I did hear the magic number in your
16 answer somewhere, which was 25%, but let me see if I can
17 kind of hone in on this. Is it your testimony then that
18 under the very limited hypothetical that I posed, the
19 plant utilization on the electronics equipment used to
20 provision a single DS1 would indeed be 25%?

21 A. If that's the only DS1 that was provided
22 throughout the Qwest system in Washington, that's
23 correct.

24 Q. And is it your testimony that you also
25 disagree with Ms. Million's assumptions on that point?

03595

1 A. Violently.

2 CHAIRWOMAN SHOWALTER: Blood and guts.

3 MS. ANDERL: And actually, Your Honor, just
4 for planning purposes, I do have several more questions
5 on fill, but then we will be changing topics, and it
6 might be right around a break time.

7 JUDGE BERG: All right, we'll break after you
8 conclude the subject on fill.

9 BY MS. ANDERL:

10 Q. Mr. Weiss, would you please turn to your
11 Exhibit CT-1333, which is your October 31st testimony.

12 A. I have that.

13 Q. On page 12.

14 A. I have that.

15 Q. All right.

16 A. There's nothing proprietary on this page as I
17 see it, right?

18 Q. No, there isn't.

19 I want to discuss the discussion on that page
20 with you, and you also reference on line 4 there, your
21 Exhibit THW-5, which shows a diagram, I believe that's
22 been identified and admitted as Exhibit 1334. We don't
23 need to look at it, but let me just ask you with the
24 context of that example in mind, is it your testimony
25 that on an OC3 system which provisions 84 DSIs, if the

03596

1 demand for DS1s approached 84, you as an engineer would
2 add another OC3?

3 A. If the demand was 84 already?

4 Q. As it approached 84.

5 A. I wouldn't add another OC3 if the demand was
6 not there to provide more DS1s.

7 Q. Well, let me just -- let me ask it this way
8 then. What would you characterize as objective fill on
9 an OC3 system the way you're using the term objective
10 fill?

11 A. Well, I'm not using the term objective fill.
12 Did I use the term objective fill? I don't believe I
13 did.

14 Q. I think I earlier asked you how you would
15 define it, and you did say --

16 A. I did with respect to copper cable, I would
17 agree with that. But in this case, for the reasons that
18 I have stated in this testimony, I have reflected the
19 reinforcement level at 95%.

20 Q. Okay, so what's 95% of 84?

21 CHAIRWOMAN SHOWALTER: You have moved past
22 the slide rule I see.

23 A. 80.

24 Q. So at 80 DS1s on that OC3 system, would you
25 add another OC3?

03597

1 A. Not unless there was demand for something
2 beyond 84. You see, even with copper cable --

3 Q. Okay.

4 A. I'm sorry.

5 Q. That's okay, you answered my question. If
6 there were demand for 15 more DS1s in the planning
7 horizon, how would you increase the capacity on that OC3
8 system to accommodate that demand? Would you add
9 another OC3?

10 A. Again, it goes back to the issue that we were
11 discussing earlier that I was rebuked from the Bench
12 for. The fact of the matter is that this diagram
13 doesn't pertain to any given, one given customer or one
14 given route. This diagram is an amalgamation of all the
15 routes, of all the DS1 routes or DS3s, OC3s, whatever.

16 Q. I guess I'm trying to find out how in the
17 real world on a particular route --

18 A. On a particular route.

19 Q. -- or system, if you had a foreseeable demand
20 for more than 84 DS1s on an OC3 system, how would you
21 increase the capacity on that OC3 system? What would be
22 your engineering recommendation?

23 A. Well, it would depend on the demand. I mean
24 if the demand were predicted to grow at a rather rapid
25 rate, I might put in an OC3, another OC3. If not, I

03598

1 might put in a series of DS3s.

2 Q. And another OC3 is what you have assumed in
3 your Exhibit 1334; is that right?

4 A. And the reason that I have done that is
5 because this is an amalgamation of all the DS1s and DS3s
6 and OC3s and OC12s. This applies to all optical fiber
7 fed services, and it reflects what should happen on
8 average for Qwest with respect to capacity that itself
9 provides and capacity that it provides for CLECs and
10 interconnected carriers.

11 Q. Is it true that each OC3 requires four
12 fibers?

13 A. Yes.

14 Q. So two OC3s require eight fibers?

15 A. Yes.

16 Q. Is it correct that if you changed out the
17 electronics on an OC3 and converted it to an OC12 that
18 the OC12 only requires four fibers?

19 A. Yes.

20 Q. And that OC12 is four times the capacity of
21 an OC3?

22 A. Yes, and I was going to say that if the
23 demand was there, I might even consider putting in an
24 OC12 and even an OC48.

25 Q. Have you done any analysis as to what the

03599

1 break point needs to be for converting to an OC12 to be
2 the least cost alternative?

3 A. No, that would be situation specific, and I
4 don't have a specific situation to which to apply it.

5 Q. So in your example on page 12, sorry, Exhibit
6 1333, page 12, and 1334, you discuss that each new
7 addition of capacity is an OC3; is that correct, or an
8 OC3 equivalent?

9 A. Yeah, that's basically what I show there on
10 the exhibit, but that doesn't mean that this applies
11 only to the situation of OC3s, DS3s, and -- I mean OC3s
12 and DS1s. This applies -- my exhibit or my analysis
13 although it refers to DS1s derived from OC3s only, it
14 applies to any optical fiber produced plant. That would
15 be DS3s derived from OC12s, for example.

16 Q. Well, if you add an OC12 or convert -- let me
17 strike that and start over.

18 If you convert an OC3 to an OC12, you're not
19 adding capacity in increments of OC3, are you?

20 A. No, you're not, no, you're adding much, much
21 more capacity. And I wouldn't do that unless I had a
22 precipitous, asymptotic almost, growth pattern.

23 Q. Have you performed any analysis to determine
24 from a TELRIC standpoint at what level of demand it
25 becomes more effective to, more cost effective, to add

03600

1 an OC12 as opposed to adding an additional incremental
2 OC3?

3 A. I haven't had to do that, no, I did not.

4 Q. Just a few more questions on the topic of
5 fill factors. Turning to your first testimony, Exhibit
6 1330, on page 15.

7 A. Yes.

8 Q. You talk about optical digital architecture.

9 A. Yes.

10 Q. And on lines 7 through 10, you reference ADSL
11 or HDSL technologies; is that correct?

12 A. That's correct.

13 Q. Do ADSL or HDSL technologies require optical
14 equipment?

15 A. No, they do not. My reference to them here
16 is simply to point out that the -- even the residential
17 market is moving toward digital architecture, and it's
18 going to increase beyond ADSL and HDSL to VDSL and
19 further.

20 Q. So increased deployment of HDSL or ADSL does
21 not necessarily increase the plant utilization of
22 optical facilities by itself, does it?

23 A. I don't understand the question.

24 Q. Does increased deployment of HDSL or ADSL
25 increase the plant utilization of optical facilities?

03601

1 A. No, because ADSL and HDSL can be provided
2 over copper facilities. It could, but not necessarily.

3 MS. ANDERL: Your Honor, I'm ready to talk to
4 Mr. Weiss about TIFs.

5 JUDGE BERG: Thank you, Ms. Anderl, let's
6 take a break until 3:05.

7 (Recess taken.)

8 JUDGE BERG: Ms. Anderl, why don't you go
9 ahead and venture forth.

10 MS. ANDERL: Thank you.

11 BY MS. ANDERL:

12 Q. Mr. Weiss, we will start TIFs here in just a
13 minute. I had one additional follow up, a couple of
14 additional follow-up questions on fill.

15 Mr. Weiss, is it correct that the fill that
16 is applied within the cost study has a direct impact on
17 the investment number that's produced?

18 A. Yes, it has a direct impact on the direct
19 investment numbers and then indirectly on the allocated
20 and assigned, yes.

21 Q. And then ultimately on the TELRIC cost that's
22 produced?

23 A. Very much so, yes.

24 Q. Would you agree that using the wrong fill
25 factor on these material costs for a particular element

03602

1 can produce results that either underestimate or
2 overestimate the cost of providing that particular
3 element?

4 A. Yes, and, in fact, the fill factor itself is
5 a very key element in determining whether competition
6 takes place or not. If you use these low fill factors
7 such as Qwest is using, the prices are unfairly high,
8 they're uneconomically high, and you can't compete.

9 Q. And isn't it also correct that if fill
10 factors that are used are higher than could reasonably
11 be attained by a forward looking company, that company
12 will not recover its costs?

13 A. Yes, of course, if they're too high, the
14 company won't recover its costs, and that's why I
15 recommend an 85% fill factor, because that's the correct
16 factor.

17 Q. Now you review and comment on Qwest's TIFs;
18 is that right?

19 A. Yes, and that's total investment factors.

20 Q. Total investment or total in plant?

21 A. Well, some companies say it's total
22 investment, some say it's total in plant. I believe
23 that I have seen Qwest use total investment and total in
24 plant, and I believe they're calling it total investment
25 here.

03603

1 Q. Let's talk about how a person calculates a
2 TIF, and you can correct me if I'm wrong here, but if a
3 person had the information sufficient to determine the
4 ratio of material cost to installed equipment cost, then
5 a person could calculate the effective TIF; is that
6 correct?

7 A. I think that if I answered yes to that, I
8 would give the wrong impression, because that's not
9 quite precisely what happens. This TIF factor --

10 Q. I want you to finish your explanation, and
11 then maybe I will go back and clarify my question,
12 because I think you're going to answer something that I
13 didn't ask, but I will let you finish your explanation.

14 A. What I was going to do, and I won't answer
15 this if you don't think it's appropriate, but I was
16 going to list the various items that are included in a
17 TIF factor.

18 Q. That's fine, because that will take care of a
19 later question.

20 A. Okay.

21 Q. Okay.

22 A. The various items that are included in a TIF
23 factor are vendor labor cost, the labor that the
24 telephone company incurs in bringing a piece of
25 equipment on line, that's called Telco labor. Then

03604

1 there's an element for a testing factor. Then there's a
2 sales tax. Then there's a factor in there to recognize
3 the need or a power equipment loading. Then there's an
4 element for warehousing, that is holding equipment in
5 the warehouse. And then there's a factor in there for
6 transportation of the equipment. That would be charged
7 by the -- probably by the supplier. And then lastly,
8 there's a factor for a thing called IDC, which is
9 interest during construction, and that's kind of like an
10 allowance for funds used during construction. So all of
11 these factors play into this "TIF element".

12 And as I understand the company's approach to
13 developing these TIFs, they go to basically the CPR
14 records or the continuing property records for the
15 company, and they take a piece of equipment, and they
16 say, okay, this is the total cost, which includes all of
17 those various elements, and then they separate out from
18 that the material cost, and then divide the total cost
19 by the material cost, and they get a factor which when
20 multiplied by a material number gives an in plant or
21 total investment number for purposes of these cost
22 studies.

23 Q. And I think I heard you say that one can
24 calculate a TIF if one has the information sufficient to
25 determine the ratio of the material cost to the

03605

1 installed equipment cost?

2 A. Yes, right, but the key point, I didn't want
3 to leave the impression that TIF is labor only, you
4 know.

5 Q. Fair enough.

6 A. It's a whole bunch of stuff.

7 Q. Fair enough. Is it correct that the standard
8 that you used to evaluate Qwest's TIFs was your own
9 experience in the industry?

10 A. Yes, it is, and that's not experience that I
11 gained in 1975. It's experience that I have gained
12 since 1996 basically.

13 Q. Is that with Vtel?

14 A. Vtel, GCI Communication, Verizon.

15 Q. Let me ask you to turn to a document which I
16 no longer seem to have, Exhibit 1339 and 1343, two
17 documents that Qwest identified as cross-examination
18 exhibits, and I will tell you that they are the Joint
19 CLEC's responses to Qwest's Data Requests 9 and 14.

20 A. Judging from what you have just told me,
21 these things are numbered sequentially?

22 JUDGE BERG: The numbering doesn't -- yes,
23 what you're -- as presented, they were numbered
24 sequentially.

25 THE WITNESS: Okay.

03606

1 JUDGE BERG: However, the requests themselves
2 are not sequential.

3 THE WITNESS: Yes, I understand that.

4 JUDGE BERG: But the list should be
5 sequential.

6 THE WITNESS: But the exhibit list is
7 sequential.

8 JUDGE BERG: Yes.

9 THE WITNESS: Okay, that way I won't have to
10 keep asking for numbers.

11 JUDGE BERG: I think you're probably working
12 off of the same list that was given to the Commission at
13 the time that we assigned numbers.

14 BY MS. ANDERL:

15 Q. Mr. Weiss, look at Exhibit 1339 for me, if
16 you would, which is Request and Response Number 9, did
17 you participate in the preparation of that response?

18 CHAIRWOMAN SHOWALTER: Can we just make sure
19 we're all on the same page, because this Exhibit 1339
20 actually says Qwest Request Number 1, but then it says
21 Request Number 9 on this page.

22 MS. ANDERL: Yes, you're right, I apologize
23 for that. I think the CLECs when they reproduced this
24 and numbered it must have been referring to set number
25 1.

