

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,)
5)
6 Complainant,) DOCKET NO. UT-930957

7 vs.)

8 U S WEST COMMUNICATIONS, INC.)
9)
10 Respondent.)

11 -----)
12 WASHINGTON UTILITIES AND)
13 TRANSPORTATION COMMISSION,)
14)
15 Complainant,) DOCKET NO. UT-931055

16 vs.)

17 U S WEST COMMUNICATIONS, INC.)
18 Respondent.)

19 -----)
20 WASHINGTON UTILITIES AND)
21 TRANSPORTATION COMMISSION,)
22)
23 Complainant,) DOCKET NO. UT-931058
24) VOLUME 5
25 vs.) PAGES 572 - 773

26 U S WEST COMMUNICATIONS, INC.,)
27 Respondent.)

28 -----)
29
30 A hearing in the above matter was held on
31 June 27, 1994 at 9:30 a.m., at 1300 South Evergreen
32 Park Drive Southwest, Olympia, Washington, before
33 Administrative Law Judge ELMER CANFIELD.

34 Cheryl Macdonald
35 Court Reporter

1 The parties were present as follows:

2 WASHINGTON UTILITIES AND TRANSPORTATION
3 COMMISSION STAFF, by JEFF GOLTZ and STEVEN W. SMITH,
4 Assistant Attorneys General, 1400 South Evergreen Park
5 Drive Southwest, Olympia, Washington 98504.

6 U S WEST COMMUNICATIONS, INC., by
7 EDWARD T. SHAW and MOLLY HASTINGS, Attorneys at Law,
8 1600 Bell Plaza, Room 3206, P.O. Box 21225, Seattle,
9 Washington 98111.

10 TRACER, by ARTHUR A. BUTLER, Attorney at Law,
11 1201 Third Avenue, Suite 2850, Seattle, Washington
12 98101.

13 METRONET, MCI COMMUNICATIONS, and ATS by
14 BROOKS HARLOW, Attorney at Law, 4400 Two Union Square,
15 601 Union Street, Seattle, Washington 98101-2352.

16 FOR THE PUBLIC, DONALD T. TROTTER,
17 Assistant Attorney General, 900 Fourth Avenue, Suite
18 2000, Seattle, Washington 98164.

19 DEPARTMENT OF INFORMATION SERVICES, by ANN
20 COX, Assistant Attorney General, 905 Plum Street,
21 Building 3, Olympia, Washington 98504.

22 KING COUNTY GOVERNMENT, by ROSE DEMBO,
23 Telecommunications Manager, 700 Fifth Avenue, Suite
24 2300, Seattle, Washington 98104.

25 THE EVERGREEN STATE COLLEGE and WASHINGTON
26 SCHOOL DIRECTORS' ASSOCIATION, by JAN FRICKELTON,
27 Assistant Attorney General, P.O. Box 40100, Olympia,
28 Washington 98504.

29 WASHINGTON INDEPENDENT TELEPHONE
30 ASSOCIATION, by RICK FINNIGAN, Attorney at Law, 1201
31 Pacific Avenue, Suite 1900, Tacoma, Washington 98402.

32 ASSOCIATION OF WASHINGTON CITIES, by JOHN
33 NETTLETON, Attorney at Law, 1102 Broadway Plaza,
34 Tacoma, Washington 98402.

35 CITY OF BELLEVUE, by DAVID KAHN, Assistant
36 City Attorney, 11511 Main Street, Bellevue, Washington
37 98009.

38

1 I N D E X

2

3	WITNESS:	DIRECT	CROSS	REDIRECT	RE CROSS	EXAM
	DONNA JOHNSON	581	584-SH			

4 597-FI

5 598-KA

600-TR

6	THOMAS SPINKS	603	604-SH	705	706-SH
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653-HA 710-HA

7 668-FI 716-FI

680-KA

8 687-TR

9

10	DAVID OFFNER	719	721-SH	739	739-SH
			736-TR		

11

12	THOMAS ZEPP	742	744-SH		
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14	EXHIBITS:	MARKED	ADMITTED
14	T-26	581	583
	27	581	583
15	T-28	603	604
	29	603	604
16	30	603	604
	C-31	603	604
17	32	697	703
	T-33	719	720
18	34	726	735
	T-35	742	744
19	36	742	744
	37	742	744
20	38	742	744
	C-39	742	744
21	40	742	744
	C-41	742	744
22	C-42	742	744
	43	742	744
23	44	742	744
	45	742	744

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

2 JUDGE CANFIELD: This hearing will please
3 come to order. The Washington Utilities and
4 Transportation Commission has set for hearing at this
5 time and place docket Nos. UT-930957, UT-931055, and
6 UT-931058 each entitled Washington Utilities and
7 Transportation Commission, complainant, vs. U S WEST
8 Communications Inc., respondent. Today's hearing is
9 being held at Olympia, Washington on Monday, June 27,
10 1994. Elmer Canfield, administrative law judge with
11 the Office of Administrative Hearings, is conducting
12 the hearing. As indicated on the notice of hearing,
13 the purpose of today's hearing and the hearings this
14 week is to receive direct evidence and
15 cross-examination of Commission staff, intervenors,
16 members of the public and respondent's rebuttal. I
17 would like to start today by taking appearances
18 beginning with respondent, please.

19 MR. SHAW: Ed Shaw and Molly Hastings for
20 the respondent U S WEST Communications.

21 JUDGE CANFIELD: Maybe I could get
22 addresses too, please.

23 MR. SHAW: Yes. 1600 Bell Plaza, Suite
24 3206, Seattle, Washington 98111.

25 JUDGE CANFIELD: Thank you. Next.

1 MR. HARLOW: Good morning. I'm Brooks
2 Harlow. My address is Suite 4400, 601 Union Street,
3 Seattle, Washington, 98101. I'm here this morning
4 representing Metronet Services Corporation and MCI
5 Telecommunications Corporation, intervenors.

6 MR. FINNIGAN: Rick Finnigan with the firm
7 Vandeberg, Johnson & Gandara. Our address is 1201
8 Pacific Avenue, Suite 1900, Tacoma, Washington 98402.
9 Representing Washington Independent Telephone
10 Association.

11 MR. BUTLER: Arthur A. Butler appearing on
12 behalf of TRACER and TCA Puget Sound chapter. My
13 address is 1201 Third Avenue, Suite 2850, Seattle,
14 Washington 98101.

15 JUDGE CANFIELD: Thank you.

16 MR. NETTLETON: John Nettleton appearing
17 for Association of Washington Cities intervenor. My
18 address is 1102 Broadway Plaza, Suite 403, Tacoma,
19 Washington, 98402.

20 MS. FRICKELTON: Jan Frickelton, assistant
21 attorney general representing The Evergreen State
22 College and also representing the Washington State
23 School Directors' Association. My address is Post
24 Office Box 40100, Olympia 98504.

25 JUDGE CANFIELD: Maybe while we're on that,

1 the Kent School District, as my notes indicate, was to
2 have withdrawn their petition to intervene. I hadn't
3 heard a thing from them. I believe that was the
4 representation that you made at the last session in
5 May. Have you heard anything since then,
6 Ms. Frickelton?

7 MS. FRICKELTON: No. I thought that was
8 their intention to do that.

9 JUDGE CANFIELD: Well, I guess by their
10 non-appearance and nonfollow-through -- that petition
11 to intervene was pending at the time. We had deferred
12 any further action on it. Mr. Shaw, I assume your
13 position would be that the specific petition be
14 dismissed then.

15 MR. SHAW: Yes, I would, Your Honor. I
16 don't think that they've ever come and shown any
17 standing and I presume by their inaction that they
18 have withdrawn from the proceeding.

19 JUDGE CANFIELD: Well, that's consistent
20 with the representation that Ms. Frickelton made to
21 the record as well.

22 MS. FRICKELTON: Yes. They're being
23 represented through --

24 JUDGE CANFIELD: Right. But they also had
25 a specific petition. Okay. I will go ahead and

1 dismiss that specific petition to intervene of the
2 Kent School District just to clarify the record in
3 that regard. Next please.

4 MR. KAHN: David Kahn on behalf of the city
5 of Bellevue, 11511 Main Street, Bellevue, 98009.

6 JUDGE CANFIELD: Thank you.

7 MS. COX: Ann Cox, assistant attorney
8 general for the Department of Information Services,
9 905 Plum Street, Building 3, Olympia, Washington
10 98504.

11 JUDGE CANFIELD: Next.

12 MS. DEMBO: Lois Dembo for King County
13 Government, 700 Fifth Avenue, Suite 2300, Seattle,
14 Washington 98104.

15 MR. TROTTER: Donald T. Trotter, assistant
16 attorney general for the public counsel section, 900
17 Fourth Avenue, Suite 2000 Seattle, Washington 98164.

18 MR. GOLTZ: Next. My name is Jeff Goltz,
19 attorney general's office representing Commission
20 staff, 1400 South Evergreen Park Drive, mail stop
21 40128, Olympia, 98504. Steve Smith and I will be
22 representing -- taking over the representation Mr.
23 Trautman had been undertaking. As I mentioned off the
24 record, Mr. Trautman had a medical emergency and will
25 be unavailable for the remainder of these proceedings.

1 JUDGE CANFIELD: And with that, then, we
2 will extend the dates as just indicated. The briefs
3 will be due to be filed with the Commission by Friday,
4 July 29, and the suspension date has been extended
5 through Friday September 16, 1994.

6 Are there any other preliminary-type
7 matters that we haven't discussed thus far? We did
8 discuss briefly before going on the record witness
9 order and I think we pretty much have an idea of who
10 will be testifying first and so on, but any other
11 preliminary-type matters?

12 Let the record reflect there are none. I
13 believe the witness order was going to be Donna
14 Johnson testifying first. Is that correct?

15 MS. FRICKELTON: Yes.

16 JUDGE CANFIELD: Why don't we go ahead,
17 then.

18 MS. FRICKELTON: I would like to call Donna
19 Johnson on behalf of The Evergreen State College.
20 Your Honor, is it my understanding that we mark the
21 exhibits at this time?

22 JUDGE CANFIELD: Yes. I will go ahead and
23 assign numbers to them now as soon as I find the
24 prefiled testimony and the one accompanying exhibit.
25 The first exhibit number up is 26 so I will mark the

1 prefiled testimony of Donna Johnson as Exhibit T-26
2 and that was identified as DON-1 and then the one
3 accompanying exhibit identified as DON-2 I will mark
4 as Exhibit 27 for identification.

5 (Marked Exhibits T-26 and 27.)

6 JUDGE CANFIELD: And with that Donna
7 Johnson has been called, and I will ask you to raise
8 your right hand, please.

9 Whereupon,

10 DONNA JOHNSON,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13 JUDGE CANFIELD: Please speak up and into
14 the microphone for the benefit of all concerned so we
15 can hear you and have a clear record.

16

17 DIRECT EXAMINATION

18 BY MS. FRICKELTON:

19 Q. Ms. Johnson, would you please state your
20 name, address and employer for the record.

21 A. My name is Donna Johnson. I am employed at
22 The Evergreen State College as a telecommunications
23 analyst. The address is 2700 Evergreen Parkway
24 Northwest, Olympia, 98505.

25 Q. Did you have prepared by you or under your

(JOHNSON - DIRECT BY FRICKELTON)

1 direction what's been marked Exhibits T-26 and 27,
2 your direct testimony in this case?

3 A. Yes.

4 Q. Do you have any additions or corrections
5 that you need to point out prior to your testimony
6 being admitted?

7 A. Yes. On page 2, line item 5, my job title
8 is a telecommunications analyst.

9 Q. At the time that you originally prepared
10 this, was this correct at the time?

11 A. Yes.

12 Q. So this is a new title?

13 A. Right.

14 Q. Any other additions or corrections?

15 A. Yes. On page 9, line 17, the amount 128
16 should be 108, and on line 26 it should be "no"
17 instead of "not." That's all the corrections I have.

18 Q. With those corrections, are Exhibits T-267
19 and 27 true and correct to the best of your knowledge?

20 A. Yes, except for that last -- the
21 installation costs that were -- this 128 should be
22 108.

23 JUDGE CANFIELD: Is that a different
24 correction than we referred to earlier?

25 Q. Is this a correction in 27, the DON-2?

(JOHNSON - DIRECT BY FRICKELTON)

1 A. Right, right.

2 Q. Could you tell us specifically where that
3 is.

4 A. It's the second paragraph -- I mean it's
5 the last paragraph on the bottom and it says -- the
6 last line, it should read "installation costs that
7 were \$108 are expected to be \$416."

8 Q. With those corrections are Exhibits T-26
9 and 27 true and correct to the best of your knowledge?

10 A. Yes.

11 MS. FRICKELTON: I would move the admission
12 of these exhibits and tender the witness.

13 JUDGE CANFIELD: Any objections to those
14 exhibits being entered?

15 Let the record reflect there are no
16 objections and the parties are requested to make their
17 own corrections and I will likewise correct the
18 official copy. Exhibit T-26 and Exhibit 27 are so
19 entered into the record.

20 (Admitted Exhibits T-26 and 27.)

21 JUDGE CANFIELD: With that Ms. Johnson is
22 available for cross. Is that correct?

23 MS. FRICKELTON: Yes, that's correct.

24 JUDGE CANFIELD: Mr. Shaw.

25 MR. SHAW: Thank you, Your Honor.

(JOHNSON - CROSS BY SHAW)

1

2

CROSS-EXAMINATION

3 BY MR. SHAW:

4 Q. Good morning, Ms. Johnson. I would like to
5 direct your attention to bottom of page 3 of your
6 testimony. What kind of PBX equipment has Evergreen
7 had since 1982?

8 A. Northern Telecomm equipment.

9 Q. Have you changed that equipment out since
10 1982?

11 A. We've upgraded.

12 Q. So the original switch you got in 1982 has
13 been replaced how many times?

14 A. It's been upgraded twice.

15 Q. Have you replaced the entire switch and
16 gone to a newer generation switch?

17 A. Basically. Most of the cabinetry we left
18 is intact.

19 Q. But the innards of the switch is all new
20 twice over since 1982?

21 A. The software and part of the hardware.

22 Q. You also get your terminal equipment, your
23 station equipment, from Northern Telecomm?

24 A. Yes.

25 Q. You buy that directly or do you get it from

(JOHNSON - CROSS BY SHAW)

1 a vendor of some sort?

2 A. Vendor.

3 MR. TROTTER: Your Honor, could you get a
4 microphone?

5 Q. I take it you do not get that equipment,
6 that switch, and that terminal equipment, from U S
7 WEST or any of its affiliates?

8 A. I guess I don't understand the question.
9 U S WEST did install it for us.

10 Q. So I take it then that you have purchased
11 the switch and hired U S WEST to install it for you?

12 A. Right.

13 Q. And maintain it for you?

14 A. We're self-maintained. We don't have a
15 maintenance contract with U S WEST.

16 Q. So U S WEST doesn't have anything to do
17 with your equipment after the turnkey installation?

18 A. Correct.

19 Q. You take care of all of your moves and
20 changes yourself on your terminal equipment, station
21 equipment?

22 A. Yes.

23 Q. You indicate in your testimony that you
24 converted back in 1982 from Centrex in order to
25 control costs and provide more enhanced services. Do

(JOHNSON - CROSS BY SHAW)

1 you see that?

2 A. Yes.

3 Q. Did you do a study in 1982 and determine
4 that if you self-provide your switching rather than
5 obtain switching services from U S WEST and the public
6 switched network it would be cheaper or less
7 expensive than U S WEST providing your switch?

8 A. We hired a consultant who provided that
9 information for us.

10 Q. And I take it you concluded that despite
11 the upfront capital investment it was better in the
12 long run to self-provide?

13 A. Yes.

14 Q. Have you ever studied or reconsidered
15 converting back to Centrex-type services?

16 A. Not recently.

17 Q. What enhanced services do you get from your
18 Northern Telecomm PBX that you cannot get from the
19 company's Centrex-type products?

20 A. Well, basically since we're
21 self-maintained, do all of our adds, moves and changes
22 locally, we don't have to make up a work order with a
23 vendor off campus to come in and do those orders.
24 Better customer service to the campus.

25 Q. Evergreen State College is located outside

(JOHNSON - CROSS BY SHAW)

1 of Olympia, Washington, correct?

2 A. Yes.

3 Q. And how big is your contiguous campus
4 in acreage approximately?

5 A. 1,000.

6 Q. And you provide, I take it, your own inside
7 wire in your campus buildings?

8 A. Yes.

9 Q. Student housing and so forth?

10 A. Yes.

11 Q. So you provide your own loops on the campus
12 with your own wire?

13 A. Correct.

14 Q. And you have, I take it in your testimony,
15 other wire throughout the campus. For instance, you
16 have some safety phones that you provide your own wire
17 for?

18 A. Yes.

19 Q. But you've elected to not provide your own
20 wire for a couple of the sites and you use term
21 loop-type services for two of those?

22 A. Right.

23 Q. Is the president's residence on or off
24 campus?

25 A. Off campus.

(JOHNSON - CROSS BY SHAW)

1 Q. How many off-campus term loops do you
2 have?

3 A. We've got five in housing which are located
4 on campus but we just don't have the PBX equipment
5 wired to those stations, and then we have two safety
6 phones which are located off campus. We have the
7 president's residence also off campus, and four
8 stations in the Tacoma campus.

9 Q. I understood from your testimony that the
10 safety phones on the outer reaches of the campus are
11 actually on campus. Is that correct or am I wrong?

12 A. One is on campus and the other is located
13 at the Geoduck beachhouse which is a residence. It's
14 not part of the thousand acres.

15 Q. I was under the impression that Evergreen
16 owned that waterfront.

17 A. Yes.

18 Q. So it's part of the campus but it's not
19 contiguous, is that what you're saying?

20 A. Right.

21 Q. How many total access lines are served by
22 your PBX services?

23 A. Are you talking about trunks or stations?

24 Q. Station.

25 A. Approximately 800.

(JOHNSON - CROSS BY SHAW)

1 Q. And so out of those 800 stations, how many
2 in total are served with U S WEST services?

3 A. Seven, seven or eight.

4 Q. Is it your understanding that your four
5 lines, I believe it is, from Olympia to your Tacoma
6 campus are term loops, or off-premise extensions?

7 A. Off-premise extensions.

8 Q. Have you ordered those out of the exchange
9 tariff or from private line tariff, if you know?

10 A. I believe it's the exchange. I'm not sure.
11 They were ordered through U S WEST.

12 Q. Olympia and Tacoma are approximately 30 or
13 so miles apart?

14 A. Right.

15 Q. And that's clearly interexchange, is it
16 not?

17 A. Yes.

18 Q. Do you know for sure as you sit here
19 whether those are private lines or exchange term
20 loop-type services?

21 A. I am not familiar with that term. I just
22 know that they are serviced with dial tone from our
23 PBX.

24 Q. So, again, rather than building your own
25 wire to Tacoma or procuring it from DIS or some other

(JOHNSON - CROSS BY SHAW)

1 source, you would use U S WEST for that?

2 A. Yes.

3 Q. Would you expect that those interexchanges
4 lines that you purchased from U S WEST require
5 conditioning, extra design, in order to provide
6 reasonable service over 30-mile distance?

7 A. I am not aware that those lines have that
8 now.

9 Q. You also say that you have some lines
10 connecting your PBX, your private switching system, to
11 the state scan network at the top of page 6.

12 A. That's correct.

13 Q. Are those term loops --

14 A. Yes.

15 Q. -- that are utilized there?

16 A. Yes.

17 Q. And you use those to bypass the public
18 switched network toll services provided by U S WEST
19 and others so that you can utilize the toll services
20 provided by the state through DIS?

21 A. That's correct.

22 Q. And that's also I take it from the bottom
23 of page 6 the primary reason why you use dedicated
24 facilities between Olympia and Tacoma to avoid the
25 long distance charges that would otherwise be incurred

(JOHNSON - CROSS BY SHAW)

1 from using the public switched network or the DIS
2 network for that matter?

3 A. Well, that's part of it. Part of it is
4 that it connects the Tacoma campus to our campus and
5 so they enjoy the voice mail services that we have and
6 we just have a better communication. They can dial
7 the extension number and reach the campus instead of
8 dialing eight digits.

9 Q. So you enjoy four-digit dialing over those
10 extensions. Is it your testimony that you cannot
11 access the voice mail system located, I presume, with
12 your PBX in Olympia except from another Evergreen
13 State College network phone?

14 A. That's correct. They have voice mail
15 service on those four lines in Tacoma that is from our
16 Meridian mail service.

17 Q. Have you investigated providing more loop
18 plant yourself than you currently have?

19 A. Are you talking about more scan lines?

20 Q. No. More loop plant on your campus.

21 A. The only lines that we see that would be
22 affected every year is the five lines that go to our
23 housing. The student managers typically move
24 locations every fall depending on who is hired and
25 where the need is, and we have very limited

(JOHNSON - CROSS BY SHAW)

1 connections from those locations to our campus PBX, so
2 those would be changed with an installation charge
3 every fall.

4 Q. This housing is on the campus, correct?

5 A. That's correct.

6 Q. And I take it from your testimony that
7 every school term the student manager for a particular
8 housing complex may be in a different apartment?

9 A. Right.

10 Q. And so you have to move that loop around
11 from apartment to apartment in that complex?

12 A. Yes.

13 Q. Yet you have provided your own loop plant
14 to those housing complexes, correct? You do not use
15 U S WEST for all the access lines for every student
16 apartment?

17 A. U S WEST provides service to all the
18 students that are not student managers.

19 Q. So the individual phones in the apartment
20 are just 1FR just regular --

21 A. Regular residence phone service.

22 Q. But your student managers enjoy access to
23 the network off of the PBX?

24 A. Yes.

25 Q. And don't have residential service from U S

(JOHNSON - CROSS BY SHAW)

1 WEST?

2 A. That's correct.

3 Q. And your student managers enjoy, then, the
4 free and discounted toll calling available through the
5 scan system?

6 A. They enjoy the scan long distance but the
7 biggest benefit is that they have direct connection to
8 a public safety office, and to the voice mail so that
9 they have -- and can provide better service to the
10 students.

11 Q. Are you familiar at all -- I mean your role
12 at telecommunications analyst -- with the discussion
13 at the national level and legislation pending in
14 Congress about providing some sort of free or
15 discounted service to schools and other public
16 institutions as a way to maximize the benefits of the
17 so-called information highway?

18 A. Are you talking about Internet?

19 Q. Are you familiar with Vice-President Gore's
20 discussions about need to connect institutions of
21 learning to the evolving information highway, the new
22 broad band telecommunications network that's
23 envisioned for the country?

24 A. In a limited way, yes.

25 Q. Are you aware that he and others have

(JOHNSON - CROSS BY SHAW)

1 advocated free or discounted access to that new
2 network by institutions of learning?

3 A. I am not aware of his direction, but I know
4 that Evergreen provides students with Internet access
5 if they choose to apply for an account.

6 Q. Do you charge the students for that?

7 A. No, we don't.

8 Q. Does Evergreen State College here in this
9 proceeding advocate that this Commission adopt pricing
10 policies for regulated telephone companies that will
11 provide free or reduced costs of discounted telephone
12 or telecommunications service to them?

13 A. Not that I am aware of.

14 Q. And that is not a policy of The Evergreen
15 State College to advocate such a pricing plan?

16 A. I am not aware of that.

17 Q. So I take it that The Evergreen State
18 College at this juncture expects to pay rates for
19 telecommunications services adequate to cover the cost
20 of those services?

21 A. Again, I don't know.

22 Q. Evergreen State College is not advocating
23 to this Commission in this proceeding that it be
24 provided a low cost or discounted rates just because
25 it is an educational institution; is that correct?

(JOHNSON - CROSS BY SHAW)

1 A. Again, I am not aware. I mean, I don't
2 know.

3 Q. And you would not anticipate, then, that
4 The Evergreen State College is going to advocate such
5 a public policy on this Commission in the final briefs
6 in this case.

7 MS. FRICKELTON: I will object. That calls
8 for speculation on this witness's part. She has
9 already testified she doesn't have knowledge about
10 this area.

11 MR. SHAW: Well, Your Honor, this is our
12 one chance to cross-examine, and I don't think it's
13 fair for this intervenor to propose that they're going
14 to spring their position on a fundamental issue like
15 this in brief. If the witness doesn't know what the
16 college's position is on the pricing philosophy to be
17 adopted in this case, I would expect we won't suddenly
18 learn that in the brief, but if we can have that
19 understanding we can drop the course of examination,
20 but if the college is reserving that right, I think I
21 have a right to know what their position is going to
22 be.

23 JUDGE CANFIELD: I believe the witness's
24 prior response was that she didn't know. I guess her
25 testimony stands of record, and in view of her last

(JOHNSON - CROSS BY SHAW)

1 response I would tend to agree. Unless you've got a
2 question concerning her testimony and you can tie it
3 into her testimony, but in view of her last response I
4 would sustain the objection.

5 Q. I take it The Evergreen State College
6 elected to intervene in this proceeding because it was
7 concerned that out of this proceeding it may receive a
8 higher phone bill?

9 A. That's correct.

10 Q. And understandably The Evergreen State
11 College does not wish to pay any more than it has to
12 for telecommunications services?

13 A. Well, the funding is limited.

14 Q. Funding is limited for all services that
15 you purchase in the state economy, I take it?

16 A. That's correct.

17 Q. For telephone service uniquely, are you
18 expecting to pay less than the cost of the service
19 rendered to you?

20 A. No. I am expected -- I think the college
21 is expecting to pay a reasonable cost for a reasonable
22 service.

23 MR. SHAW: Thank you. That's all I have.

24 JUDGE CANFIELD: Thank you, Mr. Shaw.

25 Maybe we can just start at this end or start at that

(JOHNSON - CROSS BY SHAW)

1 end. Any preferences?

2 MR. TROTTER: I prefer to go last pursuant
3 to the prior convention.

4 JUDGE CANFIELD: Why don't we start at this
5 end, then.

6 MR. GOLTZ: You said at the hearing where
7 you were present.

8 MR. FINNIGAN: This was a new treaty that
9 we entered into?

10 JUDGE CANFIELD: Questions, Mr. Harlow?

11 MR. HARLOW: No questions, Your Honor.

12 JUDGE CANFIELD: Mr. Finnigan.

13 MR. FINNIGAN: Just one follow-up question.

14

15 CROSS-EXAMINATION

16 BY MR. FINNIGAN:

17 Q. Did I understand you correctly to indicate
18 that Evergreen provides its student access to Internet
19 over the scan system; is that correct?

20 A. No.

21 Q. How do they have access to Internet?

22 A. We have a Northwest Net Line which is
23 purchased from U S WEST and it provides us connection
24 to the University of Washington.

25 Q. A Northwest Net Line. Could you explain

(JOHNSON - CROSS BY FINNIGAN)

1 that to me, please.

2 A. It is the service that the college
3 receives, the Internet access.

4 Q. It is a private line service between
5 Evergreen and University of Washington, is that your
6 testimony?

7 A. Yes, it is.

8 Q. And that's not part of the system, but it's
9 purchased from U S WEST?

10 A. Right.

11 JUDGE CANFIELD: Mr. Butler.

12 MR. BUTLER: No questions.

13 JUDGE CANFIELD: Mr. Nettleton.

14 MR. NETTLETON: No questions.

15 JUDGE CANFIELD: Mr. Kahn.

16 MR. KAHN: Just a few questions.

17

18 CROSS-EXAMINATION

19 BY MR. KAHN:

20 Q. Ms. Johnson, are you familiar with
21 Initiative 601?

22 A. Yes.

23 Q. Could you explain what impact Initiative
24 601 is going to have on Evergreen College?

25 A. I believe the impact will limit our ability

(JOHNSON - CROSS BY KAHN)

1 to increase our budget so if there is an increase we
2 have to fund that increase from our current resources.

3 Q. Because of Initiative 601, is this a
4 particularly bad time for Evergreen State College to
5 have to contemplate an increase in its
6 telecommunications cost?

7 A. Yes, it is, because we do not have this
8 increase planned in the legislative budget request for
9 funding. Because of that we would have to fund it
10 internally and another service would have to be either
11 eliminated or reduced in some way.

12 Q. In your testimony at page 8, lines 21
13 through 22 you state that the rate increase of \$12,653
14 is relatively small compared to the increases for
15 other agencies. Even though it may be small in
16 comparison for Evergreen State College, is it still a
17 significant increase in view of your overall budget
18 reductions?

19 A. Yes, it is.

20 MR. KAHN: Thank you. I have nothing
21 further.

22 JUDGE CANFIELD: Ms. Dembo, any questions?.

23 MS. DEMBO: No questions.

24 JUDGE CANFIELD: Mr. Goltz, any questions?

25 MR. GOLTZ: No questions.

(JOHNSON - CROSS BY KAHN)

1 JUDGE CANFIELD: Mr. Trotter.

2 MR. TROTTER: Just a couple.

3

4 CROSS-EXAMINATION

5 BY MR. TROTTER:

6 Q. From your testimony on page 8, you are
7 calculating an increase of \$12,600 and that's offset
8 by about \$900 due to the complex redefinition?

9 A. That's correct.

10 Q. You were asked whether the college had
11 taken a look at Centrex. Are you familiar with U S
12 WEST's Centrex Plux service?

13 A. No, I'm not.

14 Q. It has been suggested in some testimony
15 that the tie lines, numerous tie lines, can be
16 replaced by DS-1 circuits. I guess a high capacity
17 private line circuit. Has the college looked into
18 that?

19 A. I will be looking into that. I haven't
20 yet.

21 Q. You note on the top of page 8 that running
22 additional cable of your own in a certain application
23 would cost \$40,000. Do you see that?

24 A. Yes.

25 Q. It wasn't clear to me what the distance was

(JOHNSON - CROSS BY TROTTER)

1 between the -- was this an on-campus line?

2 A. It is on campus but because we don't have
3 our PBX wiring to those locations, it's real costly to
4 run the wiring under pavement and through different
5 utilities.

6 Q. What kind of distance are you referring to
7 there?

8 A. It's within a half a mile.

9 Q. And do I take it correctly Evergreen has
10 not sought to string a line from its campus to Tacoma
11 by itself?

12 A. No.

13 Q. You haven't even attempted to measure that
14 cost, I assume; is that correct?

15 A. No.

16 Q. What about instead of off-premise
17 extensions using -- just get a flat residence or
18 business line, whichever is applicable.

19 A. The reason that that wouldn't work for us
20 is that the safety phones, for instance, have a unique
21 extension number and when that phone rings to the
22 public safety office, that operator knows exactly the
23 location where that emergency might be taking place.
24 And having them on our PBX gives them a visual
25 indicator that -- exactly where the location is and we

(JOHNSON - CROSS BY TROTTER)

1 can respond quicker if it's an emergency.

2 Q. And what about for some of those remote
3 lines using call forwarding so someone -- I guess if
4 someone rings the call will be forwarded to that other
5 number, in other words, just get a flat business line
6 and have call forwarding?

7 A. I haven't looked into that.

8 Q. Has there been any vendors of competing
9 services seeking the business -- seeking your business
10 for the services that are at issue in this proceeding?

11 A. Not yet.

12 MR. TROTTER: Nothing further. Thank you.

13 JUDGE CANFIELD: That goes through the
14 round of cross. Ms. Frickelton, any questions on
15 redirect?

16 MS. FRICKELTON: No, I have none.

17 JUDGE CANFIELD: With that, thank you,
18 Ms. Johnson. You're excused. I believe the next up
19 on our list was Commission staff. Mr. Goltz, you
20 would be calling Tom Spinks then.

21 MR. GOLTZ: That's correct.

22 JUDGE CANFIELD: Let's go ahead and assign
23 the next exhibit numbers in order to the testimony and
24 exhibits. The testimony prefiled by Mr. Spinks we
25 marked as Exhibit T-28 and then there were three

(JOHNSON - CROSS BY TROTTER)

1 accompanying exhibits. TLS-1, I will mark as Exhibit
2 29; TLS-2 I will mark as Exhibit 30 and then there was
3 one prefiled confidential exhibit identified as TLS-3
4 I will mark as Exhibit C-31, the C denoting its
5 confidentiality so those are so marked for
6 identification.

7 (Marked Exhibits T-28, 29, 30 and C-31.)

8 Whereupon,

9 THOMAS SPINKS,

10 having been first duly sworn, was called as a witness
11 herein and was examined and testified as follows:

12

13 DIRECT EXAMINATION

14 BY MR. GOLTZ:

15 Q. Will you state your name and work address
16 for the record, please.

17 A. My name is Thomas L. Spinks. I am employed
18 by the Washington Utilities and Transportation
19 Commission. Business address is 1300 South Evergreen
20 Park Drive Southwest, Olympia, Washington 98504.

21 Q. And have you prepared testimony and
22 exhibits for this proceeding?

23 A. Yes.

24 Q. Can you identify those?

25 A. My direct testimony has been marked as

(SPINKS - DIRECT BY GOLTZ)

1 Exhibit T-28 and accompanying exhibits 29 through 31.

2 Q. And Exhibit 31 is a confidential exhibit?

3 A. That's correct.

4 Q. Do you have any additions or corrections to
5 be made to either Exhibit T-28, 29, 30 or C-31 at this
6 time?

7 A. No, I don't.

8 Q. Are they true and correct to the best of
9 your knowledge?

10 A. Yes.

11 MR. GOLTZ: I offer Exhibits T-28, 29, 30
12 and C-31 into evidence and offer the witness for
13 cross-examination.

14 JUDGE CANFIELD: Any objections to the
15 exhibits?

16 Let the record reflect there are no
17 objections. Exhibits T-28, 29, 30 and C-31 are so
18 entered into the record and as indicated C-31 is a
19 confidential exhibit and will accordingly be sealed.

20 (Admitted Exhibits T-28, 29, 30 and C-31.)

21 JUDGE CANFIELD: With that Mr. Spinks is
22 available for cross-examination. Mr. Shaw.

23

24 CROSS-EXAMINATION

25 BY MR. SHAW:

(SPINKS - CROSS BY SHAW)

1 Q. Mr. Spinks, I would like to discuss some
2 basic principles with you before we get into the
3 details of your testimony. I would first ask you,
4 would you agree that other than minor services such as
5 relatively minor services such as Call Waiting or
6 Caller ID and so forth that a telephone company
7 provides essentially two services, dedicated transport
8 and switched transport?

9 A. Well, I would agree that those are one way
10 to define them. I think in a broader sense in talking
11 principle, I would say the telecommunications company
12 provides communications services just in the broadest
13 sense and you can further classify or categorize them
14 in different ways as private, dedicated, dedicated or
15 switched, certainly. Toll.

16 Q. The fundamental business of a telephone
17 company in the state of Washington and nationwide has
18 been to provide a service that allows members of the
19 public to communicate electronically with each other.
20 Do you agree with that?

21 A. As a general matter, yes.

22 Q. And conceptually they've been considered
23 common carriers like a truck company?

24 A. Yes.

25 Q. They're obligated to without

(SPINKS - CROSS BY SHAW)

1 discrimination, without censorship, stand ready to
2 haul a person's communication from point A to point B
3 as directed by that person?

4 A. Yes.

5 Q. And so conceptually, it's two kinds of
6 services involved in that role, a service where you
7 can pick up your phone or your terminal equipment,
8 whatever it is, and dial someone else's address, their
9 telephone number, and get that person on a demand
10 basis, correct?

11 A. Yes.

12 Q. And do you generally refer to that as
13 switched service?

14 A. Yes.

15 Q. And the network is so constructed that
16 every customer's access line goes to a switch and the
17 switch reads that address and figures out how to route
18 it on either directly to the address called or to
19 another switch or even another company for ultimate
20 delivery?

21 A. That's correct.

22 Q. And the second way you can get your
23 information hauled around by regulated common carrier
24 is to lease a dedicated facility that is not switched;
25 is that correct?

(SPINKS - CROSS BY SHAW)

1 A. Yes.

2 Q. And the concept there is that customers
3 that have the need to communicate on a frequent or
4 usual basis between two fixed points can lease a
5 dedicated service so that when they pick up that phone
6 or that instrument hooked to their end they always get
7 the other end. They cannot dial somebody else over
8 that line?

9 A. That's correct.

10 Q. The fact that such a dedicated facility
11 routes through a switch, is hard-wired through a
12 switch, does not make it a switched service. You
13 would agree with that?

14 A. Could you say that again.

15 Q. The fact that that dedicated facility
16 leased from a telephone company may be routed through
17 a switch instead of directly from point A to point B,
18 hard-wired through that switch, does not make that
19 dedicated facility a switched facility?

20 A. No. That would not, that's right.

21 Q. And typically telephone companies have a
22 star or a spoke network arrangement where all of the
23 transport lines home in on a switch and are either
24 connected with another line to go back out its
25 dedicated facility or are switched by that switched

(SPINKS - CROSS BY SHAW)

1 service which we just discussed?

2 A. With the central office wire center --

3 Q. Yes.

4 A. -- configuration or arrangement, yes.

5 Q. The very name of a central office or a wire
6 center speaks to that typical network architecture?

7 A. Yes, that's my understanding of the way the
8 network is configured.

9 Q. But of course it would be possible and
10 sometimes provided that way where, say, a dedicated
11 customer that had a factory at point A and a factory
12 at point B could obtain a facility that goes directly
13 between those points and doesn't route through a wire
14 center?

15 A. Are you asking me whether that's the case?

16 Q. Yes. Whether that is possible.

17 A. Yes, that is possible.

18 Q. And that's another kind of network
19 architecture and an example of that would be the ring
20 architecture that is being adopted by new entrants
21 such as Electric Lightwave or Teleport or whatever?

22 A. Yes. I read that that is what they are
23 doing.

24 Q. And they are attempting to place their
25 facilities such that it passes by in a ring-type

(SPINKS - CROSS BY SHAW)

1 configuration to customers they wish to serve and they
2 can provide direct communications links between those
3 customers sites, correct?

4 A. Yes. That's my understanding of the way
5 those -- that type of facility arrangement would work.

6 Q. I take it you do agree that the term loop
7 type services that we're discussing in this case are a
8 dedicated facility. They are not switched by the
9 public network switch?

10 A. Well, I think the tie lines for sure one
11 could argue are of a private line nature, of a
12 dedicated nature. The off-premise extensions I'm not
13 so sure of because whenever you pick up the phone on
14 an off-premise extension you do in fact receive dial
15 tone if there's a trunk available in the PBX. So I
16 think that one is sort of a mixed -- can be seen to be
17 sort of a mixed service. Certainly the facility
18 from the PBX to the off-premise extension can be seen
19 to be dedicated, its nature dedicated, but depending
20 on how you would define function, when you pick up the
21 phone it functions as a phone, as access to the
22 switched network, and you get a dial tone when you
23 pick up that phone. So I just would say that with
24 some caveat about off-premise extensions. I'm not
25 sure about that one.

(SPINKS - CROSS BY SHAW)

1 Q. Let's examine that. When somebody like The
2 Evergreen State College decides to provide their own
3 private network -- and you would agree from the
4 testimony of Ms. Johnson that that's what Evergreen
5 has done is decided to leave the public switched
6 network and provide its own private switched network,
7 correct?

8 A. Well, they have a thousand acre campus
9 where they provide -- it looked to me like it was
10 pretty much a mixed network. All the residences in
11 dorms are served by 1FRs. So that's all strictly U S
12 WEST. That's the LEC providing that. The LEC has
13 private line circuits, some private line circuits,
14 which the witness discussed this morning before I came
15 up. So for the business office portion of the campus
16 it looks to me they're using a PBX for the
17 communication as opposed to a Centrex system, so I
18 guess if that's what you mean by private network, I
19 would agree with it to that extent.