03607

1 CHAIRWOMAN SHOWALTER: Okay.
2 MS. ANDERL: That's all I can think of.
3 MS. STEELE: Or it was a typographical error,
4 which is probably what happened.
5 CHAIRWOMAN SHOWALTER: Well, maybe you could
6 just read what the request was so we all know that we
7 are on the same page.
8 BY MS. ANDERL:
9 Q. Mr. Weiss, do you see the question, please
10 provide any and all support for Mr. Weiss's proposal for
11 the 1.40 and 1.20 TIFs as well as the 0.06 additive, and
12 it goes on?
13 A. Yes, I see that.
14 Q. Okay. Did you participate in the preparation
15 of the response that's shown on that document?
16 A. I wrote it.
17 MS. ANDERL: Your Honor, we would move the
18 admission of Exhibit 1339.
19 MS. STEELE: No objection.
20 JUDGE BERG: It's admitted.
21 BY MS. ANDERL:
22 Q. Turn then, if you would, Mr. Weiss, to
23 Exhibit 1343, which says Qwest Request Number 14. Did
24 you participate in the preparation of that response?
25 A. Yes, and you will note that I did identify

03608

1 those carriers for you earlier.

2 Q. That was my next question, GCI, Vtel, and
3 Verizon?

4 A. Yes.

5 Q. Are the carriers to which you're referring?

6 A. Yes.

7 Q. When did your contractual obligations which
8 did not allow you to disclose the names of those
9 carriers change?

10 A. When I called them and said, look, do you
11 guys mind if I tell somebody that, you know, that I drew
12 some of my experience from your company.

13 Q. When did you do that?

14 A. As far as Vtel was concerned, it was about a
15 week and a half ago, I guess. They called me and wanted
16 me to do some more work for them, which I couldn't do,
17 so I took the opportunity to ask them then. As far as
18 Verizon is concerned, it's well known public record that
19 I worked with Verizon in -- not with Verizon, but
20 against Verizon I guess in Rhode Island and Vermont.
21 And then as far as GCI is concerned, about a week and a
22 half ago.

23 Q. When did the contractual obligation not to
24 disclose Vtel begin?

25 A. As far as Vtel was concerned, it began on

03609

1 October the 1st, 1997, and it ended on I believe it was
2 March the 31st, 2000.

3 Q. Mr. --

4 A. Well, the obligation not to divulge
5 information that I learned from them was ongoing until
6 such time as they released me from it.

7 Q. When did the obligation not to disclose that
8 they were one of the sources of your experience, when
9 did that occur?

10 A. Because I felt like you were entitled to it,
11 so I asked them for it.

12 Q. Right, but when did the obligation to not
13 disclose them begin?

14 A. For Vtel, it was on October the 1st, 1997.

15 Q. Mr. Weiss, did you testify in a docket
16 commonly or occasionally referred to as the held order
17 docket in New Mexico?

18 A. Oh, yes.

19 Q. Okay. Was that in 1998, to the best of your
20 recollection?

21 A. I don't know specifically when it was, but I
22 do remember the docket, yes.

23 Q. And do you recall whether or not in 1998 you
24 disclosed on the record under cross-examination that you
25 were a consultant to Vtel?

03610

1 A. I didn't know that. I have told various
2 people that I was a consultant to Vtel, but I did never
3 tell -- I never told anybody specifically what I learned
4 at Vtel until Vtel told me I could.

5 Q. How big is GCI?

6 A. I don't know what you mean by how big.

7 Q. Is GCI a telecommunications company?

8 A. Yes, and a cable provider.

9 Q. Are they a CLEC?

10 A. Yes.

11 Q. How many customers do they have?

12 A. I haven't discussed that with them in a long
13 time; I don't know.

14 Q. How many lines do they serve?

15 A. I don't know.

16 Q. How many switches do they have?

17 A. The last I heard, they -- I can't reveal that
18 information. I regret that I can't reveal that
19 information.

20 Q. Do you know whether they operate in any state
21 other than Alaska?

22 A. I don't know that they operate any place but
23 in Alaska.

24 MS. ANDERL: Your Honor, if I neglected to
25 move the admission of 1343, I will do so at this time.

03611

1 MS. STEELE: No objection.

2 JUDGE BERG: It's admitted.

3 BY MS. ANDERL:

4 Q. Mr. Weiss, do you believe that the experience
5 that you obtained from your work in connection with
6 Verizon, GCI, and Vtel gave you valuable insights into
7 what an appropriate TIF would be?

8 A. Naturally, yes.

9 Q. And do you believe that that experience gave
10 you insights specifically into what an appropriate TIF
11 would be for an RBOC such as Qwest?

12 A. Well, it -- certainly. All telephone
13 companies have pretty much the same arrangements with
14 suppliers as the others do. Most particularly, the
15 larger they are, the lower the TIFs would be. And I
16 have absolute personal experience that I will quote that
17 if you go to the records of Vermont Telephone Company
18 and you look at the continuing property records, that is
19 that's the official document of their investment, the
20 total installed or the total investment factor for that
21 company is in the range of from 1.1 to 1.15, and it is a
22 specific, well, it averages 1.2, or 1.12, I'm sorry,
23 1.12. That means that 88% of the investment that they
24 have on their books is equipment. 12% are these various
25 loadings.

03612

1 Now Vtel and most companies of which I'm
2 aware does not load investment for IDC, because interest
3 during construction doesn't have to be loaded. This
4 company does.

5 Q. Mr. Weiss, would you agree that the more data
6 points you could obtain on the issue of the appropriate
7 TIF factor, the more reliable your recommendation would
8 be?

9 A. Oh, absolutely, and I'm not, you know, my
10 experience dates back to the late '70's, and I have been
11 looking at these issues since that time. I have only
12 quoted for you the most recent experience because I
13 thought it was the most relevant. But as you well know,
14 my experience in the telephone industry, especially in
15 costing, goes all the way back to 1970.

16 Q. And in terms of the relevance of your
17 experience to your recommendation here today, does it
18 matter in your view that some of the companies upon
19 which you base your opinion are not necessarily
20 comparable to Qwest in terms of size or customer base?

21 A. They are comparable to -- they may not be --
22 if they are or are not is irrelevant. What is relevant
23 is that they purchase their equipment from the same
24 suppliers under the same general terms. That is to say
25 they get pretty much the same discounts, at least the

03613

1 large companies do, they have the same arrangements for
2 installation and so forth.

3 Q. Mr. Weiss, could you please turn to
4 Cross-examination Exhibit 1337 for identification, which
5 is Joint CLEC's responses to Qwest Data Request Number
6 6.

7 A. I have that.

8 Q. And can you tell me whether or not that's a
9 true and correct response to the request?

10 A. It's true and correct, yes.

11 MS. ANDERL: Your Honor, we would move 1337.

12 MS. STEELE: We have the same objection to
13 this that we had to exhibit I believe it was 1338, and
14 that is that the cost experienced by the Joint
15 Intervenors is not relevant, and the fact that the joint
16 intervenors objected to a data request is itself not
17 relevant to this proceeding.

18 MS. ANDERL: And we have the same response,
19 Your Honor.

20 JUDGE BERG: The Commission always strives to
21 base its decisions on actual networks, so the objection
22 to the admission itself is overruled, and it will just
23 be a matter of what weight to attach to the fact an
24 objection was made in the first place.

25 MS. ANDERL: Thank you, Your Honor.

03614

1 BY MS. ANDERL:

2 Q. Mr. Weiss, you can see from Exhibit 1337 that
3 Qwest attempted to obtain information which would have
4 enabled a person to calculate the CLEC's effective TIFs,
5 and Qwest did not obtain that information. Let me ask
6 you if you attempted to obtain that information from any
7 of your clients.

8 A. No, I did not. It wasn't relevant.

9 Q. Would you agree that the type of equipment
10 that's in use will have an impact on the appropriate
11 TIF?

12 A. You mean that, by type of equipment, you mean
13 equipment that's usage sensitive versus equipment that's
14 not or meaning, for example, equipment such as relay
15 racks which would not be usage sensitive, whereas line
16 cards would be, yes, I would agree that there is a
17 difference there.

18 Q. Would you agree that TIFs for copper based
19 equipment are generally higher than those for fiber
20 based equipment?

21 A. Well, as I indicated before, my experience
22 puts the TIFs in the -- in the ranges that I cited in
23 this testimony, and that's a general number. It applies
24 to electronic equipment primarily. It doesn't apply to
25 copper cable necessarily. In fact, I did not look at

03615

1 TIFs for copper cable in this case.

2 Q. You earlier identified the components that go
3 into a TIF and you agreed that for some equipment,
4 there's warehousing expense?

5 A. There's more warehousing expense for outside
6 plant copper than there is for this electronic equipment
7 we're dealing with. That's why my number is so small.

8 Q. And we're off the distinction between copper
9 and fiber and just talking generally again. Did you
10 agree that some equipment needs to be warehoused?

11 A. Some equipment is warehoused. Whether it
12 needs to be warehoused is a question that I still don't
13 believe is answered. Under a JIT arrangement, the
14 equipment would not have to be warehoused, and that's
15 the arrangement that should apply on a forward looking
16 basis. Here I have allowed for a small amount of
17 warehousing cost to be applied to certain of the
18 equipment that is at issue in this case.

19 Q. Did Vtel warehouse equipment?

20 A. No, we were pretty much a JIT operation, and
21 we were putting in equipment, like I told you, I think
22 we were -- we even installed a DMS 100 switch, which is
23 the Nortel big deal switch, digital switch, spent \$1
24 Million on that thing over three years, and we didn't
25 warehouse a single drop of it.

03616

1 Q. Did you have a warehouse?

2 A. There's a warehouse area in the company for
3 keeping copper cable in.

4 Q. Was there ever any copper cable in there?

5 A. Certainly there was. Yeah, we would keep
6 drop in there and small cables and C wire and things of
7 that nature.

8 Q. Would you agree that an appropriate component
9 of a TIF is also occasionally transportation costs?

10 A. Transportation costs to the extent that
11 they're identifiable from an invoice are elements of a
12 TIF if you don't account for them someplace else.

13 Q. And if you don't account for material testing
14 someplace else, are those also appropriately an element
15 of a TIF?

16 A. Well, I disagree with your -- with your
17 characterization of material testing. I believe that
18 the testing here is circuit testing. The impression
19 that you leave is that when equipment comes in, you test
20 it to see if it's any good before you send it back.
21 That's not what happens. You install the equipment,
22 then test it.

23 Q. So instead of material testing, would you say
24 that the correct way to say that is equipment testing?

25 A. I will buy that.

03617

1 Q. Turning to your Exhibit 1330, your testimony,
2 page 18, sorry, this is 1330, your October 23rd
3 testimony.

4 A. I have that.

5 Q. On the very top of page 18, the sentence that
6 started at the bottom of page 17 continues on, it says,
7 these ranges, and that's your recommendation for TIFs,
8 assume that the TIF includes sales taxes, Telco
9 engineering, and OEM installation charges; is that
10 correct?

11 A. Yes.

12 Q. And that your --

13 A. My TIFs do not incorporate the IDC element,
14 for example.

15 Q. Okay, we're going to get there.

16 A. Okay.

17 Q. What is OEM installation?

18 A. Original equipment manufacturer.

19 Q. What's in --

20 A. You call it vendor installation.

21 Q. What's included in OEM or vendor
22 installation?

23 A. That's the labor that it takes for the
24 installation personnel that are hired by the
25 manufacturer to install the equipment. For example,

03618

1 Northern Tel or Nortel installs DMS 100 switches using
2 their own personnel, and that would be the vendor
3 installation or OEM installation, personnel.

4 Q. And what type of costs are included in the
5 Telco engineering?

6 A. To the extent that telephone company
7 personnel are involved in engineering at all, they may
8 prepare drawings to be sent to the OEM for their use in
9 determining where to install the equipment, how to
10 install it, what needs to be done to rearrange, and so
11 forth and so on. It's a relatively minor element in the
12 TIF, or it should be.

13 Q. And your TIFs also reflect or include an
14 assumption for sales taxes?

15 A. Yes, sales taxes are a clear element of cost,
16 and they're capitalized, and they belong in a TIF.

17 Q. Does your TIF include anything other than
18 sales tax, Telco engineering, and OEM installation?

19 A. Well, to go through it, vendor labor
20 obviously is in there, and that's OEM labor. Telco
21 labor is in there. The testing element is in there, as
22 is the sales tax.

23 Q. Where is the testing?

24 A. Well, I don't say it. Maybe I should have
25 said et cetera in that sentence. But the fact of the

03619

1 matter is that to the extent that there's any power or
2 testing that's done, it's included in there. When the
3 company capitalizes anything on its books of account,
4 it's usually identified in the CPR records with a
5 specific code, and I, you know, I didn't identify every
6 one of the elements that were in these TIFs.

7 Q. Now your .06 add on, what does that reflect?

8 A. That reflects the differential between
9 warehoused and non-warehoused TIF.

10 Q. And does your TIF include transportation
11 costs?

12 A. Yes.

13 Q. Where is that?

14 A. It's in there. As I said, I didn't delineate
15 each and every item of the TIF, but when you go to the
16 records for any company, the item is in there. When I
17 quoted Vtel's TIF just a few minutes ago at 1.12, that
18 included all of those items. What it does not include
19 is an IDC interest during construction, because IDC
20 should not be accrued against this plant.

21 Q. Is there anything else that Qwest includes
22 that you do not include in the TIF?

23 A. No, IDC is definitely the only one that I --
24 I do not permit in a TIF, if you will, to the extent I
25 have that capability.

03620

1 Q. Can you quantify the difference between a TIF
2 that includes an IDF and one that doesn't?
3 A. I can.
4 Q. On IDC?
5 A. I can, but I can't do it here. I could do it
6 elsewhere. The information I have on it is specific to
7 Qwest, and it's covered by a protective agreement.
8 Q. In this state?
9 A. Not in this state.
10 Q. Let's talk about your errata testimony,
11 Mr. Weiss, and for purposes of these questions, I'm
12 going to ask you to go to two exhibits and compare
13 pages. The first exhibit is 1331, page nine.
14 A. 1331, I have that, 1331, page nine.
15 Q. Oh, I'm sorry, did I say 1331, I misspoke.
16 1333, no, yeah, hang on, hang on, hang on, I don't trust
17 my own notes. 1333, it's your DS1 testimony.
18 A. October 31?
19 Q. Yes.
20 A. Page nine?
21 Q. Page nine. When you get there, there should
22 be a table number two filling up the top half of the
23 page.
24 A. I have that.
25 Q. Okay. And then also if you would turn to

03621

1 Exhibit E-1346, which is your April 12th errata.

2 A. I have that.

3 Q. That's on page -- turn to page two there, if
4 you would.

5 A. Okay.

6 Q. And you will see a table number one revised?

7 A. Yes, I have it.

8 Q. Is it correct that table number two, Exhibit
9 1333, reflects your original recommendation, and table
10 number one revised reflects your current recommendation?

11 A. Yes, table number two in 1333 at page nine
12 shows a category 1 cost of \$2,350.12 and a category 2 of
13 \$49.10.

14 Q. Those were some of the numbers that we
15 weren't going to read into the record.

16 A. No, no, no, they're my numbers.

17 Q. Okay.

18 A. They're not your numbers; they're my numbers.

19 Q. Okay, that's true, they're your adjustments,
20 that's fine.

21 A. So I haven't violated --

22 Q. Just so that we are all on the same page,
23 that's fine.

24 A. Do you agree that I didn't violate the
25 agreement?

03622

1 Q. To the extent, Mr. Weiss, that you only
2 disclose your own numbers, not Qwest's numbers, I'm fine
3 with that.
4 A. Okay.
5 Q. Let me ask you some questions here. Is it
6 correct that the adjusted investment on Exhibit C-1333,
7 table 2, reflects three different types of adjustments,
8 fill factor?
9 A. (Nodding head.)
10 Q. Is that a yes?
11 A. Yes, that's correct.
12 Q. TIF adjustments?
13 A. That's correct.
14 Q. And also the assumption that no copper
15 architecture will be used?
16 A. That's correct.
17 Q. And is it correct then that on Exhibit
18 E-1346, table number 1 revised, reflects only two
19 adjustments, which is TIFs and fill factors?
20 A. That's correct.
21 Q. Mr. Weiss, would you also agree with me that
22 the largest single change to the investment shows up in
23 FRC or field reporting code 257-C?
24 A. Yes.
25 Q. Do you know what CCT stands for?

03623

1 A. Circuit -- that's the general industry
2 abbreviation for circuit.
3 Q. It's digital circuit equipment?
4 A. Yes.
5 Q. And did you undertake to quantify how much of
6 your adjustment relates to your fill adjustment and how
7 much of the dollar amount adjustment relates to your TIF
8 adjustment?
9 A. No, I didn't attempt to do that.
10 Q. You adjusted the investment for field
11 reporting code 357-C; is that correct?
12 A. I adjusted -- yes, I did.
13 Q. Okay. And what is that type of equipment?
14 A. That's circuit equipment as well.
15 Q. What's the difference between 357 and 257?
16 A. One of them is premises, and one of them is
17 central office.
18 Q. Okay.
19 A. 257 is central office, I believe, and 357 is
20 premises.
21 Q. Customer premises?
22 A. I mean customer premises.
23 Q. Keep those documents, because I probably will
24 be coming back to them to ask some questions. But now
25 if you will please flip to your Exhibit 1330.

03624

1 A. That's the original testimony?

2 Q. That's correct, October 23rd, page 11, do you

3 see --

4 A. Yes, I have that.

5 Q. Do you see the table at the bottom of the

6 page?

7 A. Yes.

8 Q. The first line on that table is field
9 reporting code or account 357-C, and you did not make an
10 adjustment to the Qwest original investment for that
11 equipment; is that correct?

12 A. I don't remember. I would have to go back
13 and look at the computer file. What I did here was to
14 take your computer program and run would be the network
15 access channel program, NAC, and ran my figures or my
16 revised TIFs and fill factors into it.

17 Q. Did you do that, or did Mr. Klick or
18 Mr. Pitkin do that for you?

19 A. No, I did it.

20 Q. Do you see that the Qwest original investment
21 and the adjusted investment for 357-C is the same?

22 A. Yes, I don't know why, but I could certainly
23 find out for you. I would have to go into the program
24 and find out.

25 Q. You don't have a recollection today of

03625

1 whether you intentionally didn't make an adjustment?

2 A. No, I did not intentionally not make an
3 adjustment.

4 Q. Okay, that was a lot of negatives. So what
5 you're telling me is there's nothing special about 357-C
6 that made you leave it alone?

7 A. No, not unless there is in the program. You
8 know, to get behind those programs would have taken me
9 an awful lot of extra effort, that I just assumed that
10 the programs were operating correctly and plugged my
11 figures into them.

12 Q. I may not have too many more questions on
13 these tables. Let me see if I come back to any.

14 Let me talk to you about the change in
15 position that you reflected in your Exhibit E-1345,
16 which was your errata testimony dated March 26th.

17 A. There's a typographical error in that. Can I
18 change that?

19 Q. Sure, tell us what it is.

20 A. It's about line 20, combinatioun, you have to
21 strike the U I think.

22 Q. Oh, okay.

23 JUDGE BERG: I thought we were bilingual.

24 THE WITNESS: Nice pun.

25 BY MS. ANDERL:

03626

1 Q. Since we're on those two pages, and that's
2 E-1345, the March 26th errata, is it correct that --

3 A. 1345?

4 Q. Yeah. Is it correct that that table, the
5 table on the unnumbered page, is not applicable to your
6 recommendation in this proceeding?

7 A. It is no longer applicable, yes. That was
8 changed by virtue of my testimony submitted on April the
9 12th.

10 Q. Now at the time that you filed your testimony
11 in October of 2000, both your DS1 testimony on October
12 31st of 2000, is it correct that you believed at that
13 time that a forward looking network for the provision of
14 DS1 capable loops would not contain any copper based
15 architectures?

16 A. That was the basic position there, and that
17 position was based strictly on an engineering
18 interpretation of the word obsolete. After I read Dick
19 Buckley's testimony, I kind of went back and looked at
20 the FCC's rules and decided that, well, you know, he's
21 got a point as far as some of this capacity could be
22 provided using the TELRIC cable. Because the FCC refers
23 to something along the reasonably foreseeable future at
24 some point in time, and that's not an unrealistic
25 position for him to take relative to the reasonably

03627

1 foreseeable future, so I acceded to his criticisms and
2 changed my testimony.

3 Q. Prior to that time, did you believe copper to
4 be either not forward looking or an obsolete
5 architecture?

6 A. Well, as I indicated to you before, I looked
7 at -- the word obsolete I was interpreting from an
8 engineering perspective and not a regulatory perspective
9 in terms of setting costs.

10 Q. Mr. Weiss, did you make a recommendation in
11 the Vermont Public Service Board proceeding that DS1s
12 should not be provided on copper because copper is an
13 obsolete architecture?

14 A. I didn't, Verizon did, or Bell Atlantic did.
15 Bell Atlantic has since changed their position, I might
16 add. Bell Atlantic had specific plans to provide all of
17 their loop capacity using optical fibers, their feeder
18 capacity using optical fibers on a going forward basis
19 when they filed that case in Vermont.

20 Q. So did you make any recommendations with
21 regard to the appropriate architecture for provisioning
22 DS1s?

23 A. I did not change their recommendation. Put
24 it that way.

25 Q. And in connection --

03628

1 A. I will now though, because they have changed
2 their mind.

3 Q. In connection with the Rhode Island
4 proceeding, did you make any recommendations to the
5 Rhode Island Commission with regard to the appropriate
6 architectures for the --

7 A. Same answer.

8 Q. -- provision of DS1 capable loops?

9 A. Same answer, they used fully fiber feeder
10 network, and I did not except to that.

11 Q. You did not?

12 A. Except.

13 Q. E-X?

14 A. E-X-C-E-P-T.

15 Q. What about in the arbitration proceeding in
16 New Mexico, did you make any recommendations with regard
17 to DS1 architectures?

18 A. That's been a while ago, I don't remember
19 what was involved in that case. I remember having a
20 battle with the attorney there, but I don't remember,
21 the Qwest attorney, but I don't remember specifically
22 what it was about.

23 Q. What about in Alaska, did you make any
24 recommendations with regard to the appropriate --

25 A. In Alaska I believe we were proposing --

03629

1 actually, in Alaska I believe that the -- the incumbent
2 up there was offering to provide it over -- strictly
3 over digital facilities.

4 Q. And you did not make a contrary
5 recommendation?

6 A. Well, actually, it's -- see, Alaska, that was
7 a -- I don't even know that you would characterize it
8 as, an arbitration. You know, it was a bunch of guys
9 sitting around a table trying to decide what price to
10 charge, and there were ladies there too.

11 Q. It sounds like a negotiation.

12 A. It was, it was more in the line of a
13 negotiation, but they did characterize it as an
14 arbitration.

15 Q. Now in light of your agreement for purposes
16 of this proceeding with Mr. Buckley's testimony in
17 connection with the copper architectures, did you
18 perform any analysis as to whether or not the TIFs
19 associated with the material investment should change
20 because the copper --

21 A. I'm sorry, I didn't get the full question.

22 Q. I might not have had a chance to finish it,
23 but let me just ask it again. You're now agreeing that
24 Qwest's copper architectures for the provision of DSIs
25 can be used; is that correct?

03630

1 A. Yes.

2 Q. And you have also agreed with the weightings
3 assigned to them; is that correct?

4 A. I was going back to Qwest's proposed
5 weightings, yes.

6 Q. If you have agreed is too strong of a word,
7 then you don't oppose that; is that right?

8 A. I don't oppose that, that's correct.

9 Q. Now did you perform any analysis to determine
10 whether you needed to change your recommendation on the
11 TIFs based on the inclusion of copper based
12 architectures?

13 A. No, because my recommendations in this case
14 did not, you know, I was assigned to look at the
15 electronic equipment, and I didn't change any of the
16 TIFs relative to the copper cable.

17 Q. You did change the fills relative to the
18 copper though, didn't you?

19 A. I don't recall doing it. Maybe John did,
20 John Klick. I don't know, I don't remember. If I went
21 to an 85% fill, which I think I did, I think you're
22 correct. You had a 65% fill in, and I put in 85%, yes,
23 that's correct.

24 Q. But it's your testimony that you didn't
25 change Qwest's TIFs on the cable?

03631

1 A. I don't believe I did. I don't know, I don't
2 think I did.
3 Q. But you did on all of the circuit equipment
4 or electronic equipment?
5 A. I stand corrected. I did, I changed the
6 TIFs, yes, I did, I changed the TIFs on the copper as
7 well.
8 Q. Did you change them to 1.4?
9 A. Yes, I did, and 1.2.
10 Q. Okay.
11 A. Well, not 1.2, because 1.2 doesn't apply to
12 copper cable.
13 Q. So it's actually 1.46?
14 A. Yes.
15 Q. Because the .46 would apply to copper?
16 A. Yes.
17 Q. Okay. Turning very briefly to your analysis
18 of the Qwest's transport model, do you recall preparing
19 a small --
20 A. Could you repeat that?
21 Q. -- small amount of testimony on that?
22 A. Yes.
23 Q. Is it fair to say that the modifications you
24 made to the transport cost study are the same as those
25 that you recommend for the DS1 and DS3 capable loops?

03632

1 A. Yes. I did not -- I was not able to -- was
2 not able to really understand that model as well as I
3 would like to have, because it was very difficult to
4 open and manipulate, but that -- I was able to do that
5 at least.

6 Q. Were you able to adjust the fill?

7 A. I believe so, yes.

8 Q. And did you adjust it to 85%?

9 A. Yes.

10 Q. Okay.

11 A. Yes.

12 Q. Were you able to change the TIFs?

13 A. Yes.

14 Q. And did you reduce those to your recommended
15 level?

16 A. I did.

17 Q. I think we're in the home stretch here,
18 Mr. Weiss. Let's talk about nonrecurring costs, and for
19 that eventually I will ask you to look at Exhibit
20 C-1331, but I have some preliminary questions first.