20 Q. For their staff, faculty, business offices,
21 president's residence, for their official service,
22 if you will, have elected to build their own private
23 network?

24 A. Correct.

25 Q. And so when the president calls the dean of

(SPINKS - CROSS BY SHAW)

1 the liberal arts school, pick up his phone, he dials
2 four digits, he goes through the PBX, PBX switches
3 just like the phone company would do, switches to the
4 office of the dean of the liberal arts school,
5 correct?

6 A. That's correct.

7 Q. And there is no use of the public switched
8 network in that example?

9 A. Not in that example. If he picks up his
10 phone, though, to dial the dry cleaners in town, he
11 would be accessing the public switched network through
12 the PBX trunk.

13 Q. And so in that case the term loop out to
14 the president's house goes to the PBX, correct. The
15 PBX reads the number that he has dialed, says this is
16 not a campus number, it's an off-campus number, and
17 routes it over a trunk that Evergreen State College
18 leases from U S WEST or some other local telephone
19 company?

20 A. Sure. You would probably dial 9 first for
21 the outside call.

22 Q. That off-premise extension, then, is a
23 dedicated portion of the college's private network,
24 correct?

25 A. Physically, yes.

(SPINKS - CROSS BY SHAW)

1 Q. You reference docket Nos. U 87-796 T and
2 799 T in your testimony; do you recall that?

3 A. Yes.

4 Q. Do you recall that those dockets were a
5 proceeding to merge the special access and private
6 line tariffs of U S WEST, restructure those services
7 and adjust the prices?

8 A. Yes.

9 Q. Let's talk about special access for a
10 minute. You agree that special access is the name
11 given to the service provided to carriers who wish a
12 dedicated service from the local phone company as
13 opposed to switch access for the completion of their
14 traffic?

15 A. I don't know that. I was not -- while I
16 was here at the time that case I was not -- I didn't
17 work on that case. The extent to which I am familiar
18 in that case is in going back and reading some of the
19 transcripts and testimony because the company had in
20 that case involved -- had asked for a term loop rate
21 increase, so in examining the record of that case I
22 focused really on the relationship of term loops in
23 that case and not on the whole case itself and as to
24 exactly what was being done or what the definition was
25 of special access.

(SPINKS - CROSS BY SHAW)

1 Q. Are you telling me you're not aware that at
2 divestiture in the context of docket U 85-23 that all
3 telephone companies in the state filed pursuant to the
4 Commission orders a carrier switched access tariff and
5 a carrier special access tariff?

6 A. No, that's not what I'm telling you. I am
7 aware of that. Well, they filed switched access
8 tariffs.

9 Q. And special access tariffs or dedicated
10 access tariffs, correct?

11 A. Yes, they did, because I remember seeing
12 special access tariffs but I am not really familiar
13 with what they were.

14 Q. They were essentially dedicated services
15 available to interexchange carriers to either
16 originate or terminate their traffic, correct?

17 A. Okay. I will accept that representation.

18 Q. And you're of course familiar with services
19 by AT&T and MCI and others where they have dedicated
20 original access?

21 A. Yes.

22 Q. Have a private line from the customer's
23 location to their switch?

24 A. Yes.

25 Q. And that is a special access type of

(SPINKS - CROSS BY SHAW)

1 facility or service, is it not?

2 A. Right.

3 Q. And dockets 87-796 and 799, the company
4 proposed and the staff agreed that those -- that those
5 services, special access, should be merged with the
6 company's retail private line tariffs, correct?

7 A. I think that was our position, but again, I
8 haven't -- I didn't reread Mr. Buckalew's testimony in
9 its totality to look at this thing, but we did that
10 and, as you know, a stipulated agreement was filed
11 with the Commission on that which did in fact merge
12 those. Staff was a party to that agreement so my
13 conclusion is we did agree to those things.

14 Q. And the rationale for that merger was to
15 charge interexchange carrier the same rate for the
16 same thing as would be charged to the end user
17 customer for the same thing, correct?

18 A. I've read nothing in the case regarding
19 what staff's position was as to the rationale for
20 why we agreed with the stipulation.

21 Q. In fact that's --

22 A. But it would seem to make sense to merge
23 those two.

24 Q. And so it makes no difference, then --

25 MR. GOLTZ: I am going to object because I

(SPINKS - CROSS BY SHAW)

1 think Mr. Shaw attempted to lay a foundation that this
2 witness was familiar with the details of this line of
3 questioning and the witness has repeatedly said, well,
4 I'm not familiar with that, don't have any detailed
5 knowledge of that. I wasn't involved in that, I
6 didn't read the testimony for that purpose, but yet
7 even despite that lack of foundation, we keep on
8 proceeding as if it's there, so I am not quite sure
9 where Mr. Shaw is leading with this, but it strikes me
10 that he's not getting answers that indicate that depth
11 of knowledge but yet we're proceeding along assuming
12 that it is there. So I object for lack of foundation.

13 MR. SHAW: Your Honor, these questions need
14 no foundation. Mr. Spinks is a long time staff expert
15 on telecommunications. He cited these dockets in his
16 own testimony. This is the tariff and the rates that
17 U S WEST is proposing in this case, and if through
18 this cross-examination I discover that Mr. Spinks
19 isn't aware of what he's testifying to, that will
20 serve my purposes fine, but I think that Mr. Spinks
21 does know the basic structure of the company's tariffs
22 since he studies them so adroitly and that he is
23 answering the questions. I don't think proof that he
24 is familiar with every line in all the exhibits and
25 transcripts of those dockets I referenced is a

(SPINKS - CROSS BY SHAW)

1 prerequisite to asking him about that Commission order
2 which he cited in his own testimony.

3 JUDGE CANFIELD: I think the witness has
4 indicated when he doesn't know or is not sure and I
5 think that will suffice. I will allow the questions
6 and answers to the extent that the witness has
7 knowledge on that and if he doesn't he's certainly
8 free to so indicate on the record. As far as the line
9 of questioning I will allow that and the witness can
10 so indicate if he doesn't have the knowledge or
11 doesn't know. So with that we'll proceed for the time
12 being.

13 Q. Now, that merged private line tariff means,
14 doesn't it, Mr. Spinks, that if AT&T calls up U S WEST
15 and asks to install a dedicated access to a customer
16 prem and to AT&T's switch or whether the customer
17 calls up and asked for that to happen, the same rate
18 is charged?

19 A. Well, I am not sure if I can answer with
20 the information. If AT&T wants a DS-1 circuit for a
21 customer for a dedicated access, maybe for toll, yes,
22 they buy that from U S WEST now, not out of the access
23 tariff but out of the private line tariff, the DS-1.

24 Q. Yes. If the customer instead of having
25 AT&T do that as their agent or whatever calls up and

(SPINKS - CROSS BY SHAW)

1 asks for exactly the same thing between the same two
2 points they order and pay out of the same tariff,
3 correct?

4 A. Well, either AT&T gets its special access
5 circuits or those type of dedicated facilities from
6 U S WEST, or either the customer can order and pay U S
7 WEST directly for it or the customer can order it
8 through AT&T in which case AT&T orders it and pays for
9 it.

10 Q. Now, one of the fundamental precepts that
11 was laid down in 85-23 was that the regulated global
12 exchange companies were to impute access charges to
13 their retail switched products, toll products and
14 private line products, correct?

15 A. Yes. I think it's a little broader than
16 you stated it. I believe the principle was that U S
17 WEST would impute to itself the same charges that it
18 charged others for the bottleneck monopoly services,
19 which others required to provide the same service. So
20 I think it went beyond access charges.

21 Q. But in the context of U 85-23 it was access
22 charges, was it not, both special access and switched
23 access charges?

24 A. Switched access charges I can say yes for
25 sure. I'm not certain about special access charges.

(SPINKS - CROSS BY SHAW)

1 Q. The same principle applies, does it not,
2 that AT&T needs switched access from U S WEST in order
3 to compete in the toll market? It would be
4 inappropriate for U S WEST to charge less to the end
5 user customer than it charges AT&T for the same thing,
6 correct?

7 A. I am not certain if I agree with that the
8 way it's stated. The price of U S WEST's service
9 has to reflect in its price the price that U S WEST
10 charges others for the bottleneck monopoly elements of
11 whatever service is at issue, so if that's what you
12 mean I would agree with that.

13 Q. In fact that's what's done for switched
14 access is that the essential facilities of transport
15 and the carrier common line charge and so forth are
16 imputed into U S WEST toll rates as a price floor?

17 A. That's correct.

18 Q. And exactly the same situation prevails for
19 special access. If AT&T wants to buy a dedicated
20 access-type service, U 85-23 tells us that if that
21 service is considered in a central facility to AT&T
22 that U S WEST is not to charge less to the end user
23 customer for the same retail service, correct?

24 A. Well, if you're referring to like the
25 example of the DS-1 that I used earlier to provide

(SPINKS - CROSS BY SHAW)

1 some dedicated facility, U S WEST would charge the
2 same rate for that service to AT&T or any individual
3 customer; it would hold itself out to anyone who
4 wanted it at the particular tariff price.

5 Q. So AT&T or Teleport or Electric Lightwave
6 must all -- as the tariffs stand today, when they want
7 a dedicated facility, want or need a dedicated
8 facility from U S WEST, they need to buy out of the
9 private line merge special access tariff whether the
10 service is intraexchange or interexchange, correct?

11 A. I don't believe there are any existing
12 tariff arrangements for companies like ELI or
13 Teleport. We haven't seen companies that provide
14 services of that nature. My understanding is there
15 are discussions under way between the company and --
16 between U S WEST and these companies today about how
17 those access arrangements would take place. I
18 wouldn't preclude that the answer to that would not
19 include the filing of a tariff to provide those inter-
20 connections arrangements, but until that's decided and
21 done, if that's what's decided, the only places it
22 could obtain access arrangements would be either
23 through the switched access tariff or the private line
24 tariff. At least that's all that I am aware of. I
25 want to take that back. There would be a third. You

(SPINKS - CROSS BY SHAW)

1 could enter into a contractual arrangement with them
2 with maybe individual case basis, facilities
3 constructed for them possibly.

4 Q. Directing your attention just to dedicated
5 access, dedicated facility that would be used
6 exclusively by ELI or Teleport to provide its own
7 service. The tariff that they must look to today is
8 the private line tariff, correct?

9 A. Yes. Well, for dedicated access to
10 intraexchange facilities and services that -- to U S
11 WEST's network for intraexchange access, the private
12 line tariff would be the only tariff I am aware of
13 that has facilities.

14 Q. And so, for example, let me give you a
15 hypothetical situation. If ELI doing business
16 providing switched service to businesses in downtown
17 Seattle, using its own switch and its own loops and
18 interoffice facilities, needs also to have an
19 off-premise extension, if you will, from a customer in
20 downtown Seattle, to, say, a branch office on Queen
21 Anne Hill, ELI today can come to U S WEST and order
22 NACs conditioning out of the private line tariff and
23 get a transport facility between its customer's
24 location on Queen Anne Hill and ELI's switch in
25 downtown Seattle, correct?

(SPINKS - CROSS BY SHAW)

1 A. Well, I don't know how they're going to do
2 that. That sounds like one way it could be done.

3 Q. What ELI cannot do, as the tariffs stand
4 today, is order a much cheaper term loop for the same
5 application, can they?

6 A. I'm sorry, did you say that was something
7 they can't do?

8 Q. Cannot do.

9 A. I don't know.

10 Q. Well, let me ask you this. The exchange
11 tariff forbids resell of services offered in the
12 exchange tariff except for those specifically listed
13 like Centrex and a couple of others, correct?

14 A. Yes.

15 Q. So as it stands today, competing carriers
16 cannot order out of the exchange tariff in order to
17 buy an identical facility at a lesser price than is
18 available to them in the private line tariff, correct?

19 A. Yes.

20 Q. You would agree, I take it, with the
21 company's assertion in this case that a term loop from
22 a customer location on Queen Anne Hill to ELI's switch
23 in downtown Seattle is exactly the same thing and
24 provisioned exactly the same way as the private line
25 in that same location on Queen Anne Hill to the ELI

(SPINKS - CROSS BY SHAW)

1 switch in downtown Seattle for the equivalent grade of
2 service?

3 A. It could be.

4 Q. It must be, correct?

5 A. I don't know that.

6 Q. Well, let's break it down. If ELI orders a
7 dedicated facility between its customer location on
8 Queen Anne and its switch in downtown Seattle out of
9 the private line tariff, it will typically have to buy
10 two NACs and some grade of conditioning, correct, and
11 maybe some mileage if it's between two wire center?

12 A. I would assume it would depend on equipment
13 that it had at the locations and what the purpose or
14 function of the equipment was. They may just want
15 NACs and then put equipment at each end and not
16 require anything further from the company.

17 Q. The customer in every case in ordering out
18 of the private line tariffs gives to the company the
19 grade of service that they want and the company
20 conditions and designs the circuit to give that grade
21 of service, correct?

22 A. For private line circuits?

23 Q. Yes.

24 A. Yes.

25 Q. So if ELI ordered that service out of the

(SPINKS - CROSS BY SHAW)

1 private line tariff, as it must, if it wanted, they
2 would pay for two NACs, one from the customer premise
3 to the wire center, another one from the wire center
4 to their switch and whatever conditioning was required
5 to make the circuit perform to the level requested,
6 correct?

7 A. I assume the company would provide to the
8 customer whatever it was that the customer ordered.
9 If they ordered two NACs and a particular level of
10 conditioning that that's what you would provide.

11 Q. If ELI wanted to get from U S WEST this
12 private line, as we've described, they would have to
13 order two NACs and whatever conditioning they
14 specified, correct?

15 A. Yes.

16 Q. And if they were able to order out of the
17 term loop tariff they would get exactly the same
18 thing, would they not, two NACs and whatever
19 conditioning necessary to make the line work to their
20 specification, correct?

21 A. Well, I don't know. A term loop can be
22 either an off-premise extension or a tie line. If
23 they were ordering -- the term loops -- I think the
24 word term loops is kind of a general phrase that
25 doesn't refer to a specific service. The off-premise

(SPINKS - CROSS BY SHAW)

1 extensions and the tie lines are the specific
2 services, as I see it, and the term loops describe
3 the plant facility that's used to provide that
4 service, but the end service isn't term loop. They're
5 either ordering an off-premise extension or a tie
6 line. If they're ordering an off-premise extension
7 between two locations, the company has said in this
8 case that it runs those requests through the same
9 private line engineering model or whatever it is which
10 tells the company what it needs to provide that
11 circuit by way of where facilities are available, what
12 sort of technical modifications, if any, that would be
13 required on the circuit so that it works, but that
14 depends on the equipment that the customer is going to
15 put at the ends. So to go back it depends on what ELI
16 is ordering, if they're ordering an off-premise
17 extension or if they're ordering what's going to be a
18 tie line, if they can get that same functionality out
19 of the private line tariff out of the schedule of
20 WNU 24 if they're allowed to buy out of that.

21 Q. Now, ELI and Teleport generally have
22 publicly announced that their initial business plan is
23 to provide in metropolitan Seattle alternative access
24 services and switched services to business customers
25 in the nature of a Centrex-type service, correct?

(SPINKS - CROSS BY SHAW)

1 A. I'm not personally familiar, but that
2 sounds similar to what I've read.

3 Q. And as such they will be competing with U S
4 WEST's Centrex Plux service and they will be competing
5 with Northern Telecomm and any of the other myriad
6 vendors of private switching systems, PBX pay systems,
7 correct?

8 A. I'm not certain of any specifics, of their
9 plans to enter any specific markets or how they would
10 intend to do it.

11 Q. You do generally understand that they're
12 going to be targeting business customers in downtown
13 Seattle?

14 A. Yes.

15 Q. And offering them switched network-type
16 services in the nature of a Centrex service?

17 A. Yes.

18 Q. And as such they will be competing with
19 AT&T Centrex service, Metronet's resell of U S WEST
20 Centrex service -- I believe I said AT&T, I meant to
21 say U S WEST -- and PBX and other equipment vendors
22 who are vying for the same business by setting up
23 private networks in the nature of the Evergreen state
24 colleges, correct?

25 A. Well, again, I don't have specific

(SPINKS - CROSS BY SHAW)

1 knowledge of how ELI intends to operate. If you tell
2 me that they are going to operate as providing
3 Centrex-like services, I can accept that. I have
4 heard them say that they intend to target the business
5 market initially. I believe they gave a presentation
6 to the Commission here some time ago -- perhaps it was
7 MCI, but that the idea was that the alternative
8 providers wanted to provide interexchange services
9 that focused first on I think large volume
10 business-type customers, but I'm not familiar, again,
11 with any specifics of how they would intend to
12 provision their own networks to do that beyond the
13 general characterization of a fiber rings that are
14 being built in Seattle.

15 Q. They are going to have a switch, you agree
16 with that?

17 A. Okay.

18 Q. That can be used to provide a Centrex-type
19 service, you would agree with that?

20 A. I will accept that for sure.

21 Q. They are going to have fiber ring and they
22 are going to have access to inside wire in high rise
23 downtown buildings, correct?

24 A. Where they can obtain facilities to get
25 into them, sure.

(SPINKS - CROSS BY SHAW)

1 Q. And they will be competing, as I said, with
2 U S WEST, U S WEST's resellers and equipment vendors
3 like Northern Telecomm?

4 A. To some extent, yes.

5 Q. Now, what Northern Telecomm --

6 A. At least they will try to.

7 Q. Are you predicting the failure of all of
8 the facilities-based carriers that have filed to
9 provide service in downtown Seattle?

10 A. There are things like the interconnection
11 arrangements that we discussed earlier that have to be
12 determined yet and if the cost of any connection for
13 them was so high that their price -- they couldn't
14 afford to set a price that was competitive or a price
15 that's, say, barely competitive, then the development
16 of competition in those areas is -- at least the speed
17 at which it develops would be hampered.

18 Q. Let's take one piece part of that. I think
19 you've agreed with me that first part of their
20 business plan in terms of providing switched exchange
21 services is going to be in the nature of a
22 Centrex-type service aimed at larger private network
23 customers?

24 A. I said I would accept that.

25 MR. GOLTZ: Your Honor, I am going to in

(SPINKS - CROSS BY SHAW)

1 effect renew my objection where he asks a foundation
2 question, the witness says, well, I don't know but I
3 will accept your representation and then we proceed as
4 if the acceptance of the representation is in fact
5 testimony by the witness. And he hasn't testified to
6 that. In fact he's testified that he isn't aware of
7 their business plan, and so by hearing these questions
8 which are really in the nature of testimony by
9 Mr. Shaw and Mr. Spinks is not agreeing to those, at
10 most he is accepting those as a representation, but
11 we're proceeding as if it's Mr. Spinks' testimony
12 based on personal knowledge and it's not and so I'm
13 just wondering where we're leading with this because
14 I'm not sure we have any concrete evidence for the
15 past ten minutes.

16 MR. SHAW: Well, Your Honor, Mr. Spinks is
17 a staff expert on telecommunications. He offered
18 testimony that they're going to try to compete, he
19 agrees that they've made presentations to the
20 Commission of which he's aware of but then he tries to
21 indicate that he doesn't even know what their business
22 plans are but he's predicting that they're not going
23 to be able to compete. I think this is all subject
24 to -- if Mr. Spinks doesn't know what he is talking
25 about that is going to relate very much to the

(SPINKS - CROSS BY SHAW)

1 credibility of his testimony. I think that he does
2 know what he's talking about. I don't know why he's
3 being so reluctant to answer the questions which are
4 very straightforward and in the public arena, very
5 basic questions. So as long as staff's witness and
6 counsel want to play these games I will have to pursue
7 and find out what the witness knows.