21 A. Everything in 1331 is proprietary, including
22 my changes evidently?

23 Q. Are you asking me?

24 A. Well, I don't know of anybody else I could
25 find that out from.

03633

1 Q. I will try to ask you questions in connection
2 with 1331 that don't require you to disclose --

3 A. Well, the problem is that I have eliminated
4 certain specific things here that if I mention, would
5 that be in violation of the agreement not to divulge
6 proprietary information?

7 Q. Well, Mr. Weiss, I'm going to try to ask you
8 questions. In general, I don't believe that Qwest holds
9 the work item descriptions to be confidential.

10 A. Okay, that's good.

11 Q. But rather the times and the probabilities.

12 A. Okay, that's fine.

13 Q. So as we will shortly talk about the
14 elimination of the testing function, it's going to be
15 okay to do that on the public record.

16 A. Okay.

17 Q. Now is it correct that the Qwest nonrecurring
18 costs that we're considering in this case are
19 nonrecurring costs that are associated with individuals
20 performing certain tasks?

21 A. Individuals or groups of individuals.

22 Q. And in order to correctly estimate
23 nonrecurring costs, would a person necessarily be
24 required to accurately identify the tasks performed?

25 A. Yes, they would have to do a rather complete

03634

1 job of identifying the tasks, but not overidentifying
2 them, as I think you have in this case.

3 Q. And would a person also necessarily need to
4 accurately estimate the time required to perform those
5 tasks?

6 A. Yes.

7 Q. And will some of those estimates necessarily
8 be averages?

9 A. Well, I don't know precisely how you
10 developed your numbers, but I have a fairly good idea
11 that you did not use weighted averages. You used point
12 estimates, if I recall, and I did -- would not agree
13 with that.

14 Q. What's a point estimate?

15 A. A point estimate is where you say, okay, you
16 might take five or six people and say, what's the
17 number, what do you think it's going to take to do this.
18 And one of them or two of them say two, and two of them
19 say four, and a third one says three, I mean a fifth one
20 says three. You would average that out to a point
21 estimate of three. I wouldn't agree with that
22 necessarily. I would subscribe to a different means of
23 determining those numbers than just simply coming up
24 with a point estimate, much the way I did it in Vermont.
25 It's called -- it's a process called task oriented

03635

1 costing.

2 Q. Do you believe that as a starting point, it
3 is reasonable to obtain time estimates for the tasks
4 from the people who actually perform the work?

5 A. Well, that's certainly one of the -- one of
6 the sources of information, but I also think that it
7 might be reasonable to look at what Qwest pays to have
8 the same work done by somebody from the outside, which
9 obviously Qwest did not do in this case.

10 Q. Did you?

11 A. I did it in Vermont, yes. I didn't do it for
12 Qwest obviously, because I don't have access to that
13 information.

14 Q. Do you think it's unreasonable for a
15 nonrecurring cost study to start with time estimates
16 which are obtained from the people who actually perform
17 the work?

18 A. Well, I don't think it's unreasonable to do
19 that. However, you have to consider that -- and this I
20 derived directly from my experience at GTE. I was on a
21 team that was designed at one point to try to reorganize
22 the company, and one of the things that we did was to go
23 through the system and ask people questions. Well, what
24 we found out was -- questions along these same lines,
25 how long does it take to do this activity and that

03636

1 activity.

2 A. It was interesting to note that we got
3 answers from the people, but they also told others that
4 they were afraid if they didn't give a reasonably
5 lengthy or, you know, inflate the time a little bit,
6 they would lose their jobs or somehow they would be out
7 a job somewhere. So they had a vested interest in kind
8 of fudging the numbers a little bit. And I'm not so
9 sure that this doesn't happen with these SMEs.

10 Q. So is it unreasonable in your view,
11 Mr. Weiss?

12 A. I said no, that it's not unreasonable, but
13 you have to take into account the fact that you may have
14 some biased estimating going on there. That's why I use
15 the TOC technique, which is a weighted average
16 technique.

17 Q. In Vermont?

18 A. I use it no matter where. I have used it
19 with Verizon.

20 Q. You didn't use it here?

21 A. No, you know, here we had what, six weeks to
22 do this stuff, and I didn't have any opportunity to do
23 that. And besides, you would not have let me interview
24 your people about certain of these things, I feel
25 reasonably sure.

03637

1 Q. Did you review the data request responses
2 that Qwest provided to the Joint CLECs?

3 A. Yes.

4 Q. Are you familiar with the document that's
5 been identified as Exhibit C-1040 or 1024, I have taxes
6 on my mind, 1024 that contains the backup for Qwest's
7 nonrecurring cost estimates?

8 A. I probably did. It's been, you know, close
9 to six months ago now.

10 Q. Did you review it more recently than that in
11 preparation for your testimony today?

12 A. No, I did not.

13 Q. Do you recall whether or not there were
14 individual employees identified by name on that backup?

15 A. I think there were, yeah.

16 Q. Your first criticism of the Qwest
17 nonrecurring cost study, and granted this was some time
18 ago, but let's kind of walk through it, was that the
19 nonrecurring costs inappropriately included disconnect
20 costs; do you recall --

21 A. Correct, and as I understand Ms. Million's
22 testimony, she has backed that out.

23 Q. That was my next question. Is it AT&T's or
24 your client's position that the disconnect costs
25 shouldn't be paid or that they just should be separately

03638

1 identified?

2 A. Well, they shouldn't be paid, I think. The
3 reasoning behind that or the logic behind that reasoning
4 is that by virtue of the fact that you disconnect from a
5 CLEC, the likelihood is that you're going to pick up the
6 customer, and you're the one that benefits from the
7 disconnection, not the CLEC.

8 Q. So if a customer disconnects from a CLEC and
9 goes to another CLEC, is it appropriate for the first
10 CLEC to pay the disconnect costs?

11 A. No, they pay the connection fee, which is
12 appropriate for them.

13 Q. If an end user customer disconnects from CLEC
14 one on the loop that CLEC one is leasing from Qwest and
15 wants to connect to CLEC number two, is it your
16 testimony that neither CLEC number one nor CLEC number
17 two ought to pay any costs associated with the
18 disconnect?

19 A. If anybody would pay for the disconnect,
20 which I don't agree should be done for the reason that I
21 just cited, but if anybody was to pay for it, it would
22 be the gaining CLEC.

23 Q. And would they pay that in the -- when would
24 they pay that?

25 A. Well, that is an interesting question. I

03639

1 think that if there was any disconnection fee assessed,
2 it would be assessed at the time of the disconnection.
3 And, well, then you would argue, well, you know, we're
4 not going to see that money, because the guy is gone.

5 And I would disagree with that, because these
6 CLECs aren't in the business like a residential customer
7 takes telephone service. These guys are in for the long
8 haul. They recognize that they have a responsibility to
9 you. And to the extent that they are owed -- that they
10 have to pay disconnection charges, I'm sure that they
11 pay them if that's what the Commission requires at the
12 time of disconnection.

13 Q. So the connecting CLEC in your view should
14 pay the connection costs associated with installing the
15 new service and also the disconnection costs associated
16 with having acquired that customer from somebody else?

17 A. If there are disconnection charges, if this
18 Commission decides that there will be disconnection
19 charges, then the disconnection charges should be
20 applied at the time of disconnection.

21 Q. And they ought to be paid by the CLEC
22 acquiring the customer?

23 A. When the disconnection occurs, yes.

24 Q. We talked earlier about your recommendations
25 in connection with OSS upgrades, and I asked you if you

03640

1 recommended that Qwest upgrade its OSS beyond that which
2 is necessary to simply allow the CLECs access and
3 include upgrades that included additional mechanization.
4 Do you recall those questions?

5 A. I recall questions along those lines, yes.

6 Q. On Exhibit 1330, your direct testimony from
7 October 23rd, page 19, lines 1 and 2.

8 A. I have that.

9 Q. You state that automated OSS systems are
10 available that would be used in a forward looking
11 environment. Do you see that?

12 A. Used on a forward looking basis, yes.

13 Q. Is it your testimony that Qwest's current OSS
14 is automated in the manner that you referred to on lines
15 one and two?

16 A. It's not my testimony that Qwest's current
17 OSS system is that way, but I do know that there are
18 such systems out there that are being tested right now
19 in the Northeast.

20 Q. Can you identify a manufacturer name?

21 A. No, I don't know that name by manufacturer.

22 Q. Okay.

23 A. I did know it, but I just don't recall.

24 Q. And to your knowledge, those systems are
25 currently in the testing stages?

03641

1 A. Yes, that's correct.

2 Q. Did you perform any cost estimate for what it
3 would cost to upgrade Qwest's OSS to comport with your
4 forward looking recommendation?

5 A. I didn't. I didn't do any analysis of
6 Qwest's OSS. That was not part of my job here.

7 Q. Okay. Let's get into the nonrecurring cost
8 study for just a little bit, Exhibit 1331. Let's make
9 sure we all have the same pagination. In very tiny
10 print on the lower right-hand corner, my document says
11 page number of 93.

12 A. Yes, that's correct.

13 Q. Is that what you have as well?

14 A. Yes.

15 Q. Would you turn to page 4 of 93, please.

16 A. I have that.

17 Q. Do you see that the first line under the
18 dashed line near the top of the page says header, and
19 then it says unbundled distribution subloop first?

20 A. Yes, I see that.

21 Q. Okay. And is it your understanding then that
22 this is the nonrecurring cost analysis for the
23 nonrecurring charges of installing a distribution
24 subloop?

25 A. The first one, yes, not a subsequent one.

03642

1 Q. Right. And then just so that we're all
2 familiar with how to read this document, about halfway
3 down, you see another item that says header, unbundled
4 distribution subloop each additional.

5 A. That's correct.

6 Q. And that's each additional subloop after the
7 first?

8 A. Everything above that line applies to the
9 first subloop.

10 Q. Now did you actually input the data into this
11 spreadsheet format, or did Mr. Klick and Mr. Pitkin do
12 that for you?

13 A. A person at Mr. Klick's office did that for
14 me.

15 Q. Let's go back up to the top of the page. Do
16 you see the group item that says interconnect service
17 center?

18 A. Yes.

19 Q. ACS, have you reviewed the nonrecurring cost
20 study that Ms. Million filed with her February 7th
21 rebuttal testimony?

22 A. That was her rebuttal we got, right. I
23 reviewed it, yes, but I don't recall looking at this
24 specific line.

25 Q. Okay. Do you recall that for the

03643

1 interconnect service center time for each work item,
2 Ms. Million took all of the time estimates and reduced
3 them to six minutes?

4 A. I remember her testimony to that effect.

5 Q. Okay. And isn't it correct that six minutes
6 is substantially less than what you have recommended
7 here?

8 A. Where are you now, where I recommended where?

9 Q. Oh, I'm sorry, I'm in all of the lines under
10 interconnect service center but before we get to LRAC.

11 A. She has reduced all of that to six minutes?

12 Q. Do you know?

13 A. I didn't get that impression from reading her
14 testimony, that it was then applied to all of this. If
15 that's in fact the case, that's a very good step in the
16 correct direction.

17 Q. That would be okay with you?

18 A. That would be all right with me.

19 Q. Now the way we read this document, the next
20 item where it says, in the very far left column, you
21 will see it will say group, and then it says work item,
22 work item, work item, and then you get to another group.
23 Do you see that?

24 A. Yes.

25 Q. Okay. So the next group below interconnect

03644

1 service center is LRAC?
2 A. Yes.
3 Q. Do you see that?
4 A. Yes.
5 Q. And then there are three work items under
6 that; is that correct?
7 A. That's correct.
8 Q. Okay. And you have completely -- well,
9 that's -- as you follow each work item across, you have
10 Qwest's time estimate; is that correct?
11 A. Yes, I do.
12 Q. Okay. And then you have Qwest's probability
13 of occurrence?
14 A. Right.
15 Q. Shown in the next column?
16 A. That's correct.
17 Q. And then there's a labor code?
18 A. Which doesn't figure into the calculation.
19 Q. Right, and a labor rate?
20 A. That's correct.
21 Q. And then there is a labor description; is
22 that correct?
23 A. Yes.
24 Q. And then there is a column entitled direct
25 costs?

03645

1 A. That's correct.
2 Q. And for LRAC, it shows a shaded area with
3 dashes?
4 A. Yes.
5 Q. Indicating that there are no direct costs
6 there; is that correct?
7 A. That's correct.
8 Q. And is that an adjustment that you made?
9 A. Yes, it is.
10 Q. And does that adjustment reflect your
11 assumption that there should be no costs associated with
12 the LRAC?
13 A. Yes, because they would be done by an
14 efficient OSS system.
15 Q. What is the LRAC?
16 A. Isn't that the local records assignment
17 center, I believe.
18 Q. Okay. And is it your testimony that Qwest's
19 OSS currently has the capability of performing these
20 functions on a 100% mechanized basis?
21 A. As I said before, I have not evaluated
22 Qwest's current system. But even if I did and it called
23 for this stuff to be handled manually, that would not be
24 forward looking. This is a relatively simple thing to
25 do with an automated OSS system.

03646

1 Q. Isn't it true, Mr. Weiss, that the column
2 entitled probabilities shows either a whole number or a
3 fractural number in each instance?

4 A. It shows a decimal number, yeah.

5 Q. From the old school?

6 A. It's a probability.

7 Q. And when it's a probability of one, that
8 indicates the assumption is that that work function will
9 happen 100% of the time or with each order; isn't that
10 true?

11 A. That's my understanding.

12 Q. Okay. So when there's a probability of .2,
13 for example, on a particular line, is it your
14 understanding that that means that the study assumes
15 that on 20% of the orders the work will be manual, and
16 on 80% of the orders it will be mechanized?

17 A. That's the one in five probability, yes.
18 Every fifth one is basically going to be handled
19 manually is what that says.

20 Q. In the context of order processing, do you
21 know what the term fallout means?

22 A. Yes.

23 Q. What does it mean?

24 A. It means that the system did not handle the
25 automated request, and the request fell out for one

03647

1 reason or another requiring it to be handled manually.

2 Q. When you eliminate the work times for the
3 LRAC, does that mean that you assume zero fallout?

4 A. That's correct.

5 Q. Okay. Does that assume that each and every
6 CLEC order is 100% correct 100% of the time?

7 A. It assumes that the order is going to go into
8 the system correctly and not require it to be screened.
9 You're not going to have to manually assign somebody to
10 work on it and that sort of thing.

11 Q. So does it assume that it's an error free
12 order?

13 A. As they would be. See, these OSS systems are
14 rigged up as follows. If a CLEC enters an order that
15 has an error in it, it's screened at the very front end
16 of the system. It never gets this far. And on about 2%
17 of the time, they're going to pop out on that front end
18 screen. For example, if you don't have a field
19 populated in the electronic record or in the electronic
20 request, the system will automatically kick it out. And
21 in my experience from what I have been able to determine
22 from looking at some of the stuff that's going on in the
23 Northeast, that happens in in between 2% and 5% of the
24 cases.

25 Q. Does your removal of the work time here also

03648

1 assume that all orders are submitted electronically
2 rather than by fax?

3 A. Yes, and that would be the case with a
4 forward looking OSS system. It would be -- they would
5 be moved electronically. They would be handled over the
6 Internet specifically.

7 Q. Is it your recommendation that Qwest not
8 accept orders via fax?

9 A. There won't be any orders by fax in a forward
10 looking system.

11 Q. Do you know whether CLECs currently submit
12 orders by fax?

13 A. Yes, they do.

14 Q. Do you recommend that Qwest not accept those
15 orders?

16 A. Not now, no. See, our objective here is to
17 come up with a forward looking pricing, and that forward
18 looking pricing has to reflect forward looking
19 technology and techniques, and that's what I have done
20 with this study.

21 Q. And if Qwest processes orders that are
22 submitted via fax, where does Qwest recover its
23 nonrecurring costs for the manual word processing time?

24 A. You're missing -- Qwest doesn't recover the
25 cost, to answer your question directly, they don't

03649

1 recover the cost if they, in fact, do it that way. The
2 point is though that on a going forward basis, you can
3 not set these prices based on embedded technologies and
4 embedded techniques. That is inconsistent with the
5 TELRIC theory. You have to look at the forward looking
6 technology for everything. It is not reasonable, such
7 as it was with the non-acceptance of the metallic loops
8 for DSLs, it is not reasonable to accept the fact that
9 Qwest does things in a manual way today and assume that
10 on a going forward basis that's going to be the case,
11 and the same goes for Verizon.

12 Q. Flip to page, I'm sorry, Exhibit 1330 if you
13 need the testimony reference, page 23.

14 A. 1330 is back at the text again?

15 Q. Yes.

16 A. And it's page 23?

17 Q. 23, line 2. Here we're talking about your
18 criticism that Qwest's nonrecurring activities are too
19 minutely detailed. Do you have that in mind?

20 A. Yes.

21 Q. Is that correct, that this is the place in
22 your testimony where you discuss that criticism?

23 A. Yes, certain parts of them are too minutely
24 detailed.

25 Q. Okay. In line two, you say, the SMEs, S-M-E

03650

1 or subject matter expert, tends to view each one of a
2 series of small activities as being mutually exclusive;
3 is that your testimony?

4 A. Yes, that's correct.

5 Q. Did you talk to any of Qwest's subject matter
6 experts?

7 A. No, but as I indicated to you earlier, I have
8 had extensive experience in this area, both with GTE and
9 with Vtel. And I know that if you tell somebody that
10 there's two activities that need to be done, and they're
11 both done either simultaneously somehow or in parallel
12 to one another, they tend to look at them individually
13 and in effect to double the time that it takes to do
14 them.

15 Q. And so that's the basis for your testimony?

16 A. Yes.

17 Q. Further down the page starting on lines 11
18 and 12, you make a specific reference and a specific
19 criticism. You talk about the individual activities
20 associated with removing the customers from Qwest's
21 system being nine minutes. I at first understood that
22 to be a discussion of a disconnect cost, but I believe I
23 subsequently found that to be a time estimate associated
24 with removing a customer from a directory assistance
25 record.

03651

1 A. Yes.
2 Q. Is that right?
3 A. Yes.
4 Q. And is that time estimate included in the
5 interconnect service center work time?
6 A. I don't recall specifically where. Could you
7 direct me to that location where you think it might be.
8 Q. Yes, I can.
9 A. Okay.
10 Q. Let me just direct you to page 6 of 93, and
11 this is just an example, but if you go to the bottom of
12 the page there.
13 A. Yes, I have that.
14 Q. Okay. Very near the bottom, you will see an
15 item that says header, DS1 capable loop, basic install,
16 existing service.
17 A. Yes.
18 Q. Okay. And below that immediately, you see
19 interconnect service center.
20 A. Yes.
21 Q. And then some tasks --
22 A. Yes.
23 Q. -- that have to do with directory --
24 A. Yes, I have that.
25 Q. -- information. Is that the work time that

03652

1 you're talking about back in your testimony on page 23?

2 A. I believe it is. I would have to go back and
3 look at the original exhibit that was filed by Qwest to
4 be sure, but I think you're right.

5 Q. Okay. And so to the extent that
6 Ms. Million's subsequent testimony reduced the entire
7 interconnect service center minutes to six, would that
8 address your concern in that regard?

9 A. It would go a long way toward it. I need to
10 -- see, I didn't read her testimony that way. I
11 misunderstood her testimony, to be quite frank, and I
12 would go back and look at that. I apologize for having
13 misread it or misunderstood it.

14 Q. Two other areas. If I understand your
15 testimony on the nonrecurring charges correctly, you
16 also criticized Qwest for including items that you
17 consider to be duplicate functions; is that correct?

18 A. Yes.

19 Q. And you also criticized Qwest for including
20 items that you considered to be unnecessary; is that
21 also correct?

22 A. Unnecessary more than duplicative. I did
23 read Ms. Million's testimony on the duplicate testing,
24 and if she's correct, then she's got a point, and I will
25 concede that point.

03653

1 Q. I think you just eliminated two and a half
2 pages of my cross.

3 A. I'm not infallible.

4 MS. ANDERL: Ms. Steele, can we take that as
5 a stipulation, which would eliminate my cross entirely,
6 or do I have to put on a bell and suspenders?

7 THE WITNESS: I just meant to say that I am
8 capable of misinterpreting people's testimony on
9 occasion.

10 MS. STEELE: I think we would have to look at
11 specifically what you want me to stipulate to.

12 JUDGE BERG: Let's be off the record, and
13 let's take a five minute break until 10 to the hour, and
14 that will give counsel a chance to kind of work
15 together.

16 (Recess taken.)

17 JUDGE BERG: Ms. Anderl.

18 MS. ANDERL: I believe that Ms. Steele and I
19 have reached an agreement which will eliminate my need
20 to do some cross.

21 MS. STEELE: Mr. Weiss's testimony of his
22 Exhibit T-1330 at page 21 through 22 beginning at -- 21
23 beginning at line 17 refers to a duplication occurring
24 late in the service establishment process, the
25 activities of service, delivery, implementation group

03654

1 include circuit testing efforts that had been performed
2 earlier. Based upon Ms. Million's testimony that those
3 are, in fact, different testing efforts, Mr. Weiss would
4 agree that his recommendation to exclude the cost of
5 that testing is superseded by Ms. Million's testimony
6 and that he would not recommend that adjustment.

7 JUDGE BERG: So not only is he fallible, but
8 he's flexible.

9 THE WITNESS: Not unnecessarily so.

10 JUDGE BERG: Thank you very much.

11 MS. ANDERL: Then actually, I just wanted to
12 be clear that Ms. Million's testimony does not say that
13 there are -- well, let me back up.

14 Ms. Steele, in your description, you might
15 have misstated a little bit what Ms. Million's testimony
16 says. I don't think that she represents that they're
17 separate tests. I think she represents in her testimony
18 that they are multiple people working together to
19 perform a single test. And if your stipulation is still
20 the same, then I will not ask Mr. Weiss any questions
21 about testing.

22 MS. STEELE: I do not see any need to change
23 the stipulation based on that statement.

24 JUDGE BERG: Thanks.

25 BY MS. ANDERL:

03655

1 Q. Mr. Weiss, on Exhibit 1330, page 22, starting
2 at line 4, you have another discussion which I think
3 relates to your characterization of certain work
4 activities as not necessary?

5 A. Yes.

6 Q. Okay. And is it true that your
7 recommendation with regard to the elimination of what
8 you characterize as unnecessary activities is based in
9 part upon your assumption that some of these activities
10 come late in the service delivery process and should
11 have already been performed?

12 A. No, they're activities which basically follow
13 up just to check on other things that have been done,
14 not simply because other things have been done earlier,
15 just because they feel like they have to follow up and
16 just check them out. I don't think that it's necessary
17 for a CLEC to have to pay for activities to check on
18 whether another activity has been done.

19 Q. Okay.

20 A. Either that activity was done or it wasn't
21 done, and if it wasn't done, you should bear the cost.

22 Q. Okay. Well, let's talk about the one
23 activity that you selected there, which is verified LNO
24 circuit; do you see that reference on lines --

25 A. Yes.

03656

1 Q. -- 11 and 12?
2 A. Yes.
3 Q. Let's look at a page in the nonrecurring cost
4 study where that work item is described, and I think
5 we'll start on page 6 of 93.
6 A. I have that.
7 Q. Okay. Do you see that DS1 capable loop basic
8 install existing service near the bottom of the page?
9 A. Yes, I see that.
10 Q. Okay, and --
11 A. I think.
12 Q. Is it correct that if you flip the page over
13 to page seven, work activities associated with that DS1
14 capable loop basic install existing service carry over
15 onto page seven?
16 A. Yes.
17 Q. Okay. I was just trying to get us all
18 oriented so that we know what we're talking about,
19 because the top of page seven does not have a header on
20 it. Are you with me?
21 A. I'm with you.
22 Q. Okay. As we go down page seven, you will see
23 a number of designations of either work items or groups,
24 and when you get about a quarter of the way down, you
25 will see a group that says 6100 group service delivery

03657

1 implementer.

2 A. Yes.

3 Q. Do you see that?

4 A. Yes.

5 Q. And work item two says verify LNO completion.

6 A. Yes.

7 Q. Is that correct? Is that the activity that

8 you recommend being removed?

9 A. No.

10 Q. Okay. Can you tell me where your

11 recommendation --

12 A. I'm going to have to go through these notes,

13 so you're going to have to give me a minute.

14 Q. -- shows up?

15 A. You're going to have to give me a minute.

16 Q. Sure.

17 A. This might take some time.

18 Q. I don't, Mr. Weiss, I don't particularly care

19 which element you find it under.

20 A. Well, let's just then look under page four

21 under unbundled distribution subloop first add group

22 interconnect service center.

23 Q. Okay.

24 CHAIRWOMAN SHOWALTER: What number header --

25 THE WITNESS: It would be --

03658

1 CHAIRWOMAN SHOWALTER: -- in the first
2 column?

3 THE WITNESS: Header would read unbundled
4 distribution subloop. See, there's a dotted line up
5 there.

6 CHAIRWOMAN SHOWALTER: Yes.

7 A. The first line under the dotted line reads,
8 unbundled distribution subloop first. The next one down
9 is the add side of the things, it's marked 6500. And
10 the next one is group 100, and the next one is one that
11 I removed as being unnecessary. And you will notice
12 that it requires -- it's simply a verification step.
13 And the one that follows it is unnecessary. You give
14 the CLEC a call and let him know this thing is being
15 worked. Well, those items are -- they're handled by an
16 efficient OSS system, and it's, you know, it's got --
17 the system is going to kick that out if it's working
18 properly. The step is unnecessary in any event.

19 BY MS. ANDERL:

20 Q. Okay.

21 A. And I have excluded it on the strength of
22 that.

23 Q. Thank you, Mr. Weiss. Were you through with
24 your answer?

25 A. Yeah, you will find that there's several

03659

1 instances in this study where I have identified an
2 unnecessary step in the right-hand column, in the
3 comments column over on the right-hand side.