8 JUDGE CANFIELD: Well, at the same time, I
9 agree that the witness can certainly indicate if he's
10 not sure of a particular area or doesn't know, but
11 building on that and going into matters that tend to
12 build on a facet that he's not sure about or doesn't
13 know, I would tend to agree with the objection to that
14 extent because it always has to go back to the basic
15 matter that's being assumed or accepted. So that will
16 always have to be repeated just to make sure we have a
17 clear record in that regard, and I think it's fair
18 that the witness does indicate that he will accept
19 that or he doesn't know so that we have it in
20 perspective.

21 I would like to take a break some point in
22 this time line so let me know, Mr. Shaw, when it would
23 be a good point, but I will agree with the objection
24 to the extent that we don't have to have the witness
25 agree with or testify that he has knowledge about

(SPINKS - CROSS BY SHAW)

1 something if he doesn't. I think it's fair that he
2 point out that he's not sure and doesn't know about
3 something, so to that extent I will certainly allow
4 the witness to so indicate and let me when it would be
5 a good time to break, Mr. Shaw.

6 MR. SHAW: Couple of more questions on this
7 line and then we can break, Your Honor.

8 Q. I take it you would agree, Mr. Spinks, that
9 equipment vendors, these new carriers, U S WEST as
10 well as other carriers like AT&T and MCI, are all
11 going to be competing for the switched business of
12 large customers in downtown Seattle?

13 A. Yes. I would hope so.

14 Q. And when Northern Telecomm comes to that
15 large customer and says don't use Centrex, don't use
16 ELI, don't use Teleport, buy a PBX from me and order
17 your term loops out of the term loop tariff, that
18 would be cheaper for you than if you use another
19 carrier that has to order out of the private line
20 tariff for the same thing, we have a problem that
21 could hamper competition. Would you agree?

22 A. Well, I tend to think that you're being a
23 little too specific in focusing on whether or not term
24 loops would make the difference in whether one type of
25 a telecommunications system would prove in and of

(SPINKS - CROSS BY SHAW)

1 itself over another. That a switched vendor may see
2 itself as having a competitive advantage because it
3 can -- because customers can obtain off-premise
4 extensions at a price that might be lower than the
5 price of customer who has to buy -- who doesn't have a
6 PBX or Centrex system but want to provide something in
7 the nature of an off-premise extension and furnishing
8 that out of the private line tariff. They will have
9 different costs for the different systems as a whole
10 and the same would be true in Centrex.

11 Q. So --

12 A. So I would agree, I guess in a broad sense,
13 that these different systems will have different costs
14 associated with them depending on the prices of the
15 various things that are needed with them, but I don't
16 know that I could focus on simply term loops and say
17 because a PBX customer can get a term loop at a price
18 different than a price of its private line equivalent
19 that some competitive advantage has been conferred
20 such that they will do this system instead of another
21 system because each type of system has its own
22 advantages, I guess, and disadvantages.

23 Q. So I take it from that answer that you do
24 not assert that the special access rates to be charged
25 ELI if they wanted term loop-like facility from U S

(SPINKS - CROSS BY SHAW)

1 WEST should be imputed into U S WEST's retail term
2 loop services as it stands today?

3 A. I think in determining -- first thing you
4 have to do when you start talking about imputation is
5 define the service that U S WEST wants to sell or that
6 sells which uses -- which has bottleneck monopoly
7 elements in it and then what rates it charges for
8 those elements. So you would have to be specific, I
9 think. I don't understand how term loops just in and
10 of themselves would be the subject of imputation.

11 Q. Let's talk about imputation more after the
12 break.

13 JUDGE CANFIELD: Let's take a break until
14 11:30.

15 (Recess.)

16 JUDGE CANFIELD: We're back on the record
17 after our morning break. And Mr. Shaw, your questions
18 for Mr. Spinks.

19 Q. When we broke, Mr. Spinks, we were talking
20 about imputation, and let me ask you a couple of
21 foundation questions. You agree that since the
22 supreme court decision in the ELI case that every
23 service provided by U S WEST or any other telephone
24 company in the state is subject to competition, has
25 the potential for competition?

(SPINKS - CROSS BY SHAW)

1 A. Potential for competition, I would agree
2 with. There's no legal barrier that would preclude
3 it.

4 Q. Correct. And if they make the requisite
5 showing any company can register with the Commission
6 and file tariffs or price lists or whatever to provide
7 any telecommunications service regulated by the
8 Commission?

9 A. Needs to be technical competency on the
10 part of the company, financial viability, that's
11 correct. There also needs to be structural changes in
12 the industry, I think, to facilitate their entry.
13 Whatever changes are made by way of tariffs or access
14 arrangements could facilitate or hamper that eventual
15 competition that today is a potential.

16 Q. As we discussed earlier, the Commission
17 first required imputation in the context of toll
18 services in U 85-23, correct?

19 A. Correct.

20 Q. And one of the main reasons articulated
21 for imposing that requirement was fair competition?

22 A. Yes.

23 Q. In the sense that if a competitor to an
24 existing telephone company needed an essential service
25 from that company in order to compete with it, it is

(SPINKS - CROSS BY SHAW)

1 only fair that the phone company in competing with
2 that new entrant when it uses that same essential
3 service cover the tariffed rate for that essential
4 service in its retail rate for that competing service?

5 A. That's correct.

6 Q. Since all services are now potentially
7 competitive, as we've referred, is it the staff's
8 position that an imputation test like that fashion for
9 toll and subsequently for Centrex should be imposed on
10 all services offered by U S WEST when testing those
11 services for the appropriate price?

12 A. I would have to say at this time that I
13 don't know, and the ELI case has been relatively
14 recent, so we haven't put a lot of study or thought
15 yet into what all the future is going to hold.
16 Certainly hold a lot, but if you think back as to what
17 imputation is about that there are these bottleneck
18 monopoly elements which only U S WEST can provide,
19 and only U S WEST has, and anybody who is going to
20 compete with you has to buy that in order to compete,
21 to the extent there are elements and functionality,
22 I guess, of your service that have those
23 characteristics that imputation would still be
24 required, but there's some way -- there's
25 alternatives, effective competition for, say, loops,

(SPINKS - CROSS BY SHAW)

1 then I don't envision that there would be an
2 imputation requirement. But again, that's just sort
3 of my broad discussion. We haven't really undertaken
4 any specific study of what's going to be required.

5 Q. Touchstone of the imputation concept is an
6 essential service, correct? That is, a service, in
7 your words, that the competitor has no economic
8 choice. It cannot duplicate the service itself but
9 must get it from U S WEST. Would you agree with that
10 general concept?

11 A. Yes. I think that's a monopoly bottleneck
12 element.

13 Q. And in the toll context the elements of
14 transport switching that cannot reasonably be
15 duplicated by a competitor and switched access service
16 are imputed to the price floor of U S WEST toll
17 service, correct?

18 A. Well, yes, specifically the CCL, which
19 covers the fixed cost of the loop or the NTS cost of
20 the loop, LS2 switching, transport and the universal
21 service fund. Elements that were competitively
22 provided by like billing and collection services or
23 competitively available, long-run incremental costs
24 was the standard rather than the tariff.

25 Q. And we agreed, I believe earlier this

(SPINKS - CROSS BY SHAW)

1 morning, that the same concept applies to special
2 access. Whatever elements of special access that are
3 essential to the competitor would have to be imputed
4 to U S WEST retail private line service and that test
5 has been solved or met by simply merging the tariffs
6 and charging all customers the same for the same
7 thing, correct?

8 A. Well, I think earlier this morning I
9 indicated that I did not know specifically about the
10 special access situation when what occurs to me as
11 you've asked your question is whether -- how it would
12 come to be that special access would represent a
13 monopoly bottleneck element of telecommunications
14 service and they're not fundamental service like 1FR
15 or 1FB service. They can cover, I guess, many
16 different potential functions that someone might need,
17 but I think it's kind of hard to assess, at this point
18 for me, whether or not I could agree with your
19 statement about the special access piece.

20 Q. Let's go back to my concrete hypothetical
21 to explore that a little bit. Assume with me that ELI
22 has its own loops in downtown Seattle in the sense
23 that it has interbuilding facilities, entrance
24 facilities and access to the inside wire controlled by
25 the landlord in the buildings and for anybody situated

(SPINKS - CROSS BY SHAW)

1 downtown they don't need -- in other words it is not
2 essential that they get loops from U S WEST. Do
3 you have that assumption in mind?

4 A. I do.

5 Q. But they gave a customer that has a branch
6 office on Queen Anne and they have no facilities to
7 Queen Anne, no ability to build those facilities
8 economically in the short run. Would a private line
9 between their switch and the customer location on
10 Queen Anne which they want to construct an off-premise
11 extension to, in effect, be an essential facility in
12 your view?

13 A. Well, certainly if they chose to serve a
14 customer outside the reach of the facilities that
15 they had in place, the fiberoptic ring, as you
16 described the downtown buildings, if they chose to
17 serve somebody who is outside of that ring, then they
18 would have to purchase from U S WEST facilities to do
19 that. There may be other ways, though, but
20 essentially I would -- the private line type of
21 service would be one way to do it. I might say that I
22 think it was ELI in their presentation that indicated
23 they would focus on the large volume, large business
24 customers, at least initially, and I am not sure what
25 that meant, but I don't know that they would have any

(SPINKS - CROSS BY SHAW)

1 plans to attempt to provide those kind of facilities
2 on a Wednesday-Tuesday basis out in locations out of
3 the dense urban sectors where they intend to operate
4 initially.

5 Q. Have you read Mr. Ball's testimony on
6 behalf of Teleport?

7 A. I briefly skimmed it. I did not read it
8 over in any depth. I think I do have it here, though.
9 I do.

10 Q. Do you agree with his assertion that an
11 imputation test needs to be applied to all exchange
12 services in order to determine whether U S WEST's
13 prices for its retail exchange services are correct?

14 A. I think I said earlier that we haven't put
15 a lot of effort yet into analyzing what's going to be
16 required. It could be that initially here where
17 the company has at the outset what I've termed a
18 de facto monopoly in many of its major markets that
19 individual imputation tests would need to be
20 developed, but I couldn't state that conclusively at
21 this time.

22 Q. I want to hand you a copy of RCW 80.36.186
23 and ask you if you're familiar with that statute
24 generally in your role as a Commission staff expert.

25 A. Yes.

(SPINKS - CROSS BY SHAW)

1 Q. Did you consider that statute at all when
2 you arrived at your recommendation to the Commission
3 in this case?

4 A. Yes.

5 Q. For the record, for everybody in the room
6 that may not have it handy in front of them, could you
7 just read that statute, please.

8 A. Certainly. It's 80.36.186 titled "The
9 Pricing of or Access To Noncompetitive Services --
10 Unreasonable Preference or Advantage Prohibited." And
11 the statute reads: "Notwithstanding any other
12 provision of this chapter, no telecommunications
13 company providing noncompetitive services shall, as to
14 the pricing, or access to noncompetitive services,
15 make or grant any undue or unreasonable preference or
16 advantage to itself or to any other person providing
17 telecommunications service nor subject any
18 telecommunications company to any undue or
19 unreasonable prejudice or competitive disadvantage.
20 The Commission shall have primary jurisdiction to
21 determine whether any rate regulation or practice of
22 the telecommunications company violates this section."
23 That's the end of it.

24 Q. Asking you as the Commission staff person
25 who administers the Commission statutes but not as a

(SPINKS - CROSS BY SHAW)

1 lawyer -- I'm not asking you for a legal opinion, but
2 when you considered that statute did you see any
3 application of its directives to the issue of charging
4 a different rate for term loops than is charged for
5 the same service available out of the private line
6 tariff?

7 A. And the question is did I --

8 Q. Did you consider whether or not that
9 statute you just read applied to that situation?

10 A. Yes. I don't think that having separate
11 services that may or may not be functionally
12 equivalent but nonetheless have separate prices would
13 constitute unreasonable preference, just as an
14 analyst. It's admittedly, I think, an arbitrary
15 decision in some respects as to what all we define and
16 call services. I think we talked about that some,
17 request responses, but the services are defined and
18 priced as they are.

19 Q. So I take it, it does not bother you at all
20 in your role with the Commission for U S WEST to
21 continue to charge a different and lower rate for
22 something called a term loop as opposed to the rate
23 charged for the same thing called a private line?

24 A. No, sir. I don't think that that's fair,
25 fair conclusion. My recommendation in this case is

(SPINKS - CROSS BY SHAW)

1 based upon the evidence presented by the company as to
2 why term loops should be eliminated. I disagree with
3 that, and have recommended that the Commission reject
4 the filing for those reasons. That is not to say that
5 if the Commission follows that recommendation that
6 term loops would then become somehow enshrined forever
7 as the service that it is today and especially at the
8 same rate.

9 Q. Perhaps as a matter of semantics but it is
10 the case, isn't it, Mr. Spinks, that U S WEST is not
11 proposing to eliminate term loop-type service so that
12 functionality would never be available to the
13 customers in the future but that the company proposes
14 to rename those services private line services and
15 charge the same rates as it charges for existing
16 private lines services. Do you agree with that?

17 A. Well, I think you're right when you said
18 it's a matter of semantics. You went on to say we're
19 not going to eliminate the functionality. I have not
20 -- I don't disagree with that. I think the
21 disagreement is over the question of whether these
22 existing off-premise extensions and tie lines will be
23 continued to be offered as specific discrete services
24 called off-prem extensions and tie lines or whether
25 those names will -- and rate schedules will be

(SPINKS - CROSS BY SHAW)

1 eliminated and when a customer wants that what the
2 company calls functional and technical equivalent they
3 will go to private line tariff and pick the proper
4 NAC and proper channel performance rate elements that
5 it needs to get its service.

6 Q. Issue in this case as to terminal loop and
7 its associated services is not the service. It's
8 strictly the price. Isn't that true? We could call
9 them bananas. If the price were the same there would
10 be no controversy in this case, would there?

11 A. I'm sorry. I'm not sure I understood your
12 question.

13 Q. I take it from your answer that you have
14 some concern about there no longer being available a
15 service called terminal loop service, but the issue in
16 this case is simply the matter of price that is going
17 to be charged for dedicated facility between a private
18 switch and a customer's premise. Isn't that true?

19 A. Well, not for staff. I think that's
20 obviously true for many of the intervenors as I read
21 their testimony, but my testimony says what it says
22 regarding what I think the issues are. But certainly
23 the price is also of a concern. It's an underlying
24 cost -- if the price is a lot greater than the
25 underlying cost then that price, too, becomes a

(SPINKS - CROSS BY SHAW)

1 concern so for us -- or may become a concern.

2 Q. If U S WEST called terminal loops and tie
3 lines and so forth intraexchange private lines and
4 charged the same price as it does today for terminal
5 loops, tie lines, so forth, you would have no
6 objection in this case, would you?

7 A. I don't know. I suspect that if the
8 company made such a proposal I would have a number of
9 questions. I would develop a number of questions
10 about the proposals and based on responses I got I
11 would determine whether or not it would be a problem
12 to do.

13 Q. Why would the staff be concerned with
14 labels? Does it believe there's a functional
15 difference between an interexchange private line and
16 an intraexchange private line?

17 A. Well, the difference between the two would
18 be that one private line would be contained within the
19 exchange, that's the intraexchange, and an
20 interexchange would be a private line circuit that
21 spans two exchanges.

22 Q. And if those two exchanges were merged into
23 one, as has happened frequently, particularly in the
24 case of Seattle, do those services change?

25 A. That's a good question. I suspect that

(SPINKS - CROSS BY SHAW)

1 you're referring to the EAS expansion. When two
2 exchanges become merged into a single exchange, then I
3 would assume that the two central offices would be
4 served by the same exchange and you would no longer
5 have interexchange mileage, for instance. They would
6 become intraexchange in nature.

7 Q. If you have two exchanges, let's call them
8 Main and Elliott, where calls between Main and Elliott
9 were interexchange and then because of the growth of
10 the population in the community a decision is made to
11 merge Main and Elliott into one exchange but Main and
12 Elliott continue to exist as wire centers within an
13 exchange, is the service, private line service,
14 between Main and Elliott any different after the
15 exchanges are merged?

16 A. Well, physically they would be the same.
17 As far as how the service was then subsequently rated
18 in the tariff would depend on what the tariff said in
19 terms of how services are rated. If there's no
20 mileage charge between exchanges and you redefine
21 these two offices to be in the same exchange then it
22 sounds like the tariff wouldn't apply.

23 Q. The rating in such a situation is not
24 driven by any cost changes whatsoever, is it? It can
25 only be driven by some public policy consideration?

(SPINKS - CROSS BY SHAW)

1 A. Yes, by definition, and those could have
2 been driven by public policy decisions such as EAS,
3 that's correct, sure.

4 Q. So EAS as an example, is it staff's
5 position in this case that any service that is
6 physically intraexchange should always be cheaper to
7 the customer than the same service that happens to be
8 physically interexchange?

9 A. I don't think staff has a position on that.

10 Q. You believe that maintaining the present
11 level of term loop and associated rates is an
12 important element in preserving universal service in
13 the state of Washington?

14 A. I'm sorry, could you repeat that question.

15 Q. Yes. Do you believe on behalf of the staff
16 that maintaining term loop and associated services
17 rates at the same level they are today is important
18 prerequisite to maintaining universal service in the
19 state of Washington?

20 A. No. No, I do not. And I have not
21 recommended that the services stay at the same rate.
22 I have recommended the Commission reject the filings
23 as they've been filed.

24 Q. Universal service considerations have played
25 no role in your recommendation in this case; is that

(SPINKS - CROSS BY SHAW)

1 correct?

2 A. That's correct. What did -- what my
3 thought was about the existence or the elimination of
4 term loop services and other services is especially in
5 this coming era of competition is that we ought to let
6 markets decide whether those services should exist and
7 if so at what price, so I am distinctly uncomfortable
8 with eliminating these services before markets have a
9 chance to determine whether they ought to exist or
10 not. But in a competitive environment that's what
11 will happen.

12 Q. Do you consider directory assistance
13 services to be potentially competitive?

14 A. Not at this time in the state of Washington
15 insofar as any of the evidence that I have reviewed.

16 Q. I used the phrase "potentially competitive"
17 not effectively competitive. Is your answer still the
18 same?

19 A. Well, I think it's likely with the sorts of
20 technological developments that we see continuing
21 every day that where one may not be able to see today
22 physically or network-wise how such competition will
23 develop, I think that if there is profit to be made by
24 doing so that people will figure out a way to provide
25 the service or something like the service and so I

(SPINKS - CROSS BY SHAW)

1 would say that there is -- there would be potential
2 for competition for probably any service that has an
3 economic value.

4 Q. In fact, directory assistance is an
5 exceptionally easy service to provide, is it not? You
6 need a database and a computer and a phone so people
7 can call you and ask you to look up numbers and that's
8 all you need; isn't that right?

9 A. Well, I would like to think it was that
10 simple, but -- and in a sense it is that simple, but
11 unfortunately the database changes every day and so
12 for instance having a current database -- having a
13 database isn't sufficient, you have to have a current
14 database, and every day there are probably hundreds of
15 people in the state of Washington that change
16 addresses and change telephone numbers, and whoever it
17 is that buys these databases not only has to have a
18 basic database at a given point in time but then has
19 to have current changes to it, especially given that
20 there's pretty high likelihood when somebody uses
21 directory assistance it's because they couldn't locate
22 the number in the directory to begin with or the
23 number didn't work or said this service has been
24 disconnected. So I think having the changes is
25 probably --

(SPINKS - CROSS BY SHAW)

1 Q. Are you aware that U S WEST makes available
2 updated database information to others?

3 A. I am aware that U S WEST has some services
4 in which it provides a basic database and then
5 updates them, yes.

6 Q. Assuming that that service is available
7 from U S WEST, then is it true that anybody with a
8 relatively modest investment in telecommunications
9 standards could conceptually go into the directory
10 assistance business?