4 Q. Okay. Now flipping back to your testimony on
5 page 22, on 22, you're identifying the activities of the
6 service delivery implementation group as including
7 unnecessary activities.

8 A. Okay.

9 Q. And so the service delivery implementation
10 group, can you find any place in the nonrecurring cost
11 study where the work time that you recommend being
12 eliminated falls under the group --

13 A. I thought you just said that you didn't care
14 where I found it just as long as I found it.

15 Q. Well, I didn't care which element you found
16 it under, Mr. Weiss, in other words which unbundled
17 network element. But what you have identified for me is
18 an interconnect service center work time, and what I'm
19 looking for is a service delivery implementation group
20 work time.

21 A. Look on page five, the bottom of the page,
22 toward the bottom of the page, service delivery
23 implementer, group 6100, work items one, two, and three.

24 Q. Okay. Now, Mr. Weiss, if you go up a little
25 ways from there, maybe 10 or 15 items, do you see where

03660

1 it says 6510 disconnect?

2 A. Oh, okay, yeah.

3 Q. So those are -- those are -- you actually
4 eliminated all of the times under disconnect, didn't
5 you?

6 A. Yes.

7 Q. Because --

8 A. Yes.

9 Q. -- you didn't think they belonged in the
10 nonrecurring charge for install?

11 A. That is a disconnect activity.

12 JUDGE BERG: What about the 6100 group
13 immediately above that?

14 THE WITNESS: That is a disconnect activity.
15 You will notice that if you look at the 6100 group, it
16 says service delivery implementer, and you go all the
17 way up until you find a line that doesn't have anything
18 entered into that column, and it says disconnect.

19 BY MS. ANDERL:

20 Q. Mr. Weiss, I think the Administrative Law
21 Judge correctly directed you just to go up from the
22 6510, just go up five items to the 6100 group.

23 A. Oh, I see.

24 Q. And you see that work item, number two, says
25 verify LNO per circuit?

03661

1 A. Right, that's not what I was referring to
2 though.

3 Q. Okay.

4 JUDGE BERG: Yes, you're right, I see that
5 that's not an eliminated item.

6 MS. ANDERL: Well, and that's what I was
7 going to ask Mr. Weiss, whether he had simply reduced
8 the work time there or eliminated it, or perhaps that
9 wasn't what he was talking about, and I think I
10 understood him to say it was the latter.

11 JUDGE BERG: Is this something that can be
12 addressed on a record requisition basis?

13 THE WITNESS: It's going to take me some time
14 to find out. I have a picture in my mind of where it
15 is, but I can't seem to find it here.

16 BY MS. ANDERL:

17 Q. Well, let me just ask you, Mr. Weiss, would
18 it be -- I will not pursue that with you further then.

19 Do you agree that at some point in the order
20 of provision and process, Qwest needs to verify circuit
21 availability?

22 A. Qwest needs to do it, but typically it would
23 be done -- in an efficient OSS system, you would have
24 the means to do it with relative ease.

25 MS. ANDERL: I think that concludes my

03662

1 questions for this witness, Your Honor.

2 Thank you, Mr. Weiss.

3 THE WITNESS: Thank you.

4 JUDGE BERG: Ms. Miles.

5

6 C R O S S - E X A M I N A T I O N

7 BY MS. MILES:

8 Q. Hi, Mr. Weiss, I'm Meredith Miles for
9 Verizon, and I just have a few follow-up questions for
10 you. If you would please refer back to your Exhibit
11 Number 1343, which is the Joint Intervenors response to
12 Qwest's Data Request Number 14.

13 A. Yes, I have that.

14 Q. Now do you recall when Ms. Anderl asked you
15 about the contractual obligations that you reference in
16 your response?

17 A. Yes.

18 Q. Do you agree that there was never a
19 contractual obligation that prevented you from
20 identifying Verizon in the context of that specific
21 answer?

22 A. No, I don't. You see, in those cases in the
23 Northeast, I had to sign proprietary agreements, which I
24 construe as a contract.

25 Q. You mean protective orders in proceedings

03663

1 similar to the one in this case?

2 A. Yes.

3 Q. What has happened since that proceeding to
4 release you from your obligation under those orders?

5 A. Well, Verizon, I haven't mentioned anything
6 specifically about Verizon, so I didn't lose or I didn't
7 divulge anything having to do with Verizon. I have been
8 careful not to do that except to say that Verizon is one
9 of the companies.

10 Q. So, in fact, then you could have identified
11 Verizon here in that circumstance?

12 A. Well, yeah, I guess to the carriers, I could
13 have identified Verizon as a carrier, yes.

14 Q. Okay. One more question on this exhibit, did
15 you use any Verizon specific data in responding -- in
16 your proposed TIF factors?

17 A. No.

18 Q. Okay. And if you could turn to your -- to
19 Exhibit Number 1334, which is an exhibit to your October
20 23rd testimony, actually October 31st testimony, sorry.

21 A. Exhibit 1334?

22 Q. I believe it's the graphs, THW-5. Does this
23 look familiar?

24 A. Yeah, see, I've got it marked as 1330, but go
25 ahead.

03664

1 Q. Okay, as long as we're on the -- let's make
2 sure we're on the same page here for the record. We're
3 looking at these graphs THW-5?

4 A. Right.

5 Q. Okay. Now, Mr. Weiss, I don't see any work
6 papers or support for the points on your charts here.
7 Is there any such support in your testimony you
8 provided?

9 A. Well, everything that's on this chart is
10 explainable. The table in the middle of the page, on
11 line one it says, capacity DSIs, and it says 168 in
12 column B.

13 Q. Mm-hm.

14 A. That's that line up there at the top in the
15 top graph with the 168 on it, the horizontal line.

16 Q. So this table provides the points on your
17 graph?

18 A. Yes.

19 Q. And other than the data contained in this
20 graph here, is there any other work papers or support?

21 A. Yeah, there's plenty of support. I explain
22 in this testimony the reasons for selecting the data
23 points that I selected.

24 Q. What's the empirical data that supports this
25 demand line in the chart at the top here?

03665

1 A. There is none. I mean that's an assumed
2 demand line. What I attempted to do there was to create
3 a demand line or demand forecast which fundamentally at
4 each instant or during -- at each addition, there was a
5 longer period of time. As you will notice, the chart
6 has a longer period of time with each addition.

7 Q. Okay, so you just made up those points, you
8 created them?

9 A. Well, I didn't make them up, because they're
10 grounded in engineering determinants relative to this
11 kind of equipment, DS1s.

12 Q. The actual values you chose, you chose them?

13 A. No, I mean 168 DS1s is two OC3s, and 252 you
14 add another one, you add another 84, and then 356 you
15 add another 84.

16 Q. But I'm talking about the demand curve here
17 where you demonstrate how demand grows.

18 A. The demand curve is simply selected to reach
19 the 95% point and to constantly increase the period
20 between additions.

21 Q. Would you agree with me that fill factor is a
22 function of demand?

23 A. And that's exactly what I'm showing here.
24 See, that's why you don't need to know the specific
25 demand forecast as long as you use the right fill

03666

1 factor, because you can see the relationship between the
2 fill factor and the demand curve here.

3 Q. So is your fill factor based on a demand that
4 is based on any empirical data?

5 A. Well, what it shows is the exhaustion of 84
6 DS1s or 168 during the first period, it shows growth in
7 demand sufficient to exhaust 168 DS1s. In the second
8 period, it shows growth in demand sufficient to exhaust
9 another 84 DS1s, and so on. But each period lengthens,
10 which is typically what you would see in a maturing
11 system.

12 Q. Okay. If I could refer you to your Exhibit
13 T-1330, which is your testimony of October 23rd, at page
14 13 and 14. And at the bottom here, if everyone is
15 there, you begin discussing the weighted average cost of
16 DS1 capable loops and DS3 capable loop architectures.

17 A. Yes, I have that.

18 Q. Now just to clarify here, when you talk about
19 metallic architectures, are you talking about copper
20 loops?

21 A. Yes.

22 Q. That are DS1 capable?

23 A. Yes.

24 Q. Okay. And when you talk about the
25 optical/digital facilities that you say are the more

03667

1 proper in the forward looking analysis, you're talking
2 about OC3s as a --
3 A. Any SONET synchronized optical network system
4 is what I refer to as optical fiber.
5 Q. Okay.
6 A. Digital optical.
7 Q. Okay. Would you agree with me that an OC3 is
8 equipped with 84 DS1s?
9 A. Yes.
10 Q. Okay. Would you agree that if an OC3 is used
11 to serve an end user that that end user would have 84
12 DS1 paths available for its use?
13 A. Yes.
14 Q. Okay. And that that OC3 would be provided
15 over fiber; is that right?
16 A. Yes.
17 Q. Okay.
18 A. You don't provide -- you can't provide OC3
19 over copper cable.
20 Q. Okay.
21 A. It's too fast.
22 Q. And then would you agree with me that a DS1
23 provided over copper provides a single path to an end
24 user?
25 A. Yes.

03668

1 Q. Okay. Now if that end user has the demand
2 for only a single DS1 path, wouldn't that end user be
3 best served by a copper facility with one path?

4 A. Yeah, and, you know, basically that was where
5 I filed the errata testimony in response to Dick
6 Buckley's point by Qwest.

7 Q. Okay. Now if that end user has the demand
8 for a single DS1 path, and Verizon, for example, chose
9 to serve that customer with an OC3 which is equipped
10 with 84 paths, then the 83 paths would be unused
11 capacity; is that right?

12 A. Yes, it would be.

13 Q. Okay.

14 A. If that was what you chose to do. I would
15 certainly hope you don't do anything that ill advised.

16 Q. Do you know what Verizon's monthly recurring
17 charge is for a DS1 capable copper loop?

18 A. I have the ability to look it up, but I don't
19 know what it is right off hand.

20 Q. Do you know what Verizon's monthly recurring
21 charge is for an OC3 facility?

22 A. I would suspect that on a per unit DS1 basis,
23 it's a lot lower.

24 Q. You mean --

25 A. But I don't know what it is, to answer your

03669

1 question, without looking it up.

2 Q. Okay. Would you be surprised if the OC3
3 monthly recurring cost is over ten times greater than
4 the cost for a DS1 capable copper loop?

5 A. For an OC3, yes, 84 DS1s, yes.

6 Q. Okay.

7 CHAIRWOMAN SHOWALTER: You would be
8 surprised?

9 A. No, I wouldn't. 84 DS1s I'm certain cost
10 more than one DS1 even provided over -- when the 84 is
11 provided over an OC3.

12 Q. Well, then your answer to my question was
13 what?

14 A. I must have misunderstood your question.
15 Would you repeat it?

16 Q. Would you be surprised if the cost for an OC3
17 monthly recurring cost was over ten times higher than
18 that for a copper loop capable?

19 A. No, that wouldn't surprise me.

20 Q. Okay.

21 A. But on an individual DS1 basis, when you take
22 into account that there are 84 DS1s in an OC3, it's a
23 lot less expensive.

24 Q. And would you agree with me that an end user
25 who purchases an OC3 couldn't buy it on a per DS1 basis

03670

1 cost?

2 A. Could not buy it on a per DS1 basis?

3 Q. Yes.

4 A. Certainly, why would he want to?

5 Q. All right. I'm going to refer you now to
6 your Exhibit, if I can find the right number, THW-3,
7 which is 1332 and C-1332, your revisions to Verizon's
8 NRCs.

9 A. Okay.

10 Q. Now first you stated that you did not do any
11 analysis of Qwest's OSS when you were discussing that
12 with Ms. Anderl; is that right?

13 A. That's correct, that was not part of my
14 responsibility.

15 Q. So is the same true for Verizon, meaning you
16 did not do any analysis of Verizon's OSS?

17 A. That's correct.

18 Q. Okay.

19 A. Although I am more familiar with Verizon's
20 than I am with Qwest by virtue of my experience in the
21 Northeast. But I understand that the OSS that may be
22 used out here would be GTE's OSS, and I'm not familiar
23 with that.

24 Q. In Verizon's NRC study, do you know the level
25 of flow through assumed in its use of the term

03671

1 semimechanized?

2 A. In the Verizon, GTE Verizon, or the --

3 Q. In its cost study.

4 A. I don't remember.

5 Q. Okay.

6 A. It's easy to find out, but I just don't
7 remember. I don't keep those in my head.

8 Q. Did you analyse the basis for Verizon's flow
9 through assumption in its NRC study?

10 A. No, I did not.

11 Q. Okay. And in this exhibit that I just
12 referred you to, am I correct that the only adjustments
13 you made here to Verizon's study is simply to insert
14 zeroes in the mechanized order column for ordering and
15 provisioning?

16 A. I think I also made some adjustments relative
17 to your attempt to recover some OSS costs in NRCs; is
18 that correct, I believe?

19 Q. If so, I was going to ask you if there was
20 any other changes, could you point to me in your
21 testimony where you discussed that?

22 A. I'm reading from bottom to top. I think I
23 did exclude OSS costs as well. Look at page 24, line
24 19, through page 25, line 3.

25 Q. Okay. Is it your understanding that the

03672

1 Commission in Phase -- has issued a decision in Phase A
2 of this proceeding in which it permitted Verizon to
3 include those OSS costs?

4 A. I believe I read that. I believe I did read
5 that. Was that one of those order 15 or 16 or 15 or --

6 Q. 13.

7 A. 13?

8 Q. Yes, 13th Supplemental.

9 A. I have not read that order.

10 Q. If, in fact, that order does permit Verizon
11 to include those charges, then would you still provide
12 -- make the same argument that they should not be?

13 A. Not without having read the Commission's
14 logic. I'm not going to comment on the Commission's
15 logic when I don't know what it is.

16 CHAIRWOMAN SHOWALTER: You might not want to
17 comment on it even if you do.

18 Q. If nothing more than now that you say that
19 the Commission, there is an expected decision from the
20 Commission, in that respect --

21 A. Is that the decision that -- did that
22 decision come out since I wrote this testimony?

23 Q. It's my understanding, yes.

24 JUDGE BERG: The 13th Supplemental Order, I
25 believe, was entered on January the 30th, 2001.

03673

1 Q. So to the extent that your changes to the
2 cost study in the exhibit, changes to the OSS charges,
3 that does not reflect what the Commission's decision was
4 in that order, does it?

5 A. Well, to the extent that the Commission has
6 ruled that the OSS costs should be included in NRCs,
7 then my testimony is no.

8 Q. Okay.

9 A. On that issue.

10 MS. MILES: Well, I figured that. I believe
11 that's all.

12

13

E X A M I N A T I O N

14 BY DR. GABEL:

15 Q. Good afternoon, Mr. Weiss. I would like to
16 begin by discussing with you your recommendation that an
17 85% utilization factor be used in both the Qwest and
18 Verizon's high capacity loop studies. First, your
19 costing recommendations reflect your perceptions about
20 how an efficient network would be run; is that correct,
21 or how an efficient network would be constructed and
22 operated?

23 A. When you say costing, I would like to just be
24 sure that you understand that I'm not testifying on cost
25 of service here or costs of rate elements. I am

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1 testifying on the investment in rate elements. So with
2 that caveat, my testimony lays out specifically the
3 considerations that I took in drawing that graph.

4 Q. Okay.

5 A. And, you know, they included a 95% break
6 point, they included growth according to the graph, and
7 so forth.

8 Q. All right. And again -- all right, let me
9 restate my question. I understand your testimony goes
10 to the issue of the investment levels with an
11 efficiently designed network; is that a correct
12 characterization?

13 A. With an efficiently designed and operating
14 network in a competitive market.

15 Q. Okay. But to just be a little bit more
16 specific about what you have in mind when you use the
17 phrase an efficient network, would you agree with the
18 following characterization, that historically out of a
19 wire center there have been four feeder routes, one
20 going north, one going south, another going east, and a
21 last one going west?

22 A. Yes.

23 Q. In your view, would an efficiently
24 constructed network be any different than that; would
25 you continue to have four main feeder routes?

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1 A. Yes.

2 Q. And am I correct that it's also your view
3 that when it comes to DS3 capacity, or excuse me, DS3
4 utilization, you're saying that you obtained the 85%
5 utilization by assuming that 10 out of the 12 DS3s on an
6 OC3 would be in use? And if it would help you, I have
7 in mind your October 23rd testimony at page 12.

8 A. Yes.

9 Q. Okay. Now in making your recommendation on
10 this topic, Mr. Weiss, have you looked at what's the
11 actual number of lines in use in the wire centers of
12 either Verizon or Qwest?

13 A. No, I haven't, and the reason that I haven't
14 is that that -- whether they're in use now or not is not
15 germane to my recommendation of a forward looking
16 network that incorporates all of the DS1s, DS3s, or
17 whatever you have in terms of optical/digital
18 facilities. And that by all, I mean the ones that Qwest
19 uses, the ones that Qwest sells to ILECs, and so forth.
20 That's a really important distinction, because that's
21 not the way Ms. Million looks at it.

22 Q. Do you have any sense based upon your
23 familiarity with the industry about what percentage of a
24 number of DS0 equivalent channels at a wire center are
25 typically special access versus switched access?

03676

1 A. Special access in the sense that is provided
2 to an interconnect company?

3 Q. Or just a private line type service, a
4 non-switched.

5 A. Non-switched and switched?

6 Q. Yeah.

7 A. I have a lot of experience in that. You
8 know, I haven't looked at it in a while. I mean it's a
9 relatively small number.

10 Q. Okay.

11 A. Of dedicated to PSN or public switched
12 network lines.

13 Q. Going back to again your October 23rd
14 testimony where you discuss 10 DS3s being in use, that
15 would be 10 DS3s on each -- on any feeder route that
16 deploys the OC3 technology?

17 A. No, no, no, no, that would be on average of
18 10. There may be and probably are many -- most of the
19 routes are at 12 or 9, you know. And what I'm saying is
20 basically if you take a look at my chart and you look
21 at, see, the chart's in two dimensions, time and units.
22 If you take the chart and say, okay, let's expand it to
23 the third dimension and look at more than just one
24 system that you're looking at there, and you add the
25 next chart out, if you will, incrementally, well, it's

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1 going to look kind of like that first chart maybe moved
2 out a few months, but it's going to look like the same
3 chart. And that's going to happen until you have a
4 three dimensional graph, three dimensional picture,
5 which looks like kind of like an upside down frying pan,
6 if you will. On the edges, it will curve up like this,
7 and then it will tend to flatten out as the system
8 levels out. And that flattening is where I say, if you
9 notice the graph goes between about 80% and 95%, that
10 flattening on average occurs around 85% by my
11 calculations.

12 Q. Well, working with your average of 10 DS3s,
13 would you agree that 10 DS3s is equivalent to 6,720
14 voice channel capacity?

15 A. I wouldn't doubt that. I mean, you know,
16 yes, I agree with that. But you don't buy -- people
17 don't buy DS3s for the voice grade capacity. They buy
18 it for the bandwidth. They don't buy DS0s or DS1s when
19 they buy DS3s; they buy the bandwidth.

20 Q. And in terms of the bandwidth, if there were
21 10 DS3s on each feeder route, and there are 4 feeder
22 routes, we're looking at an equivalent bandwidth of
23 6,720 DS0 equivalent capacity times 4 feeder routes, so
24 would you agree that's equal to approximately --

25 A. Well, it's what, about 44 -- you said 10?

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1 Q. 10 DS3s, and each DS3 is 672 voice equivalent
2 channels; is that correct?

3 A. Yes, that's 10 DS3s, that's 682, right?

4 Q. 672.

5 A. No, I'm sorry, 10 DS3s at 672, that's 6,720
6 DS0 equivalents.

7 Q. On the feeder route, and there's four feeder
8 routes.

9 A. Okay, 4 feeder routes, that's 26,880 DS0
10 equivalents. But again, when you're buying DS3s, you're
11 not buying DS0 equivalents. Basically you're looking at
12 1,720 megabytes, well, you're looking at an awful lot of
13 bandwidth there.

14 Q. Yeah.

15 A. And you're not looking at that bandwidth to
16 buy DS0s now. I mean each DS0 is only 64 kilobytes. So
17 when you're looking at a DS3 or an OC3, you're looking
18 at buying the bandwidth so that you can put lots of data
19 over it, no voice.

20 Q. Okay, I understand the distinction you want
21 to make between broadband and voice communications, but
22 I just wanted to first make sure I understand that if
23 there were OC3s on each of the 4 feeder routes, that
24 this would be the equivalent to over 26,000 voice
25 channels?

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1 A. Voice channels, that's right.

2 Q. Okay. Now you have mentioned that you are
3 familiar with the Eighth Supplemental Order of this
4 commission in the last cost docket, UT-960369; you have
5 read that document?

6 A. I have read so many of those things, I
7 probably have.

8 Q. Okay.

9 A. Is that the one that you decided to put in --
10 allow the OSS costs to be included in the RCs; is that
11 it?

12 Q. Well, the Eighth Supplemental Order is the
13 Commission's first Phase I order. It's the Commission's
14 Phase I order where the Commission --

15 A. I read that, but back in October.

16 Q. Okay.

17 A. I have not read that since then.

18 Q. All right. I will show this to you if you
19 would like to see it. At Paragraphs 300 and 305 of that
20 order, the Commission talks about the actual number of
21 lines at a wire center. And in Paragraph 300, it points
22 out that for Verizon on its Verizon's switched network,
23 the average number of voice channels was, when that
24 order was issued, was 4,300. That's Paragraph --

25 A. 300?

03680

1 Q. -- 300. And for Qwest at Paragraph 305, the
2 average number of switched access lines is 10,740.

3 A. Mm-hm, I see that.

4 Q. All right. And so I guess my question for
5 you, Mr. Weiss, is I understand there's a difference
6 between broadband and voice channels, but I'm also
7 having a hard time understanding what's the source of
8 demand in each of these wire centers that's going to
9 lead to an effective broadband demand of in the
10 neighborhood of perhaps 26,000 voice equivalent channels
11 when we're looking in the case of Verizon with the
12 number of voice lines at --

13 A. Well, first of all, this -- these two
14 statements here, Paragraph 300 and 305, do not address
15 the demand for DS1s, even as far as I can tell DS0s. It
16 says the average line size of a GTE switch. Now I don't
17 know whether that's pure metallic lines or whether
18 that's DS0 equivalents or, you know, just what it is.
19 But let's assume that it's DS0 equivalents for the sake
20 of argument. That would not reflect the OC3 demand or
21 the DS3 demand or anything like that.

22 Like I said, if you look at the evolution of
23 your own usage of the Internet, probably when you first
24 got on the Internet, you got on about 9 -- at about 9
25 kilobytes per second, and then you went up to 14, then

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1 you went up to 28, then you may have gone to 56, and
2 then you said, wow, there's this wonderful system out
3 there at 1.544 megabytes per second, ADSL, I'm going to
4 buy it. Still one access line, but look at the capacity
5 you bought for \$100.

6 That's what I'm talking about when you talk
7 about buying a DS1 or a DS3 capable loop. You're not
8 buying the ability just to talk over that loop or just
9 to make a connection. You're buying the width or the
10 diameter of that pipe, and you can't then say, well, if
11 there's only 10,000 lines per office or 4,000 lines per
12 office, how can you have the need for OC3s or DS1s and
13 DS3s. Well, the fact of the matter is you have that
14 demand because of people like me or you or anybody else
15 that wants high bandwidth.

16 Now I want, I would love to be able to access
17 the Internet as DS1, you know, but, well, I access the
18 Internet at ADSL, which is, you know, 1.544 megabytes
19 per second download, but I'm constrained on my upload.
20 I would really love to go up to HDSL and then maybe
21 VDSL, but I can't do that now. Because in order to get
22 up to that higher level, I've got to put in different
23 equipment. But if I really needed it, I would do it,
24 and I would put an OC3 in if I needed it and if I could
25 afford to pay for it. And that would never show up in

03682

1 these line statistics that you're talking about.

2 Q. Do you recall earlier, Mr. Weiss, I asked you
3 about special access lines.

4 A. Yes.

5 Q. Private lines?

6 A. Yes.

7 Q. And I asked you what percentage of the total
8 number of DS0 equivalents are associated with those
9 special access lines?

10 A. I misunderstood you, because I thought you
11 were referring to metallic loops.

12 Q. Okay.

13 A. And by special access, I thought you were
14 talking -- you said private lines, and I did not know
15 you were talking about bandwidth. So to answer your
16 question with that change, I really can't say how much
17 bandwidth is provided relative to the number of metallic
18 loops or the number of DS0s or whatever. I have never
19 done a study like that.

20 Q. Okay. I would like to change then to the
21 topic of the TIF factors. Has your counsel provided you
22 with Qwest's response to Bench Request 2-25, which shows
23 the TIF factors for three different years, 1997, 1999,
24 and 2001?

25 A. No.

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1 Q. If you feel that you're able to, Mr. Weiss, I
2 would just like you to look at this response and see if
3 based upon data from a number of years, if that data in
4 any way changes your pre-filed testimony on this topic?

5 A. No, and the reason that it doesn't change it
6 is because these numbers don't even remotely comport
7 with any experience that I've got. These numbers, in
8 fact, include elements that should never be included.

9 For example, in Qwest's TIFs, they include an
10 element for interest during construction. Now there's a
11 provision in Part 32 of the Uniform System of Accounts
12 at Paragraph 2003 which discusses telephone plant under
13 construction. In that paragraph, it states that you
14 should accrue where you can accrue AFUDC on any plant
15 that takes over 60 days to construct or costs in excess
16 of \$100,000. Any plant that falls outside of that
17 category should be booked directly to TPIS, telephone
18 plant in service, and thereby not incur AFUDC or IDC.

19 Qwest has looked at or literally includes an
20 IDC element in every one of these TIF factors. It's not
21 necessary, because the kind of plant we're dealing with
22 here either doesn't exceed the \$100,000 threshold, or it
23 takes less than 60 days to construct. They can do it,
24 but it's not necessary that they do it. By virtue of
25 putting it in telephone plant under construction, all

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1 they're doing is inflating their investment in the
2 state.