11 A. Conceptually certainly. The cost of the
12 database and its updates, though, would probably
13 suggest that you would have to have a certain volume
14 level of traffic to break even so it would be -- it
15 wouldn't be a straightforward investment decision as I
16 would see it. But certainly it could be done.

17 Q. In fact there are already in existence in
18 the state of Washington many alternative operator
19 services companies; isn't that correct?

20 A. Sure. The alternative operator service
21 companies is not the same thing as competitive
22 directory assistance, though.

23 Q. Generically directory assistance is just
24 just one service that operators offer. You call up
25 the operator, ask her or him to look up a number and

(SPINKS - CROSS BY SHAW)

1 she or he does that?

2 A. That's correct.

3 Q. Do you think it would also be a
4 consideration to anybody entering the directory
5 assistance business as to what U S WEST charged for
6 directory assistance?

7 A. Yes, yes. It would be pretty hard to get
8 customers if you can't compete with price.

9 Q. Would an imputation test have to be made,
10 in your opinion, of the price U S WEST charges for
11 updated database service to decide whether U S WEST's
12 current directory assistance charge is appropriate?

13 A. Without having spent a lot of time to think
14 about this, it would appear to me just off the cuff
15 that the answer would be yes. It would be a monopoly
16 bottleneck element which is necessary for your
17 competitors and as well as yourself. So you would
18 need to impute to yourself the same rate as you charge
19 competitors.

20 Q. Would you expect from your own personal
21 experience and just general observation that one of
22 the common reasons a customer calls up directory
23 assistance rather than look for their book and look up
24 a number is that the first several are free and it's
25 just simply easier to call the directory assistance

(SPINKS - CROSS BY SHAW)

1 operator than to go find the book and look the number
2 up?

3 A. Only speaking from my own experience, I use
4 the book. The only time I use directory assistance,
5 which is about once or twice a year, is when I can't
6 get a number.

7 Q. Would you expect that from the data made
8 available to you showing that very few people use
9 directory assistance a lot, very small minority of
10 people use it a lot, is that directory assistance is
11 used both by people who don't want to go look it up in
12 the book because the first few calls are free and also
13 by those who are gaining some commercial value out of
14 obtaining that number, like getting a number so you
15 can go sell something to somebody?

16 A. No.

17 MR. TROTTER: Your Honor, I am going to
18 object to the question for lack of foundation. This
19 witness from the previous answer said he's just basing
20 his response on his own personal experience. It's not
21 been shown that he's done any study as to the
22 motivations of DA users.

23 MR. SHAW: He can only answer what he
24 knows. Now that he's been instructed by counsel I
25 will presume he will say he doesn't know.

(SPINKS - CROSS BY SHAW)

1 MR. TROTTER: Well, he's already said he
2 doesn't know.

3 JUDGE CANFIELD: In view of his earlier
4 responses, I would let him answer based upon his
5 knowledge and those prior answers have so been
6 indicated so I will allow the witness to respond if he
7 knows.

8 A. My answer is that I can't tell on the basis
9 of the information which was provided by the company
10 for residential calls. When I reviewed that data I
11 noticed that -- this was after cross of the company --
12 that they had categorized the frequency of calls that
13 residential subscribers made -- categorized it, but
14 the usage numbers were 67 percent make zero or one
15 directory assistance call per month in the sample and
16 that's the way it was set out in the testimony. And
17 it occurred to me, when I looked at that, that that
18 number wasn't really particularly useful to me because
19 it didn't tell me, well, how many people make none and
20 how many just make one, and we don't have that
21 information because of the way the company aggregated
22 the numbers.

23 Q. Do you dispute the evidence of the company
24 that less than 2 percent of Washington customers call
25 directory assistance requesting a number that is not

(SPINKS - CROSS BY SHAW)

1 in the published book, current published book?

2 A. I wasn't aware that there was evidence in
3 this case to that effect. To the extent there is I
4 have no reason to dispute it.

5 MR. SHAW: Thanks. That's all I have.

6 JUDGE CANFIELD: Thank you, Mr. Shaw.

7 Let's take a short recess to see how much time to
8 allow for lunch and then we'll take our lunch break.

9 (Discussion off the record.)

10 JUDGE CANFIELD: We'll take our lunch break
11 now and we'll come back at 1:30

12 (Lunch recess at 12:10 p.m.)

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(SPINKS - CROSS BY SHAW)

1 AFTERNOON SESSION

2 JUDGE CANFIELD: We're back on the record
3 after our lunch break. At the conclusion of the
4 morning session Mr. Shaw had just concluded his
5 questions of Mr. Spinks and we were going to begin the
6 next questioner and that's Mr. Harlow.

7 MR. HARLOW: Had Ed concluded?

8 MR. SHAW: Yes.

9

10 CROSS-EXAMINATION

11 BY MR. HARLOW:

12 Q. Good afternoon, Tom.

13 A. Afternoon.

14 Q. At page 8, line 6 of your testimony, you
15 refer to U S WEST's argument that it needs to adjust
16 its business line rates because of, quote, increasing
17 competition. Do you recall that testimony?

18 A. Are you on page 6 or page 8, I'm sorry?

19 Q. Page 8, line 6.

20 A. This is the testimony regarding the example
21 of the automobile?

22 Q. Do I have it backwards? Should be page 18,
23 line 6.

24 A. Yes, I have that.

25 Q. Is the staff in favor of increasing

(SPINKS - CROSS BY HARLOW)

1 competition in general?

2 A. Well, I'm not sure what you mean by the
3 term increasing competition.

4 Q. Is the staff in favor of promoting
5 competition?

6 A. Well --

7 Q. Should I rephrase it?

8 A. Well, I think it's a little difficult to
9 answer but I think I can answer it. I don't think
10 we're for or against competition. Competition will
11 develop in these markets because there aren't legal
12 barriers, and so having some orderly change, if you
13 will, in these markets, it is essential and so the
14 role of the Commission and the staff then is to
15 oversee this transition of the market so --

16 Q. Do you believe the development of
17 competition is in the public interest?

18 A. Yes. And our role is simply to try to
19 bring about the result that would come about in a
20 competitive market, so if a competitive market will
21 provide the price discipline and service offerings
22 that people demand then let the markets do it and we
23 can get out of the way.

24 Q. On that same page 18 still at lines 11 to
25 15, you refer to a market basket, closed quote, that

(SPINKS - CROSS BY HARLOW)

1 is being discussed between staff and U S WEST that
2 would allow pricing flexibility, quote, as market
3 conditions warrant. What did you mean there by as
4 market conditions warrant?

5 A. Well, we have existing statutes which set
6 forth criteria upon which the Commission would find --
7 can make findings as to the competitiveness of
8 services. We have banded rate statute, competitive
9 classification statute for both companies and services
10 as well, and that's what I was referring to was the
11 findings that would be made in conjunction with the
12 proceedings that invoke those statutes.

13 Q. With that understanding in mind, do you
14 believe the market conditions do or do not yet warrant
15 price reductions and restructures at the present time?

16 A. Well, we haven't done any study, and there
17 hasn't been any case filed by the company for
18 competitive classifications of the service, so I would
19 presume that the effect of competition has not yet
20 developed.

21 Q. I believe elsewhere in your testimony you
22 stated -- you referred to the continuing de facto
23 monopoly that U S WEST has. Do you recall that?

24 A. Yes.

25 Q. That testimony would indicate that you do

(SPINKS - CROSS BY HARLOW)

1 not believe that market conditions do not currently
2 warrant pricing conditions and restructures?

3 A. Sure. That statement applied to just the
4 broad spectrum of U S WEST services and revenues that
5 it gets from those services and to its subscribers.
6 That is not to say that there aren't segments of
7 markets of broad markets, like a large volume toll
8 market, for instance, where effective competitive
9 conditions could exist or do exist.

10 Q. I'm just simply referring at the present
11 time to business exchange access lines.

12 A. Okay.

13 Q. Do you believe that the market conditions
14 for those particular services warrant pricing
15 reductions and restructures?

16 A. Not on the basis that there is effective
17 competition for those services, no.

18 Q. Do you have any opinion on whether or not
19 the price changes and restructures that U S WEST is
20 proposing for business on lines would or could have an
21 impact on existing or emerging competition for those
22 services?

23 A. I don't know. I think that there's two
24 factors. Certainly the price of the incumbent
25 services, U S WEST current prices, would be a factor,

(SPINKS - CROSS BY HARLOW)

1 but more important I think is the factor of what are
2 the underlying costs of these potential competitors
3 going to be. If their underlying costs are \$5 a month
4 then if U S WEST lowers its price for these complex
5 lines from \$37 to \$33, it's not likely to have much of
6 an effect on the potential for competitive entry
7 because their underlying costs would be so low.

8 Q. Let's look more specifically at, say,
9 Metronet and Enhanced Telemanagement, Inc. which U S
10 WEST has cited in its testimony as being competition
11 for these services. Do you have any familiarity at
12 all with their underlying cost structure for portions
13 of the service that they resell or rebill?

14 A. Some.

15 Q. Do you have any opinion on whether or not
16 the proposals that U S WEST is making in this
17 proceeding for reducing and restructuring business
18 line rates will have any impact on Metronet or ETI?

19 A. Well, I know from discussions with those
20 parties that they have expressed to me certainly that
21 the reductions would have an effect on their business
22 because the markets they serve is a five to ten-line
23 market. The effective price to the customer in that
24 market is the complex line rate if they're a U S WEST
25 customer and they have more than five lines, whereas a

(SPINKS - CROSS BY HARLOW)

1 reseller or a rebiller, their cost would be based on
2 the costs that they receive their Centrex services on
3 that they resell.

4 Q. Are you familiar with those costs which are
5 U S WEST prices?

6 A. Yes.

7 Q. And are you familiar with U S WEST
8 still pending proposal to change the Centrex prices?

9 A. Yes.

10 Q. And do you know whether the proposal
11 represents a -- as U S WEST has proposed -- represents
12 an increase or decrease in the Centrex rates that
13 Metronet or ETI resell or rebill?

14 A. No. I'm not sure on balance where that
15 comes out. I'm not.

16 Q. Do you have any opinion whether or not the
17 proposed restructures and repricing for business line
18 rates that we're dealing with in these cases would
19 render Metronet and ETI less able or more able to
20 compete with U S WEST?

21 A. Well, I guess I don't agree with the
22 premise that a reseller or rebiller of a service is a
23 competitor of U S WEST. I guess I see them as being
24 more an agent of the company than a competitor.

25 Q. Do entities such as Metronet and ETI have a

(SPINKS - CROSS BY HARLOW)

1 significant ability to restrain price increases by U S
2 WEST?

3 A. Yes.

4 Q. And to what extent? Are there some
5 limitations on their abilities to do that?

6 A. Certainly the underlying price that they
7 have to pay for the inputs is a constraint as well as
8 the existing prices or they're competing against.

9 Q. Would it be fair to refer to Metronet and
10 ETI as dependent competitors? Have you ever heard
11 that term used?

12 A. No, not in the genre of economics, of
13 economic literature, but I think if I understand the
14 term, as you mean it, you would be referring to the
15 fact that you're receiving your inputs from U S WEST
16 who you are, in some sense, competing with for the
17 same customers.

18 Q. Thank you for that clarification. Now, on
19 page 18 again, line 16 and that sentence in there you
20 refer to another vehicle in another proceeding. For
21 the record, could you please state what the other
22 proceeding is that you're referring to in that portion
23 of your testimony?

24 A. What I am referring to at that point in my
25 testimony is the one of two processes which are --

(SPINKS - CROSS BY HARLOW)

1 which will take place here in the next -- currently in
2 the coming time several months. That is, the current
3 alternative form of regulation plan for U S WEST is
4 expiring at the end of this year and the staff and the
5 company are working on a replacement vehicle for that
6 and other parties are involved in that. If for some
7 reason U S WEST was to not accept or adopt or to go
8 into -- enter into a new alternative form of
9 regulation, then there might be a complaint proceeding
10 instituted in which the issues would be addressed.

11 Q. This testimony relates to your response
12 to U S WEST data request No. 17, if you have that
13 there, if not I can read it for you.

14 A. Yes, I'm familiar with the response.

15 Q. Which states, "as the company is well
16 aware, the scope of the issues raised by this question
17 is global and should be addressed by the Commission on
18 a global basis. Staff believes the Commission would
19 not be well served by any attempt to address these
20 global costing and pricing issues in the context of
21 this proceeding." Do you recall that?

22 A. That's a response, yes.

23 Q. Tell me, if you could, please, just
24 elaborate on that response as well as your testimony
25 on page 18 as to why you feel it would be preferable

(SPINKS - CROSS BY HARLOW)

1 to handle these issues on a global basis rather than a
2 piecemeal filing such as the ones at issue in this
3 case.

4 A. Sure. It's really rather straightforward.
5 Within the context of this proceeding -- the only
6 thing that's before the Commission is the price of a
7 complex line, the price of a directory assistance
8 call and the question of the elimination of some other
9 services. As Mr. Shaw, cross came over this morning,
10 brought out, there are in fact a number of local
11 exchange services all of which may be subject to at
12 least the potential for some competition, so you're
13 talking about all your business access line type
14 services, Centrex, complex lines, one flat business
15 lines, residence lines. There may be -- likely to be
16 a number more, and nowhere in the context of this
17 proceeding are those -- the prices and the costs for
18 those services being addressed.

19 So, my concern has to do with some of these
20 services are -- may seem to be sources of subsidies.
21 Others services to the extent the low cost would be
22 users of these subsidies and what we have before us in
23 this proceeding is just one service that's priced
24 above its cost, and that's complex lines, and we don't
25 know where costs and the rates are for other services

(SPINKS - CROSS BY HARLOW)

1 within the context of this proceeding. So to adjust
2 this one rate without looking at what effects that has
3 on other rates, given the ELI decision and the
4 recognition by the Commission and the staff that this
5 transition needs to take place, that we need to
6 address all of these services on a more holistic basis
7 and not on a piecemeal basis.

8 Q. In giving this particular testimony and
9 this data request response -- let me back up first.
10 Did you read Mr. Ball's testimony?

11 A. I briefly looked at it. I didn't read it
12 in depth.

13 Q. Do you have kind of a --

14 A. If there's a page you want to refer me to.

15 Q. I just wondered if you have kind of a
16 general familiarity for the concerns that he raised
17 about these particular filings.

18 A. No, I don't. No. I didn't study that.

19 Q. Well, maybe I can ask you more generically,
20 do you have any concerns about the potential for
21 anticompetitive pricing when the company approaches
22 rate restructures on a piecemeal basis as opposed to
23 the global picture?

24 A. That's certainly a possibility.

25 Q. If you would, please, turn to page 6 of

(SPINKS - CROSS BY HARLOW)

1 your testimony. Direct your attention to the question
2 on lines 23 to 25 where you were asked about the cost
3 differences between extension and tie line services on
4 the one hand and private line NAC and channel
5 performances on the other. In the response you said
6 something to the effect of cost differences could
7 exist for two reasons and then the first reason you
8 gave, which is at the top of page 7, was that
9 "Differences will exist because of the way costs are
10 studied." Do you have that testimony in front of you?

11 A. Yes.

12 Q. In stating that costs will differ according
13 to the way they are studied, do you have in mind that
14 the results of U S WEST's cost studies will vary
15 according to how U S WEST studied the costs?

16 A. Well, that's certainly a possibility, but
17 that's not what I had in mind when I said this.

18 Q. Please tell us what you had in mind when
19 you said that.

20 A. There are elements to provisioning
21 services. There's different ways you can define the
22 what I call, buckets that you put various costs into,
23 and depending how you define these buckets which you
24 subsequently put costs into, when you get all done
25 studying them, you can come up with -- in my view it's

(SPINKS - CROSS BY HARLOW)

1 possible to come up with two different cost estimates
2 that represent the costs for the very same thing that
3 you've studied. The only thing that's different is
4 how you studied it. You may include a particular
5 functionality in with the loop and because of that the
6 cost of that functionality turns out to be lower than
7 when you studied it by itself or when you studied it
8 over here in conjunction with yet another function.
9 So, that's what I'm trying to say in that testimony.
10 That's what I'm referring to.

11 Q. Focusing on U S WEST's cost studies that
12 you're familiar with, are you aware of any instances
13 when U S WEST cost studies for services that you
14 believe are functionally and technically equivalent
15 showed different costs because the studies were done
16 in different ways?

17 A. Well, I don't think I can answer that
18 because I really don't know what functionally and
19 technically equivalent means.

20 Q. You have your own personal definition of
21 what functionally and technical --

22 A. No, I don't.

23 Q. I didn't quite finish. The question was
24 going to be, do you have any personal opinion as to
25 what functionally and technically equivalent mean and

(SPINKS - CROSS BY HARLOW)

1 I believe you answered no. If you could develop a
2 definition of functional and technical equivalents,
3 Mr. Spinks, would you be advocating the studying of
4 costs in different ways so that services that are
5 functionally and technically equivalent, according to
6 your definition, will have purportedly different
7 costs?

8 A. I really don't know. I don't think I could
9 really say. It's not something that I've given a lot
10 of thought to.

11 Q. Do you think it's appropriate that services
12 that are functionally and technically equivalent that
13 you should be able to come up with more than one
14 different cost for them, using different methodology?

15 MR. GOLTZ: Your Honor, I object. Mr.
16 Spinks has already testified that he doesn't have in
17 mind a definition of functionally and technically
18 equivalent and kind of going down that route so I
19 think there's been not adequate foundation laid for
20 this question.

21 MR. HARLOW: Well, I'm just trying to find
22 out whether he advocates doing cost studies in
23 different ways to come up with different costs for the
24 same thing. I'm just trying to clarify that part of
25 his testimony that talks about cost differences

(SPINKS - CROSS BY HARLOW)

1 depending on how you look at it, whether he's just
2 observing them, that LECs do, or whether the witness
3 is saying that's okay, you can do cost studies, study
4 the same functionality and come up with two different
5 costs, and I understand the witness is having a little
6 difficulty with it, but I think I ought to be allowed
7 a little leeway to try and clarify that testimony.

8 JUDGE CANFIELD: I think he's answered the
9 general line of questioning with the answer that he
10 hasn't given a lot of thought and you're delving into
11 it more and more. I guess he can repeat that answer.
12 I guess I will allow it a time or two more, but if
13 it's just going down the same road, same answer, I
14 would tend to agree with the objection. So I will
15 allow the last question anyway.

16 Q. Perhaps with the objection and the
17 explanation, you can clarify it a little bit better.
18 If you can, I would appreciate it.

19 A. If you could re-ask the question the way
20 that you asked it when you explained to him what you
21 were looking for, I think I can answer that.

22 Q. That's what I'm looking for is when you
23 have the same service, it may have a different name on
24 it, but if you've got basically the same service or
25 functionality, do you believe it's appropriate to be

(SPINKS - CROSS BY HARLOW)

1 able to study that in two different ways and direct
2 two different costs for it?

3 MR. SHAW: Objection. Appropriate for
4 what?

5 MR. HARLOW: Appropriate as an economist
6 studying costs.

7 MR. SHAW: Your Honor, I think the question
8 is misleading. I mean, you could do different study
9 methodology and come up with different answers.
10 Appropriateness is what you do when you act on them.
11 Question is vague and misleading.

12 JUDGE CANFIELD: Maybe we could get the
13 question defined just a little bit more fully, Mr.
14 Harlow.

15 MR. HARLOW: I'm just defining it in terms
16 of appropriateness in his opinion as an economist.

17 THE WITNESS: I can answer that.

18 JUDGE CANFIELD: I will allow the question.
19 I do agree that there's some room for ambiguity there,
20 but hopefully the answer will take care of that and if
21 not Mr. Shaw can follow up.

22 A. I think it would be appropriate to --
23 certainly not inappropriate to study costs from, for
24 instance, a long-run incremental cost using a long-run
25 incremental cost methodology and using an embedded

(SPINKS - CROSS BY HARLOW)

1 cost methodology. There's value to knowing what these
2 different costs estimates are. Also, in the context
3 of what I was talking about and the way different cost
4 elements can get studied into different -- sometimes
5 those are driven by engineering decisions, decisions
6 about how the company chooses to study it. It's not
7 something that without further study of an explicit
8 example that I could render any statement on as to
9 whether it was appropriate or inappropriate to study
10 costs in that manner, and so really that's about all I
11 can say.

12 Q. Sounds like sort of it depends?

13 A. That's typical response from an economist.

14 Q. I'm going to leave that then and thank you
15 for your time.

16 MR. HARLOW: That's all the questions I
17 have.

18 JUDGE CANFIELD: Thank you. Mr. Finnigan,
19 questions for Mr. Spinks.

20

21 CROSS-EXAMINATION

22 BY MR. FINNIGAN:

23 Q. Good afternoon, Mr. Spinks.

24 A. Good afternoon.

25 Q. At page 15 of your testimony line 9 you use

(SPINKS - CROSS BY FINNIGAN)

1 the term basic local service?

2 A. Yes, sir.

3 Q. Is a basic local service something that a
4 company which offers local service is required to
5 provide?

6 A. I think, as I understand the history of the
7 development of telecommunications in the United
8 States, that the notion was that the company would
9 undertake to offer basic local service, if you will,
10 and it would be granted a franchise. In many places
11 it's been granted a franchise to provide the service
12 in that way, and the reason for granting the franchise
13 was the technology and the economics that existed by
14 only having one pair of wires run to each house, so
15 there was a -- it may be in certain states that there
16 is an explicit not only definition but offering of
17 basic local service. It's a requirement of that state
18 Commission, I don't know, but in this state there
19 isn't an explicit stated definition and requirement
20 that I am aware of.

21 Q. If there's no stated definition and no
22 stated requirement to provide the elements of basic
23 local service, what did you have in mind when you used
24 that term at page 15, line 9? What was the import of
25 calling directory assistance a necessary part of basic

(SPINKS - CROSS BY FINNIGAN)

1 local service?

2 A. Well, there is, as a matter of fact I had
3 provided you with, a definition of what we consider to
4 be the elements of basic local service which companies
5 undertake to provide. The Commission does explicitly
6 do rules, create rules, which state the conditions
7 under which various aspects of basic -- of local
8 service are provided wherever they feel it's necessary
9 that a company have explicit direction in what it has
10 to offer, so that's why we have the billing rules, et
11 cetera.

12 Q. Is it true that the Commission has not
13 adopted a definition of basic local service?

14 A. Insofar as my knowledge goes. I have never
15 heard of one, a specific definition being adopted or
16 even being used.

17 Q. You said that there are rules that refer to
18 basic local service or elements of basic local
19 service. Could you identify those rules for me,
20 please.

21 A. They refer to the elements -- some of the
22 elements of what I would call basic local service.

23 Q. Are they --

24 A. I don't have the rule book before me, but I
25 noted that of the lists that I gave you in response to

(SPINKS - CROSS BY FINNIGAN)

1 your data request that there were -- which I think was
2 your data request No. 5 -- that there were -- for
3 instance, for the billing and collection function if
4 you go to the rule you will find deposit rules, rules
5 on business offices, business office hours, et cetera,
6 that are there for that element. There's service
7 quality rules in the WACs.

8 Q. Are you saying that having certain office
9 hours is a necessary part of basic local service. Is
10 that what you're telling me?

11 A. Well, that's what the Commission has
12 determined in approving a rule which requires such of
13 the company.

14 Q. Are you saying, then, that every rule the
15 Commission passes is the Commission's action in
16 defining basic local service?

17 A. No.

18 Q. Then, for example, for the rule dealing
19 with customer deposits and payment of customer bills,
20 did the Commission in the preamble to that rule
21 indicate that it was -- or in any part of that rule
22 indicate that it was defining a necessary element of
23 basic local service?

24 A. Not that I am aware of.

25 Q. You referred to the data request No. 5

(SPINKS - CROSS BY FINNIGAN)

1 which, as I understand it, is your view of the
2 necessary elements of basic local service?

3 A. Yes.

4 Q. And it's not the Commission's nor the
5 Commission staff as a whole but yours personally; is
6 that correct?

7 A. Well, actually it's probably more of a
8 staff view.

9 Q. So this is a staff view although in answer
10 to another data request you indicated the Commission
11 staff itself had not adopted a definition of basic
12 local service?

13 A. Yes. What it meant by that response was
14 that in developing this I consulted with other staff
15 for their comments, ideas, opinions and the like, and
16 I think what I've presented here in response is sort
17 of a consensus of what we think constitutes basic --
18 what we say is basic local service within the context,
19 the general broad general context that I used in this
20 testimony. I did have comments back from some staff
21 that, well, there's really a lot more to it, could be
22 a lot more explicit, and I chose not to incorporate
23 that -- while I agreed with it I chose not to
24 incorporate it into this response because I was
25 responding to your question as to what I meant when I

(SPINKS - CROSS BY FINNIGAN)

1 used the term in my testimony, and in my testimony
2 what I meant -- I just used this term in just a broad
3 sense, and so I am responding to your question in just
4 a broad way, here are the elements of what I think
5 that constitutes.

6 Q. Is it my understanding that your view of
7 basic local service is that it is -- deals with
8 two-way voice communication but does not include data
9 communication?

10 A. That's correct. Other than the fact that
11 data communication can coincidentally occur -- and I
12 had thought about this question a little -- I believe
13 you can -- my modem will work at 1224 over my voice
14 grade residential access line. It will do that
15 because the modem is made to work with the line that's
16 within those specs, so it doesn't -- I would say the
17 definition doesn't explicitly include it because the
18 Commission, unlike where they had declared the single-
19 party service and touch tone would be a part of this
20 local service, they've never said anything with regard
21 to data services. So it can occur but it's not
22 explicitly.

23 Q. If it's incidental to the provision of
24 voice service, then is that your testimony it is a
25 part of the definition but if it requires additional

(SPINKS - CROSS BY FINNIGAN)

1 capacity beyond what is provided for voice grade
2 service that is not part of basic local service?

3 A. Right.

4 Q. You indicated that there were some elements
5 of -- that were a necessary part of basic local
6 service. One of those was monthly billing and
7 collection. Do you mean by that the service that is
8 provided through the access tariffs to interexchange
9 companies?

10 A. No. I was thinking of the rendering of my
11 local service telephone bill to the end users.

12 Q. So it's necessary that part of basic local
13 service that the customer be billed and that the bill
14 be paid, is that what you're saying?

15 A. Yes. It doesn't have to be on a monthly
16 basis, I guess, but that's the industry standard, I
17 would say.

18 Q. The second element you listed was access to
19 extended calling areas or EAS where available. What
20 did you have in mind when you used the term where
21 available?

22 A. Well, just that. In some areas, EAS routes
23 haven't been proposed or adopted by the Commission and
24 therefore they don't have any extended area service to
25 connect to, to be part of. That's all I meant by

(SPINKS - CROSS BY FINNIGAN)

1 it.

2 Q. But you will agree with me, won't you, that
3 it's physically possible to provide EAS for each and
4 every exchange within the state of Washington, is it
5 not?

6 A. Well, since they're all connected by a toll
7 network, if you declared the facilities to be local,
8 sure.

9 Q. In fact isn't that one of the items that
10 the Commission was considering in 1990 and 1991 when
11 it studied EAS, LATA-wide EAS, statewide EAS, there
12 were a number of EAS alternatives on the table at
13 that time?

14 A. EAS is one of the areas that I've
15 studiously tried to avoid knowing much about. I
16 really was not a part of that study and don't know
17 what all the data encompassed.

18 Q. Is that what leads to perhaps some
19 ambiguity in that portion of your response?

20 A. No. The words where available was simply
21 meant to convey that it's not available in every
22 exchange and so if it's not available in every
23 exchange it wouldn't be a part of basic local service
24 to require it or to provide it, but there are places
25 wherever the Commission has approved an EAS route

(SPINKS - CROSS BY FINNIGAN)

1 where the local exchange subscriber, it is available
2 to them. If Olympia has EAS to Shelton the telephone
3 company can't fail to provide me that toll free access
4 to Shelton. As a subscriber I'm entitled from this
5 exchange to call there. So that's what I meant about
6 where available is the fact that it is available from
7 Olympia to Shelton. It's not available from Olympia
8 to, say, Chehalis. So a call to Chehalis is not a
9 local call.

10 Q. If a competitive entrant came into the
11 Olympia market and wanted to offer local service in
12 competition with U S WEST but did not want to offer
13 extended area service to Shelton, which is currently
14 part of Olympia's EAS network, would that company not
15 be meeting your definition by not providing a
16 necessary element of basic local service.

17 MR. TROTTER: Your Honor, I guess I will
18 object. Probably should have about ten minutes ago.
19 I don't know how this ties to this proceeding.
20 Clearly he's talking about basic local service in the
21 context of DA calls. Now we're talking about EAS and
22 if a competitor comes in and wants to offer EAS out of
23 Olympia and I don't understand what connection that
24 question has to this proceeding. So I will object on
25 that basis.

(SPINKS - CROSS BY FINNIGAN)

1 JUDGE CANFIELD: Mr. Finnigan.

2 MR. FINNIGAN: Thank you, Your Honor. I am
3 exploring Mr. Spinks's use of the term basic local
4 service. He has provided that as a touchstone for
5 whether or not in this case directory assistance is
6 something that's imbued with the public interest by
7 describing it as a necessary part of basic local
8 service. As such, I think it's incumbent upon Mr.
9 Spinks to define the term basic local service and he
10 has in response to a data request, and I am exploring
11 his definition as he provided it to me.

12 JUDGE CANFIELD: I guess it depends on the
13 level of detail we need to get into with the examples
14 to get a general concept down. I don't know whether
15 you're asking whether each and every element would be
16 necessary to constitute basic local service. I guess
17 I agree we're getting a little bit sidetracked into
18 the EAS end of it although it is one of the elements
19 listed here. So I would agree I don't want to get
20 into all type of detail into another type of service
21 offering, but as far as it's tied into the elements, I
22 think that's a fair area of concern, but maybe it's
23 the level of detail that we're getting into that may
24 not be totally necessary so maybe we could just
25 short-circuit it to the extent necessary to get the

(SPINKS - CROSS BY FINNIGAN)

1 question answered, I would be in favor of that.

2 MR. GOLTZ: For those of us who can't
3 recall the last question, could maybe -- I hesitate to
4 ask the court reporter to reread it but maybe it could
5 rephrased.

6 (Record read as requested.)

7 A. I don't know how or whether or the extent
8 to which competitive entrants will be regulated by the
9 Commission. I would suggest that we ought to let the
10 consumer be the decider of whether the service that
11 they would want to offer is adequate or not for their
12 needs, so customers may well not care whether Shelton
13 is provided as part of their monthly basic local
14 service or not and may choose to purchase something
15 called local service from an entrant that doesn't
16 include Shelton.

17 Q. For the record, in order to shorten this up
18 somewhat, I want to go through the -- I will just list
19 the elements you gave me in response to the data
20 request which in staff's view constitute the elements
21 that are necessary as part of basic local service.
22 One we talked about was monthly billing and
23 collection. Second was access to extended area
24 calling, EAS, where available. The third was a
25 current subscriber directory with the listing. The

(SPINKS - CROSS BY FINNIGAN)

1 fourth was access to operator services including
2 directory assistance. The next was touch tone
3 capability. The next was single party service. Then
4 access to 911 service and finally access to areas
5 outside the local exchange calling area and that
6 completed the list; is that correct?

7 A. That's all we could think of that would be
8 by way of a broad general response.

9 Q. And am I correct in interpreting that the
10 last one I mentioned, access to areas outside the
11 local exchange calling area, means access to
12 interexchange carriers or providers of toll service?

13 A. Yes, that's correct.

14 Q. You indicated in response to my question
15 about the new entrant in Olympia that you're not sure
16 if a new entrant would have to provide each of those
17 enumerated elements. Is it your view that the
18 incumbent provider is required to provide each of
19 those elements?

20 A. I would say that the incumbent provider
21 provides all of these elements, that it is required to
22 provide a number of them under rule -- provides a
23 number of them in conjunction with compliance with
24 Commission rules and provides whatever isn't provided
25 by explicitly for under rule as by tradition, I guess

(SPINKS - CROSS BY FINNIGAN)

1 I would call it.

2 MR. FINNIGAN: Your Honor, this is a very
3 fascinating area, at least to me, but I won't bore
4 everyone with it, and I will pass.

5 JUDGE CANFIELD: Mr. Butler, any questions?.

6 MR. BUTLER: No.

7 JUDGE CANFIELD: Mr. Nettleton?

8 MR. NETTLETON: None.

9 JUDGE CANFIELD: Ms. Frickelton left.

10 MS. FRICKELTON: None.

11 JUDGE CANFIELD: None. She's in the back
12 of the room. Okay. That's tantamount to leaving, I
13 guess. Mr. Kahn.

14 MR. KAHN: I have some.

15

16 CROSS-EXAMINATION

17 BY MR. KAHN:

18 Q. Mr. Spinks, good afternoon.

19 A. Afternoon.

20 Q. Are you familiar with the discontinuing of
21 the Centriflex 3 service by the Commission?

22 A. I am familiar that Centriflex 3 was
23 grandfathered and ended sometime ago by the company's
24 filing of a tariff revision which the Commission did
25 not suspend.

(SPINKS - CROSS BY KAHN)

1 Q. At the time of the change, then, and the
2 elimination of Centriflex 3 service, was there
3 grandfathering of that service by the Commission?

4 A. Yes.

5 Q. Have there been other instances where the
6 Commission has grandfathered existing customers during
7 a transition period?

8 A. Yes. There's been a number of incidents.
9 Centriflex 3 was only one of several Centrex-type
10 services which the company has offered over time and
11 as each generation of Centrex replaced the prior one,
12 in many cases or in several cases, the prior -- the
13 old service would then be grandfathered. I also
14 recall when we eliminated telechoice offering -- I
15 believe it was a measured service offering -- that we
16 grandfathered those customers, too, and there's
17 probably other examples out there I just can't think
18 of right now.

19 Q. Would it be accurate that grandfathering is
20 a procedure which the Commission has adopted with
21 approval in a number of prior cases during a
22 transition period?

23 A. Oh, yes. The companies and Commission have
24 used grandfathering for many years at this Commission
25 as a way to easily transition services and customers

(SPINKS - CROSS BY KAHN)

1 without having harmful effects on customers but
2 allowing the company, though, the latitude to move on
3 with what it wants to offer with its next generation
4 of services.

5 Q. Directing your attention to your testimony
6 at page 9, line 25. You state that the elimination of
7 term loop service is not necessary from a
8 discrimination standpoint?

9 A. Yes, I see that.

10 Q. In the rebuttal testimony of Mr. Rees, he
11 stated that the current pricing of these services
12 would violate the discrimination statutes. Could you
13 state the basis of your disagreement with Mr. Rees on
14 the discrimination clause?

15 A. Well, it's my view that these services have
16 underlying cost differences. That is, an off-premise
17 extension and a tie line has a different cost than the
18 generic, off the shelf, what I call piece part private
19 line equivalents. Services that would provide rate
20 elements -- excuse me -- private line rate elements
21 could be used to make up the functionally and
22 technically equivalent type of circuit that's provided
23 today by the term loop, off-premise extension and tie
24 line service tariff.

25 Q. Asking you now a question from the rebuttal

(SPINKS - CROSS BY KAHN)

1 testimony of Ms. Santos-Rach, she states on page 18
2 lines 1 through 10 that the criteria for determining
3 the term loop exchange services are functionally
4 equivalent to private line services is based on
5 standard engineering and design criteria. Do you
6 agree or disagree that the determination that they're
7 equivalent is based on standard engineering and design
8 criteria?

9 A. Well, I'm not sure what she means by that.
10 These NC/NCI codes may also be the same codes which
11 apply to a residential or a business access line. I
12 have no way of assessing without more information
13 about whether what she said there makes any sense or
14 not.

15 Q. Are there standards other than engineering
16 criteria which the Commission should properly take
17 into account when determining the pricing of services
18 such as the term loops service, and if so, what are
19 those other considerations?

20 A. Well, yes. The fact that there are
21 economic underlying cost differences which would
22 produce different costs for the service ought to be a
23 consideration. There's the general matters that --
24 the notion that pricing is determined solely upon an
25 engineering consideration I don't think has ever been

(SPINKS - CROSS BY KAHN)

1 the sole criteria for any service. There are always
2 public policy considerations for services that go into
3 the final determination of the price for the service.
4 So residential service rates are lower than business
5 rates and yet you would be hard pressed -- hard
6 pressed to find a difference between a residential
7 access line and a business access line in the sense
8 that when you pick them up you have dial tone, access
9 to the same switched local network yet they have
10 different prices. Those are caused by -- could
11 be underlying cost differences because there's
12 probably higher usage -- there is higher usage on a
13 business line than a residence line. So you have
14 underlying cost difference and you also have policy
15 issues which lead a Commission to -- universal service
16 consideration, for instance, to price residential
17 service the way it does.

18 Q. Turning now to the issue of imputation
19 which was raised by Mr. Shaw this morning. Have you
20 conducted any study of imputation and possible
21 remedies in this particular case?

22 A. No. There are no services in this case
23 which require imputation per se.

24 Q. Assuming that there was a case in which
25 imputation was required, one way to handle the problem

(SPINKS - CROSS BY KAHN)

1 that was suggested was to raise the rates of one of
2 the users, the rates would all be the same. Would
3 another option be to lower the rates for one of the
4 users rather than to raise the rates?

5 A. Well, it sounds like you're asking me if
6 services are functionally and technically equivalent
7 and they have different prices and you don't like
8 that, is one of the solutions to lower the price of
9 one versus raising the price of the other.

10 Q. That's correct.

11 A. And the answer to that is yes.

12 Q. Another option, assuming that the lower
13 priced service that was equivalent had a use/user
14 restriction on it that prevented the higher priced
15 user from using the lower priced option, would be to
16 remove the use/user restriction; is that correct?

17 A. Yes.

18 Q. Would a third option to address the problem
19 of imputation be to unbundle the services that were
20 part of that service?

21 A. Yes. Insofar as there is a problem with
22 imputation and I am still not sure what you perceive
23 to be the problem.

24 Q. I'm asking you to assume that there was a
25 problem as a general question, not in this particular

(SPINKS - CROSS BY KAHN)

1 case.

2 A. Yes.

3 Q. Based on the studies and the evidence that
4 you have seen presented by the company U S WEST in
5 this case, do you believe that the requested rate
6 increase to term loops is in fact justified?

7 MR. SHAW: Your Honor, I am going to
8 object. This is just friendly cross asking him to
9 repeat his direct testimony. It doesn't ask for any
10 kind of a different explanation or expansion or
11 anything else. Just asking him to repeat his direct
12 testimony. It's just friendly cross. That's one of
13 our fundamental objections to the repetitive friendly
14 intervenors.

15 JUDGE CANFIELD: That was part of the
16 agreement at first that we weren't -- we were going to
17 minimize the repetitiveness to a minimum and I would
18 tend to agree that this is just recapping the direct
19 testimony unless you've got a further angle to your
20 question, Mr. Kahn.

21 MR. KAHN: Your Honor, I will withdraw the
22 question. That's all I have for Mr. Spinks.

23 JUDGE CANFIELD: Ms. Dembo for King County
24 did indicate she was going to have to leave early and
25 she in fact did so. So with that, Mr. Trotter.

(SPINKS - CROSS BY KAHN)

1 MR. TROTTER: Thank you.

2

3 CROSS-EXAMINATION

4 BY MR. TROTTER:

5 Q. Turn to page 10 of your testimony and the
6 first paragraph on that page you refer to the U 87-796
7 and 799 docket.