3 And it's that kind of thing that bothers me.
4 I mean, you know, you take a look at the rules and you
5 say, well, I will use that rule to the best of my
6 advantage, when, in fact, that rule shouldn't have been
7 invoked in the first place. And that's just one example
8 of it.

9 Q. Okay.

10 A. And those factors incidentally are nothing
11 more than the total amount of dollars that were
12 capitalized on the company's books divided by the total
13 dollars for material. That's exactly the same exercise
14 I did with GCI and with Vtel, one a CLEC, one an ILEC,
15 and I didn't get numbers that even remotely came there.

16 Q. You have made reference to the Uniform System
17 of Accounts and the rules that are prescribed by the
18 Federal Communications Commission; do the same rules
19 apply to Vtel that apply to --

20 A. Yes, they do.

21 Q. So the FCC rules don't distinguish between
22 Class A company -- well, first, let me ask you, is Vtel
23 a Class A telephone company?

24 A. Vtel is a Class B telephone company, but that
25 TPUC rule, you know, we have -- Class A and B companies

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1 are not compelled by virtue of the USO or USOA. A B
2 company can use the A company accounting procedures if
3 it wishes. When I first went to Vtel, I found that they
4 were doing exactly what's happening, what appears to be
5 happening here, they were booking everything to TPUC,
6 approving the FUDC against it and inflating the rate
7 base unnecessarily. I simply stopped that and put all
8 of these projects that fell under \$100,000 or less than
9 60 days, bumped them directly onto TPIS.

10 Q. So it is your testimony that Vtel is using
11 the same class A accounting standards that are --

12 A. They use the Class A telephone company
13 standards.

14 CHAIRWOMAN SHOWALTER: Excuse me, but the
15 witness needs to let the questioner finish the question.
16 You may know what he's talking about, but I don't, and
17 neither --

18 THE WITNESS: I'm sorry.

19 CHAIRWOMAN SHOWALTER: And the record
20 doesn't, so you need to let him finish the question
21 before you answer.

22 BY DR. GABEL:

23 Q. So my question was, to the best of your
24 knowledge, Vtel is using the same Class A telephone
25 accounting standards that are prescribed for Qwest by

03686

1 the Federal Communications Commission?

2 A. Not to the best of my knowledge; that is a
3 fact.

4 Q. Okay. Would you, Mr. Weiss, please turn to
5 Exhibit 1330, page 22, at the very bottom of the page
6 carrying over to page 23. Here you have a
7 recommendation that it takes three minutes to remove the
8 customer from Qwest's system, I was just wondering if
9 you could explain the basis for that recommendation?

10 A. Well, this specifically applies to the, as I
11 recall, it specifically applies to the directory
12 advertising item. Let's see, no, it doesn't, not this
13 one, okay. Basically my recommendation of three minutes
14 there is grounded -- now you need to know that that --
15 the system that we had at Vtel was not a highly
16 sophisticated system, and it was a matter of somebody
17 calling in saying I want my telephone disconnected, and
18 the customer service representatives could go in and
19 disconnect that telephone using their own -- using the
20 computer terminal, and that's not a very sophisticated
21 system, and they were computerized to do that. It took
22 them five minutes or five seconds, something along those
23 lines, to make that disconnection. I can't imagine it
24 taking nine minutes to do it.

25 So I thought, you know -- now you need to

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1 know that what I have presented here with respect to
2 these NRCs is kind of like first cut at it. You know, I
3 didn't get an awful lot of opportunity to review this,
4 and what I found were the most -- what I considered the
5 most egregious problems with the NRC studies. If, you
6 know, if I really had a lot of time and effort to devote
7 to it, then I could probably be a lot more specific.
8 But I mean all I did was find those places that really
9 looked pretty egregious and made the changes.

10 Q. In your investment estimate submissions,
11 there's the category one versus category two. Could you
12 describe to me what's the distinction you're making
13 between the two categories?

14 A. Yes, category one is the equipment, the
15 material itself. Category two are the building loadings
16 and the power loadings and things of that nature.

17 DR. GABEL: Okay, thank you, I have no
18 further questions.

19 CHAIRWOMAN SHOWALTER: I have no questions,
20 but I just want to comment that I think it's a mark of
21 your civility of your field that your view of blood and
22 guts is working with a slide rule and your view of
23 violence is a dispute over fill factors, but I have no
24 questions.

25 THE WITNESS: I'm a peaceable man.

03688

1 MR. BUTLER: Can I just ask a couple of quick
2 questions?

3 JUDGE BERG: Sure, could you borrow
4 Ms. Steele's microphone, and then we'll turn back to
5 Ms. Anderl.

6
7 C R O S S - E X A M I N A T I O N

8 BY MR. BUTLER:

9 Q. Mr. Weiss, is it correct that if an end user
10 customer orders an OC3 service that that customer will
11 pay for and be entitled to utilize 100% of the capacity
12 of the OC3?

13 A. Yes, and he would -- he would probably want
14 100% of that capacity.

15 Q. Now in the case of a multitenant highrise
16 commercial building where there may be multiple tenants
17 that have demand for one or more DS1s, capacity of one
18 or more DS1s, is it possible to aggregate that demand
19 and serve all of that demand over a single OC3 circuit?

20 A. Yes, it is.

21 MR. BUTLER: Thank you.

22 MS. ANDERL: Your Honor, I do not have any
23 additional questions. I did, however, want to move the
24 admission of one additional exhibit. It was simply an
25 oversight on my part.

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2

R E C R O S S - E X A M I N A T I O N

3

BY MS. ANDERL:

4

Q. Mr. Weiss, could you review what's been identified as Cross Exhibit 1344, which is the request and response to Number 15.

7

A. Yes, I see that.

8

Q. Can you verify that that is indeed the Joint Intervenors' response in this docket?

9

A. Yes.

10

MS. ANDERL: Your Honor, I would move 1344.

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MS. STEELE: And the Joint Intervenors have the same objection to this as to the previous objections, that the question itself is not relevant, and the fact that the intervenors chose to object to that question is also not relevant in this proceeding.

JUDGE BERG: Well, I must admit that just off the cuff, I'm not sure what weight this will carry, but we will overrule the objection and admit the exhibit.

MS. ANDERL: Thank you, Your Honor. We hope to make it clear in our written argument what consideration the Commission ought to give to that.

I will withdraw Exhibits 1340, 1341, and 1342, I do not intend to use those.

JUDGE BERG: Thank you, that helps complete

03690

1 the inventory.

2 Any further questions, Ms. Miles?

3 MS. MILES: No, thanks.

4 JUDGE BERG: Ms. Steele?

5

6 R E D I R E C T E X A M I N A T I O N

7 BY MS. STEELE:

8 Q. A long time ago --

9 A. In a land far, far away.

10 Q. -- you were asked a hypothetical. You were

11 asked to assume that there was customer demand for one

12 DS1, and you were also -- and you responded to a

13 question from Ms. Anderl that there is, in fact,

14 electronic equipment required to provide DS1s is ordered

15 in increments; is that right?

16 A. Yes.

17 Q. And you indicated that the smallest increment

18 was four; is that right?

19 A. The smallest number of DS1s, yes.

20 Q. Okay. And then you were asked to assume that

21 there was a customer demand for one DS1 and also asked

22 to then indicate what the fill factor would be on that

23 equipment. Do you remember that line of questioning?

24 A. Yes.

25 Q. And you indicated that you disagreed with the

03691

1 hypothetical itself. Can you tell me why you disagreed
2 with that hypothetical?

3 A. Well, because the hypothetical refers again
4 to this concept in Ms. Million's testimony of serving a
5 single subscriber with a single whatever you've got.
6 And as I have repeatedly said, the FCC rules regarding
7 the development of TELRIC costs require that all
8 elements that are used by the telephone company, by the
9 ILEC rather, to provide these particular elements to not
10 only the CLECs but to itself and to others should be
11 included in that, in the calculation of basically what
12 the demand is. And that again goes back to the fill
13 factor.

14 And fundamentally I think Qwest is looking at
15 this thing the wrong way. They're looking at it as an
16 individual line going to an individual customer, when,
17 in fact, it's not an individual line going to an
18 individual customer. It's all DS1s in the system, the
19 demand for all DS1s in the system or DS3s or OC3s,
20 whatever have you.

21 Q. I actually only have one other question, and
22 that is you were asked by Ms. Anderl about when
23 disconnection fees should be paid with respect to the
24 nonrecurring charges, and Ms. Anderl's question asked
25 you for the position of the clients whom you represent.

03692

1 Did you in that response provide your own opinion or the
2 positions of the clients whom you represent?

3 A. That was my own opinion. Anything that I say
4 here is my own opinion. I don't -- the client doesn't
5 tell me what to say.

6 MS. STEELE: That's all I had, thanks.

7 MS. ANDERL: No follow up.

8 JUDGE BERG: Okay. All right, Mr. Weiss,
9 that concludes your testimony here. Thank you very much
10 for being present and assisting the Commission. You're
11 excused from the hearing.

12 THE WITNESS: Thank you.

13 JUDGE BERG: We will be off the record.

14 (Discussion off the record.)

15 JUDGE BERG: In conclusion of today's
16 proceedings, I would like to submit a Bench request to
17 all parties, and this will be Bench Request 45. And the
18 question is, what additional costs, and by that I don't
19 mean dollar amount, but categorically what additional
20 costs are incurred by a local exchange carrier to
21 provide ongoing data service when a customer that is
22 receiving voice and data changes the voice provider.

23 And by further clarification, we have
24 discussed these scenarios, and we understand the
25 position of some parties that they are not obligated to

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1 provide data service when a customer receiving both
2 voice and data changes their voice provider. But this
3 is meant as a hypothetical just to get some idea of what
4 costs are incurred as the result of the new arrangement,
5 not necessarily the ongoing cost of providing the data
6 service itself, and I'm looking for the parties to help
7 me nail this down, if necessary.

8 Mr. Edwards.

9 MR. EDWARDS: I think I understand the
10 request, and we will take it back. The difficulty with
11 that request, however, is that Verizon is a local
12 service provider that does not provide the data service.
13 There is a separate affiliate that we are mandated to
14 use that provides that data service, over which I have
15 absolutely no idea, for example, whether any cost
16 studies have ever been done related to providing that
17 service from an affiliate that I don't have a
18 relationship with.

19 JUDGE BERG: Yes, and I'm not looking for a
20 cost. To the extent that we would be talking about a
21 description, you know, and to the extent a cost study
22 might turn that up, I suppose that it may be the type of
23 information that would be associated with a cost study.
24 But even on a less formal analytical basis, if parties
25 have a position, we would appreciate it being made

03694

1 known. And to the extent that it's not relevant to your
2 client, I suppose you should feel free to respond
3 appropriately.

4 Part of the issue that I'm trying to get to
5 is we're looking for responses not just from the
6 incumbent's perspective, but from the CLECs'
7 perspective. We heard that, well, from a CLEC's
8 perspective where a CLEC is providing both voice and
9 data over the UNE platform to a customer and that
10 customer changes the voice provider portion, that
11 there's no reason why the first provider would not want
12 to continue providing the data side or why that provider
13 would not want to work in association with some other
14 voice provider. But nevertheless, what we're looking
15 for is just to get some idea of what additional costs
16 are incurred as the result of a changeover in voice
17 providers, whether that be an administrative cost or an
18 ongoing maintenance cost that was not previously
19 specified.

20 MR. EDWARDS: I understand the question.

21 JUDGE BERG: Okay.

22 MR. EDWARDS: I just do not want to leave the
23 impression with the Commission that Verizon or me on
24 behalf of Verizon can answer that question.

25 JUDGE BERG: All right, and it's just being

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1 put out there. If the result of the response is such
2 that it drives the Commission to ask some other
3 questions, then we'll take it when we get there.

4 MR. EDWARDS: I understand, but the question
5 highlights a severe issue that arises with the proposal
6 that it relates to with respect to the jurisdiction of
7 the parties before this Commission.

8 JUDGE BERG: Fine.
9 Any other questions?

10 MR. TRAUTMAN: Your Honor, is that directed
11 to Staff as well or just the companies?

12 JUDGE BERG: Well, if Staff in any of its
13 expertise has an opinion as to what costs would be
14 incurred in that scenario, then we would welcome a
15 response. In making the Bench request to all parties,
16 we just expect them to answer to the best of their
17 ability.

18 MR. BUTLER: Am I correct that this question
19 is directed towards the DSL type scenario?

20 JUDGE BERG: Yes.

21 MR. BUTLER: You're talking about providing
22 the data service with a high frequency?

23 JUDGE BERG: Yes, I'm referring to the data
24 that's in the context of this hearing that's been the
25 provision of DSL over the high frequency portion of the

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1 loop, that as between CLECs and the line splitting
2 situation it would be via UNE-P, but for an incumbent if
3 you're not really using UNE-P, they're just using their
4 network to provide both voice and data services such as
5 DSL.

6 Anything further?

7 All right, thanks everybody, we're adjourned.

8 (Hearing adjourned at 6:10 p.m.)

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