8 A. Yes.

9 Q. Was that the last prior case that involved
10 rate increases to the terminal loop services?

11 A. Yes.

12 Q. And I think you said in testimony earlier
13 today that there was a settled result in this 1987
14 docket?

15 A. Yes.

16 Q. Now, do you recall in cross-examination of
17 company witnesses or in the discovery process of the
18 company there were questions asking about the history
19 of terminal loops, when did they start, how long had
20 they been in. Do you recall that?

21 A. Yes.

22 Q. And in your investigation, were you able to
23 add anything to the record as it stands to date?

24 A. Just what I've included in my testimony
25 here which I had found in the transcript of the

(SPINKS - CROSS BY TROTTER)

1 private line record that the company had indicated in
2 that case that it would carefully study any
3 elimination of the services.

4 Q. I'm not focusing on that. I am focusing on
5 apart from this page of your testimony, the history of
6 terminal loops, I think it was stated that they came
7 in -- the farthest back they could go was when PNB I
8 think took over from West Coast or whatever the
9 predecessor company was and they didn't know what the
10 history was prior to that. My question to you is can
11 you give us any additional fact about that history?

12 A. No, I can't. I am not able to do that.
13 It's always been held out as a service, though,
14 apparently to all customers. It's not a service
15 that's been restricted to like the intervenors in this
16 case, the school districts and the like. There are
17 businesses and others that use this service. There's
18 residential off-premise extensions, too. Those were
19 used largely by families who wanted to, as I
20 understand it anyway, where the grandmother lived
21 across town and they wanted to have a direct
22 connection so if her phone rang the family could
23 answer the phone for her or they could talk to each
24 other, so that's really all I know about the
25 residential off-premises distinction.

(SPINKS - CROSS BY TROTTER)

1 Q. Turn to your response to data request No.
2 13 from the company. Last sentence of your response
3 you were asked a question about the cost studies and
4 you say that you don't necessarily agree with the
5 allocation of fixed costs in the mileage cost study to
6 the zero-to-one-mile transport band; is that right?

7 A. Yes.

8 Q. Could you just identify what this area of
9 disagreement is?

10 A. What I had in mind when I said that was I
11 was recalling in the -- I believe it was in the Prime
12 Saver case, the imputation of the zero-to-one mileage
13 band carried with it a fairly high rate for that band.
14 Then the rate got smaller as the bands got longer is
15 my recollection, and the reason for that was that the
16 company, in putting together its cost studies, had
17 determined that -- I believe it was largely circuit
18 equipment costs should be included in this initial
19 zero-to-one-mile band, and I believe that was the case
20 in the cost study that we're talking about here.

21 And so I wanted to -- in the context of
22 answering the question fully -- indicate that I had
23 never believed that that allocation of costs to that
24 band was necessarily appropriate and because it seems
25 to me you could also argue that it should be -- those

(SPINKS - CROSS BY TROTTER)

1 costs should be spread over all of the transport
2 mileage bands rather than allocated primarily or
3 predominantly to the zero-to-one mileage band, and so
4 the purpose for that was to simply preserve my
5 objection to that cost allocation that the company had
6 done.

7 Q. So the fixed costs you're referring to are
8 the circuit equipment costs?

9 A. I believe that that was -- my recollection
10 is correct from the Prime Saver case that that's what
11 the cause was of that high rate, high initial fixed
12 cost.

13 Q. And is that the same type of cost that's at
14 issue in this proceeding?

15 A. It's my belief that it is.

16 Q. Turn to page 7 of your testimony. And
17 you're referring in the middle of the page to channel
18 performance costs, and on line 16 to 19 -- and you're
19 also talking about total costs being lower than the
20 sum of the piece parts and then you refer to the
21 recent Centrex compliance filings saying your point is
22 made obvious by looking to that filing. Could you
23 just explain the details of that? If it's
24 confidential just say it in more specific terms
25 without diverging the confidential material if

(SPINKS - CROSS BY TROTTER)

1 possible.

2 A. I will try to. I would like to begin by
3 saying that these cost studies have now been provided
4 to the parties in response to data request 70 of the
5 company to staff. I did provide them as an
6 attachment. I think it was 70 or 71. And what I'm
7 talking about is specifically I believe that the costs
8 associated with ringing and signaling are found in the
9 NTS-COE cost element of the cost studies. The cost
10 for that ringing and signaling capabilities for these
11 lines is much lower by a factor of maybe four times
12 lower than the costs of what's called channel
13 performance by the company that's shown on I believe
14 Exhibit C9 of Mr. Rees's testimony. There are several
15 cost estimates for channel performance on that page,
16 Exhibit C9.

17 Q. Turn to page 16 of your testimony. And
18 beginning on line -- or the answers starting on line 4
19 you're referring to the suppression analysis in DA or
20 directory assistance cost filing and you state that
21 the call suppression factor was taken from a study of
22 Minnesota suppression. Do you see that testimony?

23 A. Yes.

24 Q. And it's my understanding based on reading
25 the rebuttal case that the factor -- company

(SPINKS - CROSS BY TROTTER)

1 acknowledged I think they made a misstatement but the
2 factor actually came from Washington; is that right?

3 A. That's my understanding now, too.

4 Q. And based on your review of the evidence,
5 have you reviewed the Washington --

6 A. Yes, I have now looked at the Washington
7 model.

8 Q. And is that a more satisfactory model now
9 than the Minnesota one?

10 A. No. Unfortunately, it's not. I have I
11 think the same problems with the Washington model as I
12 did with the Minnesota model as regards the lack of a
13 variable to explain the free calling allowance in the
14 model, but in addition to that, the Washington model,
15 the data used in the model ran from I believe it was
16 1980 to 1986. So it's quite outdated and it contains,
17 among other things, a dummy variable for the old AT&T,
18 there's a zero and then U S WEST is a one -- it's a
19 zero-one variable -- to explain a difference in
20 calling that apparently might have occurred due to
21 divestiture. And that is certainly of no relevance
22 today, so my sense is that the elasticity factor that
23 was estimated in the Washington model is also a
24 problem and is flawed is not correct.

25 Q. On the bottom part of page 18 you're

(SPINKS - CROSS BY TROTTER)

1 responding to a question of how should the additional
2 revenues, if any, be disposed of for rate changes made
3 in this case, and I believe you responded earlier it's
4 through the new AFOR or revenue true-up procedure
5 neither of which are part of this case; is that right?

6 A. That's correct.

7 Q. And assuming the Commission disagrees and
8 decides whatever rate increases are going to occur
9 are going to be dealt with in this case, do you agree
10 with the company's proposal regarding complex lines or
11 what?

12 A. No, I don't. First of all, I would like to
13 point out I believe that the tariffs in this case were
14 scheduled to become effective, the rates at least,
15 1-1-95, so whether or not any increase was done in the
16 -- handled in the context of the AFOR you're still
17 looking at the same '95 implementation date, but the
18 -- I believe that I stated in my testimony two reasons
19 why I felt that we should not direct any additional
20 revenues to the complex line reduction, those being
21 the fact that we have recently lowered rates for that
22 service, 1-1-94; and second, in the context of the new
23 AFOR and the changing environment in
24 telecommunications, to coin a phrase, there's a lot of
25 hungry mouths to feed. There's a lot of services that

(SPINKS - CROSS BY TROTTER)

1 are -- at least potentially which may be below cost
2 and raise the cost, I think the company contends at
3 least a couple in this case exist. There may be more
4 out there.

5 They've filed a residential rate increase
6 with us. They've also filed -- it's about a 250
7 million dollar depreciation expense increase petition,
8 and so there are lots of places, if you will, where an
9 additional five or ten million dollars could be used,
10 or more, and I think that directing it simply to
11 complex lines at this time would not necessarily be
12 the best and wisest use of any dollars that would
13 come out of this proceeding.

14 Q. Well, do you agree that the current complex
15 line definition is rational?

16 A. I was afraid someone was going to ask me
17 that. I don't know. On the one hand I think there's
18 arguments that can be made in both directions.
19 Certainly at the time and I am not so sure that today
20 it still doesn't matter that if you have five or more
21 lines you're running some kind of a complex system.
22 Well, at least at that time the inference would have
23 been you had a key system or PBX. Today you might be
24 running a fax. You might have a line for fax and
25 perhaps a dedicated line to the company's headquarters

(SPINKS - CROSS BY TROTTER)

1 and a switched access line, several of those. So as
2 uses of lines have grown, I don't know that five is
3 the right number any more, but I don't know that the
4 idea of having a cutoff point per se -- maybe it
5 should be eight or nine or ten lines today, but at
6 some point the service you buy perhaps becomes
7 complex. If there are underlying cost differences to
8 providing a complex line, then those cost differences
9 probably ought to be recognized.

10 Q. Did you find any cost differences?

11 A. No. Well, let me clarify that. There are
12 some elements of the service where we think costs
13 should be looked at individually, for instance, the
14 loop. Other areas, like usage on a complex line, is
15 in fact greater than on a 1FB business line. So, yes,
16 there are some elements with underlying cost
17 differences.

18 Q. So if I take two businesses, one that's a
19 boiler room-type operation that has ten lines and
20 they're going all the time versus a customer that has
21 ten lines and has a key system but it's an
22 administrative department that doesn't use the phones
23 constantly, the line costs would be the same, but the
24 usage costs might well be different?

25 A. Absolutely, absolutely. In fact, usage

(SPINKS - CROSS BY TROTTER)

1 costs is what drives its peak load conditions that
2 drive the configuration of the network, how big of a
3 switch, how much switch processor capacity you need,
4 and I'm not sure whether an approach to costing for
5 switched service that recognizes that usage is a cost
6 driver is appropriate.

7 Q. But for a small business that's trying to
8 grow, doesn't the current simple versus complex
9 definition penalize them?

10 A. I don't know if penalize is the right word
11 but I understand it certainly that when you buy line
12 No. 5 under today's tariff it does two things, really.
13 It gives you a lot higher bill if you buy it but the
14 second thing is it also then brings into play
15 competitive alternatives which become more affordable
16 from Centrex resellers.

17 Q. So if I'm a small business and want to add
18 that fifth line I am going to be approached by a
19 Centrex reseller?

20 A. I doubt it.

21 Q. You were asked by U S WEST to provide the
22 -- in a data request to provide the existing prices and
23 terms and conditions for all companies in this state
24 that offer directory assistance. Do you recall that?

25 A. Yes.

(SPINKS - CROSS BY TROTTER)

1 MR. TROTTER: Your Honor, I would like to
2 have marked for identification a one-page exhibit
3 entitled Directory Assistance Information.

4 JUDGE CANFIELD: I will mark that as the
5 next exhibit number in order and that's Exhibit No. 32
6 for identification.

7 (Marked Exhibit 32.)

8 Q. Do you recognize Exhibit 32 for
9 identification as a portion of your response to that
10 data request?

11 A. Yes, I do.

12 Q. Was this prepared by the staff?

13 A. Yes, it was.

14 Q. I take it the rest of the data request
15 response was a compilation of the specific tariffs
16 that support this sheet?

17 A. Yes.

18 MR. TROTTER: Your Honor, move for the
19 admission of Exhibit 32.

20 JUDGE CANFIELD: Any objections to this
21 exhibit?

22 MR. SHAW: Your Honor, I believe I do
23 because it's incomplete. Could I ask a couple of
24 questions on voir dire?

25 JUDGE CANFIELD: Go ahead.

(SPINKS - VOIR DIRE BY SHAW)

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VOIR DIRE EXAMINATION

3 BY MR. SHAW:

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Q. Mr. Spinks, the question was, "Please provide tariff and/or price list pages of all other Washington LEC rates for each service associated with this proceeding." Is that correct?

A. Yes, sir.

Q. And in addition to what's been marked for identification as Exhibit 32 you also attached primarily the exchange tariffs of the other 23 or so local exchange companies that file tariffs with the Commission?

A. What should be in that package is any tariffs on file for every LEC relating to complex line, and so on the same page you may find other services as a complex line or the line rate that applies -- is the equivalent of the complex line rate in this case. Directory assistance tariff and any term loop or equivalent off-premise extension, for instance, or tie line tariffs sheets, that's what should be in there. This sheet on the directory assistance we had put together back last fall, and so for this part of it, I provided the summary sheet which should be in addition to the tariff sheets.

(SPINKS - VOIR DIRE BY SHAW)

1 There should be tariff directory assistance rate
2 sheets in there to the extent that they exist and that
3 they found them when they went to the tariffs.

4 MR. SHAW: Thank you, Mr. Spinks. Your
5 Honor, I would object to the admission of Exhibit 32
6 as just a partial response to the data request which
7 is misleading. If the point of the evidence is to
8 suggest that U S WEST's proposal in this case is
9 outlined or different than the existing rates of other
10 companies, the rest of the application certainly is
11 evidence, then, that U S WEST's business rates, for
12 example, are much higher than other companies, and I
13 don't object to the admission of the page per se, but
14 I would like the entire answer to the data request
15 made part of the exhibit. Alternatively, assuming Mr.
16 Trotter doesn't have available nine zillion copies
17 of the rest of it, which is pretty extensive, I would
18 ask you to mark as Exhibit 33 the rest of the response
19 and allow that to be placed into the record as a
20 late-filed exhibit when the copies can be made.

21 MR. TROTTER: Well, first, Your Honor, it
22 is correct, I was focusing my question purely on the
23 DA side. I wasn't trying to open more doors than
24 that, and Mr. Shaw is correct, the response did
25 include tariffs sheets for other services but this was

(SPINKS - VOIR DIRE BY SHAW)

1 the response as it related to DA, and so we're
2 offering it just for that. I wasn't offering it, this
3 is a complete response, and we've had comparisons
4 between DA rates in Washington for U S WEST and DA
5 rates for South Dakota from U S WEST and thought it
6 was at least as relevant to show what the rates are in
7 this state and so I think the exhibit is equally
8 appropriate. If Mr. Shaw wants to offer another
9 exhibit putting in my more tariff sheets, that's fine.
10 And he's right, I don't have copies of the entire
11 response available. We think it's relevant on its own
12 and ought to be admitted on its own at this time.

13 JUDGE CANFIELD: With that, do you still
14 have the objection as far as it being incomplete and
15 misleading, Mr. Shaw, in view of the purpose for which
16 Mr. Trotter indicates it's being offered?

17 MR. SHAW: Yes, Your Honor, I do, for this
18 reason. An argument that can be made from Exhibit 32
19 as offered is that U S WEST's proposal as to DA in
20 this case is unreasonable because it would then exceed
21 the terms and conditions and rates of all other LECs
22 in the state. However, this is a package that the
23 company has proposed to increase DA, increase term
24 loops and associated rates and reduce complex business
25 rates, so it cannot be looked at in isolation, so I

(SPINKS - VOIR DIRE BY SHAW)

1 think to just offer part of the staff's response to a
2 question that was not directed at DA is misleading and
3 for the record to be completed, entire response should
4 be available which shows, for instance, that many
5 companies in the state charge far less for complex
6 business service than does U S WEST. I just believe
7 that the entire charges of the other companies should
8 be before the Commission if any of them are relevant.

9 JUDGE CANFIELD: How bulky or voluminous is
10 the rest of that response?

11 MR. SHAW: It's approximately a half an
12 inch. A little more.

13 MR. GOLTZ: Your Honor, I think that the
14 question that Mr. Trotter posed was not the same
15 question that was contained in the body of the data
16 request. It was focused simply on directory
17 assistance and he simply asked did you supply a sheet
18 like that in response to a data request. So I think
19 it's fine for Mr. Trotter to offer this information,
20 and I have no objection to its admission. If Mr. Shaw
21 wishes to offer the remainder of that response to data
22 request as an exhibit sponsored by -- or in fact is
23 an exhibit that he would offer, I think we can deal
24 with that when the time comes, but right now I think
25 the focus is simply on directory assistance and I

(SPINKS - VOIR DIRE BY SHAW)

1 think it's perfectly legitimate to offer it for that
2 purpose.

3 JUDGE CANFIELD: I'm not wanting to burden
4 the record with materials that are certainly going
5 beyond the intent of the inquiry here, and as far as
6 whether the one page is misleading on its face, I
7 don't have a feel for that as it stands right now, but
8 I think -- I don't know when the rest of it could be
9 made available but Mr. Shaw has mentioned the
10 possibility of an additional exhibit. We could deal
11 with that at a next session this week, but I don't
12 know that I necessarily want to put Mr. Trotter to the
13 burden of reproducing a half-inch thick document if
14 it's certainly going beyond the purpose of his inquiry
15 here, and if it is misleading I think I will leave
16 that up to Mr. Shaw whether he wants to offer that --
17 the rest of the document as an exhibit, but I don't
18 know that, from what I've heard, that this document,
19 Exhibit 32, is incomplete for the purpose that it was
20 offered as far as Mr. Trotter's question of witness
21 goes, so I think I will allow Mr. Shaw an opportunity
22 to make copies and offer those at a session later
23 this week if he still believes that Exhibit 32 as it
24 stands is misleading on its face.

25 I think it has been admitted by the witness

(SPINKS - VOIR DIRE BY SHAW)

1 that it is not the complete response of the data
2 request but I think as far as that goes the witness
3 has answered what it stands for. So I will admit
4 Exhibit 32 into the record and if Mr. Shaw wants to
5 request to offer a later document this week, we will
6 certainly deal with that at that time.

7 (Admitted Exhibit 32.)

8 MR. SHAW: Your Honor, in light of your
9 ruling I think a direct way to handle this, since
10 these are approved tariffs on file with the
11 Commission, is I will make a request that the
12 Commission take official notice of the tariffs or the
13 other pervasively regulated local exchange companies
14 in this state regarding their term loop and business
15 basic exchange rates. And we'll make a copy of those
16 tariffs sheets which were kindly supplied by Mr.
17 Spinks pursuant to a data request and give them to you
18 for the record. I believe all parties have a set
19 since they got copies of the discovery already.

20 JUDGE CANFIELD: Rather than treat it as an
21 exhibit as such, just request the Commission to take
22 official notice of it?

23 MR. SHAW: Yes. I have in mind a couple of
24 other additional official notice requests I would like
25 to make before you close the record so I can wrap it

(SPINKS - VOIR DIRE BY SHAW)

1 up.

2 JUDGE CANFIELD: Any comments on that
3 approach as outlined by Mr. Shaw?

4 Let the record reflect there are no
5 comments or objection to that approach, and Mr. Shaw
6 has indicated he will make copies available to the
7 Commission and apparently copies have already been
8 provided to the parties, so noted, and that will be
9 the approach that we will take.

10 MR. HARLOW: Your Honor, if I could simply
11 clarify what we're noticing. It's simply the tariffs
12 that were attached to the data request, and I don't
13 have the number in front of me.

14 MR. BUTLER: 31.

15 MR. HARLOW: Data request No. 31 to staff
16 from U S WEST. Just those tariffs are being
17 officially noticed. Is that correct, Mr. Shaw?

18 MR. SHAW: At this juncture that's my only
19 intent. I would certainly state for the record if I
20 desire something else.

21 JUDGE CANFIELD: That's so clarified.
22 Exhibit 32 is so entered into the record.

23 MR. TROTTER: That concludes my
24 questioning.

25 JUDGE CANFIELD: That concludes the round

(SPINKS - VOIR DIRE BY SHAW)

1 of cross. Mr. Goltz, was there anything further of
2 Mr. Spinks?

3 MR. GOLTZ: Just a couple of questions,
4 Your Honor.

5

6 REDIRECT EXAMINATION

7 BY MR. GOLTZ:

8 Q. You're in the telecommunications section of
9 the utilities division; is that correct?

10 A. Yes.

11 Q. And can you in general terms state how many
12 analysts are in that section or accountants?

13 A. I think there's a dozen of us or so.

14 Q. And are you the person within that section
15 who reviewed Electric Lightwave's -- or the
16 applications for registration of Electric Lightwave,
17 DDS or the other so-called competitive providers?

18 A. No, I was not.

19 Q. So have you reviewed or do you have
20 personal knowledge of the business plans of those --
21 of ELI, DDS and those other similar providers?

22 A. No, I do not.

23 MR. GOLTZ: That's all I have.

24 JUDGE CANFIELD: Any follow-ups on those?

25 MR. SHAW: Yes, Your Honor. I have one

(SPINKS - REDIRECT BY GOLTZ)

1 question.

2

3

RECROSS-EXAMINATION

4 BY MR. SHAW:

5 Q. Mr. Spinks, I believe I heard you correctly
6 in an answer where you indicated that we, the company
7 U S WEST, had filed this proposal in 1994. Did you
8 misstate yourself? Do you agree that this case has
9 been on file with the Commission since approximately
10 March of -- strike that. That isn't correct either.
11 When did U S WEST, to your knowledge, file this
12 proposal?

13 A. They did file in March. It was under
14 docket 930717, I believe, the directory assistance
15 filing was made. It was withdrawn and refiled in, I
16 believe, July and was given its current docket of
17 930957. Dockets 1055 and 1058, I am not certain, it
18 had an effective date of September, I believe, or
19 September 1st. So it would have been filed in July,
20 is my recollection.

21 Q. And in any event, the --

22 A. The reference to 1994 I thought was the
23 complex line rate decrease becoming effective 1-1-94
24 but if I said that these filings had been filed in
25 1994 I would have misspoke, you would be correct. It

(SPINKS - RE CROSS BY SHAW)

1 would be '93.

2 Q. So the record is clear, the proposal of the
3 company is to make the rate changes if accepted by the
4 Commission effective 1-1-95?

5 A. Yes.

6 Q. Did you do any sensitivity studies or any
7 kind of analysis at all of the DA suppression study
8 which you in questions to Mr. Trotter indicated that
9 you thought was doubtful?

10 A. One wouldn't do a sensitivity study. The
11 econometric model upon which the price elasticity
12 factor was derived has associated statistics with it.
13 For instance, there's a correlation coefficient.
14 Because it's time series data you have to run a
15 Durban Watson test to test for multilinearity, and
16 those diagnostics, if you will, are what we look at to
17 ascertain whether we think the model has given us an
18 estimate that has good predictive quality, for
19 instance. All those diagnostics, yes, I did review
20 them. The correlation coefficient I noted was 70
21 percent but for time series data is very low.
22 Actually a correlation coefficient of 95 percent or
23 greater is to be expected of time series data.
24 Nevertheless, the F test, which says whether or not
25 the correlation coefficient is significant, was

(SPINKS - RE CROSS BY SHAW)

1 significant and indicated that the correlation
2 coefficient was significant. So it's not that it's
3 insignificant, it's just that my guess is I could
4 build a model that would give me a higher -- if I
5 included factors that I think could be relevant in the
6 analysis of the elasticity or DA calls, could give me
7 a much higher correlation coefficient, for instance.
8 But that's the extent of looking at the econometric
9 model that was used for Washington.

10 Q. The thrust of my question was not aimed
11 so much at that but whether you did any study of
12 the impact upon the revenue produced by this proposal
13 adjusting for your suspected errors in this study? In
14 other words, what's the quantity of difference?

15 A. Between the Washington study and the
16 Minnesota study?

17 Q. No. Let's start at the beginning here.
18 Suppression is a concept that when you raise price
19 people buy less and therefore you won't get a straight
20 linear production of revenues from the rate increase;
21 is that correct?

22 A. Correct.

23 Q. You're going to get less demand in the
24 future. Is that correct?

25 A. Ceteris paribus, yes.

(SPINKS - RE CROSS BY SHAW)

1 Q. And so suppression study is an attempt to
2 quantify that sensitivity, how much less demand you're
3 going to get because of the price increase; is that
4 right?

5 A. That's right.

6 Q. I take it from your testimony and your
7 answers on cross that you have some doubts about the
8 accuracy of the study done by U S WEST using '80-87
9 data?

10 A. It would be '80 through '86 if it was '87
11 through '87 -- yeah, the data is old, what I would
12 call stale data.

13 Q. And that's your primary criticism of the
14 study, I take it?

15 A. No. Actually the primary criticism is the
16 model itself, should have accounted for free calls
17 either on the demand side or on the independent
18 variable side, but to me that's a major failing of any
19 model of DA where some of the demand is free. If
20 price equals zero you can make one, two, three, four
21 calls and price is still zero and when you make call
22 No. 5 the price is 25 cents, and for subsequent calls
23 and what that gives you is a whole different demand
24 curve than if each call is priced at 25 cents, and
25 after I thought about it for a while I concluded that

(SPINKS - RE CROSS BY SHAW)

1 it not only shifts the demand curve but it also
2 changes the slope of the demand curve and the price
3 elasticity that we're measuring -- what you're
4 measuring is a slope for the demand curve over a
5 particular price point, two price points, and so if
6 you haven't properly positioned your demand curve, if
7 you will, if its true position would have a different
8 slope, then the elasticity that you're estimating
9 can't be -- is going to be long. It's going to be too
10 high or too low, depending on which way the slope is
11 biased.

12 Q. That leads me to the question that I wanted
13 to ask you. Did you do any quantification of what
14 difference that would make in the revenue produced?

15 A. No, I did not. I had asked the company for
16 the data if possible in order to conduct my own
17 studies back early on in one of my early data
18 requests. I forgot what the outcome of that was but
19 I had asked if it would be possible for the company to
20 provide me the data because I know I was looking to do
21 that at one time.

22 MR. SHAW: Thank you. Nothing further.

23 JUDGE CANFIELD: Any others?

24

25 RE CROSS-EXAMINATION

(SPINKS - RE-CROSS BY HARLOW)

1 BY MR. HARLOW:

2 Q. Mr. Spinks, I have a question on an answer
3 you gave to Mr. Kahn where I believe you said there
4 were no services in this case requiring imputation.
5 Do you recall that?

6 A. Yes.

7 Q. I would like you to consider for a minute
8 the competitive access provider that I gather you
9 expect are going to start operating. Let's assume you
10 have a startup company and they build their network
11 and they get their first customer. Now, with one
12 customer hooked up to their network, would it be safe
13 to assume that this company is going to need to
14 purchase some kind of access service from U S WEST in
15 order to connect that customer into other customers
16 within the same exchange?

17 A. I don't know. Maybe we could short-circuit
18 this if I answered what -- what I said was that there
19 was no imputation test per se at issue in this case.
20 What I mean by that is this isn't like the Prime Saver
21 case was or the competitive classification where one
22 of my roles was to develop a price floor through an
23 imputation test in order to establish price floor for
24 a competitive service. That's what I am referring to
25 when I say there was no imputation per se in this case

(SPINKS - RE-CROSS BY HARLOW)

1 that's an issue. There's no issue with -- nobody is
2 trying to determine in this case whether or not the
3 directory assistance or complex lines -- what the
4 price floor is for that through an imputation test. I
5 suspect that in the future as competitive companies
6 come into the market, and as it's developed that such
7 will be necessary in the future but not -- but I don't
8 see them as a part of this case.

9 Q. So specifically do you believe -- with
10 regard to your last answer, do you believe it will be
11 necessary in the future with regard to business
12 exchange access lines?

13 A. I think that some degree, in some cases,
14 yes, it will be.

15 Q. Is it possible to do today to develop that
16 imputation test?

17 A. I think it's something that we need to be
18 working on certainly. We need to know that we will be
19 needing to employ that kind of test. Certainly the
20 company will.

21 Q. Let me ask it a different way. Have all
22 the bottleneck monopoly elements that would need be
23 imputed in that be unbundled and priced such that it
24 would be today to develop a price business -- an
25 imputation cost floor for business exchange access

(SPINKS - RE-CROSS BY HARLOW)

1 lines?

2 MR. SHAW: Objection to the question, Your
3 Honor. There is no foundation, no showing that
4 anything has to be unbundled at all to develop an
5 imputation test. As the witness has already testified
6 that the Commission prescribed an imputation test for
7 carrier access, a bundled service, to test the
8 company's toll service without any finding or
9 necessity of finding of effective competition or
10 unbundle at all. So the question is very misleading
11 and simply not true with the assumption utilized.

12 MR. HARLOW: I think Mr. Shaw misunderstood
13 my question. My question was --

14 JUDGE CANFIELD: Maybe we could get it
15 repeated and changed then.

16 Q. I'm simply asking you, Mr. Spinks, whether
17 or not it is possible to identify -- let me just take
18 this one piece at a time. Are the access elements
19 that a competitive access provider would need to go
20 into business providing local exchange service and
21 enabling the competitive access provider to provide
22 local service not only so that his customers can call
23 its other customers but so that its customers would
24 call U S WEST customers, to your knowledge, are there
25 tariffed elements available for those competitive

(SPINKS - RE CROSS BY HARLOW)

1 access providers today to purchase that access so that
2 they can provide that kind of service to their
3 customers?

4 MR. SHAW: Object to the question to the
5 extent it assumes that local exchange access between
6 local exchange companies has to be tariffed. That's
7 certainly not the historical practice of this
8 Commission. There are no tariffs in place or local
9 exchange access between existing local exchange
10 companies.

11 MR. HARLOW: Well, if Mr. Shaw is
12 stipulating that will be provided to competitive
13 access providers free of charge then perhaps I could
14 withdraw the question as being moot.

15 MR. SHAW: Well, I don't understand that
16 comment at all, because it's not provided free of
17 charge so if Mr. Harlow wants to ask whether or not
18 there's any evidence in this case of what other local
19 exchange companies think they need from U S WEST to
20 provide local exchange service in competition with U S
21 WEST, I think that's a legitimate question, but these
22 other questions are based upon legal theories that
23 simply are not the case in this jurisdiction.

24 JUDGE CANFIELD: Mr. Harlow?

25 MR. HARLOW: Well, I would simply ask the

(SPINKS - RE-CROSS BY HARLOW)

1 witness whether he thought the necessary tariff
2 elements were available or not, which doesn't presume
3 an answer such that the necessary services, the bottle
4 neck monopoly services that competitive access
5 providers would need to provide local exchange
6 service, exist today, and I don't think the question
7 assumed anything. I think the witness ought to be
8 able to answer it. Perhaps with "I don't know."
9 Perhaps we're fighting about nothing here, but I think
10 it's a proper question.

11 JUDGE CANFIELD: I think I will allow the
12 witness to answer and if there is still some ambiguity
13 after the witness has answered I will allow the
14 Mr. Shaw a follow-up on it but I think the best
15 approach is to let the witness answer if he knows.

16 A. I had testified in response to a question
17 from my attorney that I have not reviewed the plans
18 and I am not familiar with what the CAPS need then
19 specifically in Washington as they have -- whatever
20 they filed in the registration. Anything specific.
21 As a general matter, things like a loop, one might in
22 looking at the services that competitors may want to
23 try to offer, one of the bottleneck monopoly elements
24 is what we call a loop and there are private line NACs
25 unbundled, so to the extent we needed a loop you might

(SPINKS - RE CROSS BY HARLOW)

1 find a separately unbundled loop element from that,
2 but I don't know about any other pieces of it that
3 they might need.

4 Q. You don't know about usage pieces?

5 A. Well, there isn't an unbundled usage
6 element but I'm not certain how that plays into the
7 needs of a CAP.

8 Q. Thank you, Mr. Spinks, for clarifying that.

9 JUDGE CANFIELD: Before we get beyond that,
10 Mr. Shaw, was there a particular follow-up on that
11 question, Mr. Shaw? I can take that before we move
12 on.

13 MR. SHAW: No.

14 JUDGE CANFIELD: Any others?

15 MR. FINNIGAN: Yes.

16

17 RE CROSS-EXAMINATION

18 BY MR. FINNIGAN:

19 Q. Mr. Spinks, would you look at Exhibit 32,
20 please.

21 A. Yes.

22 Q. In compiling the information on Exhibit 32,
23 did you do any review of those rates to determine if
24 they were above or below cost?

25 A. No, I did not.

(SPINKS - RECROSS BY FINNIGAN)

1 Q. If a company undertook to do the study of
2 its costs in providing directory assistance, and, for
3 example, found that its costs exceeded 15 cents per
4 call with six free calls as its calling allowance,
5 would you recommend that that company file for an
6 increase in its directory assistance rates?

7 A. Well, one of the other data requests was
8 for staff positions on the services at issue, and in
9 reviewing those I found a memo from -- staff memo from
10 I believe it was 1991 for Hood Canal where Hood Canal
11 had come in and in a series of rate adjustments among
12 those were included a directory assistance adjustment.
13 It took them from 15 cents, and I think six calls, up
14 to the U S WEST level of 25 cents and four free calls.
15 So I guess what I'm trying to say is companies are
16 certainly not precluded from requesting that rates be
17 adjusted if they feel that they need to be adjusted
18 and the burden is on the company to provide the
19 filing.

20 Q. If I understand your response to the
21 question, you don't have a recommendation one way or
22 the other?

23 A. No. We would have to evaluate the request
24 and I believe the Hood Canal one was done within the
25 context of the total earnings of the company.

(SPINKS - RE CROSS BY FINNIGAN)

1 Q. You've answered a different question than I
2 asked. My question was very specific and it was
3 whether or not a company that had a cost study that
4 showed the cost to providing directory assistance
5 exceeded 15 cents per call with six free calls, would
6 you recommend that they file to increase their rates
7 above cost?

8 MR. GOLTZ: Object.

9 A. No.

10 MR. GOLTZ: I was going to say cost of
11 calls are speculation on the part of the witness.

12 A. No, we wouldn't recommend that.

13 MR. FINNIGAN: Thank you.

14 JUDGE CANFIELD: Any other questions on
15 recross?

16 Let the record reflect there are none.
17 Anything further, Mr. Goltz?

18 MR. GOLTZ: None.

19 JUDGE CANFIELD: Thank you, Mr. Spinks.
20 You're excused and we'll take our afternoon break
21 until 3:30 and I guess the next witness up can be
22 determined during the break.

23 (Recess.)

24 JUDGE CANFIELD: We're back on the record
25 after our afternoon break, and I guess the next

(SPINKS - RE-CROSS BY FINNIGAN)

1 witness up is for the city of Bellevue. Is that
2 correct, Mr. Kahn?

3 MR. KAHN: That's correct, Your Honor.

4 JUDGE CANFIELD: And you're calling David
5 Offner.

6 MR. KAHN: That's right.

7 Whereupon,

8 DAVID OFFNER,

9 having been first duly sworn, was called as a
10 witness herein and was examined and testified as follows:

11 JUDGE CANFIELD: Let me just go ahead and
12 premark the prefiled testimony of David Offner as the
13 next exhibit number in order and that's Exhibit T-33
14 for identification and there were no accompanying
15 exhibits filed with it, so with that I will turn it
16 over to Mr. Kahn.

17 (Marked Exhibit T-33.)

18

19 DIRECT EXAMINATION

20 BY MR. KAHN:

21 Q. Could you state your name, please, spelling
22 your last name.

23 A. Yes. My name is David Offner and my last
24 name is spelled O F F, like Frank, N E R.

25 Q. Could you give your business address,

(OFFNER - DIRECT BY KAHN)

1 please.

2 A. Yes. My business address is city of
3 Bellevue, City Hall, which is 116th and Main Street in
4 the city of Bellevue.

5 Q. Mr. Offner, are you the same David Offner
6 that caused to be prepared and filed with this
7 Commission the exhibit that's been marked as T-33,
8 the testimony of David Offner?

9 A. Yes, I am.

10 Q. Are there any corrections or changes that
11 you wish to make to that exhibit at this time?

12 A. There's one minor correction on line 22
13 of page 3. In that line I refer to approximately 298
14 loop lines and I believe found that the correct number
15 is actually slightly different, 304.

16 MR. KAHN: At this time I would move the
17 admission of Exhibit T-33 and tender Mr. Offner for
18 cross-examination.

19 JUDGE CANFIELD: Any objections?

20 Let the record reflect there are no
21 objections and I will make the one correction as
22 indicated on the official copy and parties are
23 requested to make their corrections. Exhibit T-33 is
24 so entered into the record.

25 (Admitted Exhibit T-33.)

(OFFNER - DIRECT BY KAHN)

1 JUDGE CANFIELD: Mr. Shaw.

2

3 CROSS-EXAMINATION

4 BY MR. SHAW:

5 Q. Mr. Offner, from page 2 of your testimony
6 where you describe your responsibilities, I don't see
7 any mention of being responsible for the city of
8 Bellevue's telecommunications procurement. Does that
9 fall within your purview or does the city have a
10 different employee that's responsible for that?

11 A. It's part of the same department I am in
12 but it is a separate division and a separate employee.

13 Q. And so I take it that the city of Bellevue
14 has a full-time employee charged with procuring and
15 managing the city's telecommunications services?

16 A. Yes, that's correct.

17 Q. Directing your attention to where you made
18 the correction on page 3 where you reference 304 loop
19 lines and a much smaller number of complex business
20 lines. Do you know how many complex business lines
21 the city of Bellevue subscribes to?

22 A. I've been told that the number is 13 per
23 the information provided to me.

24 Q. Now, I take it the city of Bellevue has a
25 PBX-based private switching system, correct?

(OFFNER - CROSS BY SHAW)

1 A. I am in the finance business. I am not --
2 I understand that's correct, but that's about as
3 far as I would go because I am not very technically
4 based in telephone terminology.

5 Q. When you're sitting at your desk and you
6 want to call somebody on a different floor of City
7 Hall, do you dial four numbers or seven numbers?

8 A. Four numbers for internal calls.

9 Q. And 9 plus seven for external calls,
10 external to the city's system?

11 A. Yes.

12 Q. So presumably you do have a private switch
13 that serves all the employees and offices of the city
14 of Bellevue?

15 A. Yes.

16 Q. Do you know how long the city has had that
17 switch?

18 A. No, I don't.

19 Q. Do you know whether the city leases it or
20 has purchased it?

21 A. No, I don't.

22 Q. In your capacity as finance director, do
23 you know how much the city paid in terms of capital
24 budget for its private system?

25 A. I can recall the project being in our

(OFFNER - CROSS BY SHAW)

1 capital budget several years ago. I can't recall the
2 year and I can't recall the exact amount, no.

3 Q. Do you know how many access lines, station
4 lines, that your city of Bellevue switch serves?

5 MR. KAHN: Mr. Examiner, I'm going to
6 object on the grounds that this witness has testified
7 that he is not an expert in the area of the
8 telecommunications system. His testimony was offered
9 on the issue of the financial impact of the rate
10 increase, and we certainly have no objection to his
11 being cross-examined in that area. I think that the
12 line of questioning has now gone beyond the direct
13 testimony and so would object on that basis.

14 MR. SHAW: Well, Your Honor, the witness
15 made a point of specifying very specifically how many
16 loop lines in the words of the testimony they have,
17 and so I thought it was reasonable that he might know
18 how many total station lines the city has. If he
19 doesn't know, he doesn't know.

20 JUDGE CANFIELD: I'm certainly inclined to
21 allow the witness to so state and I do believe it is
22 tied in to the testimony to that extent, but if it
23 gets beyond the scope of the direct, I will certainly
24 revisit that upon motion. So go ahead.

25 Q. Do you recall the question, Mr. Offner?

(OFFNER - CROSS BY SHAW)

1 A. No, I don't.

2 Q. Do you know how many total station lines or
3 access lines your switch serves owned by the city of
4 Bellevue?

5 A. No, I do not.

6 Q. So you have no idea of what percentage 304
7 loop lines are of the total lines you use?

8 A. No.

9 Q. Do you recall the data request No. 45 that
10 the company directed to the city of Bellevue asking
11 you to provide your total annual expense for U S WEST
12 services and the percentage that that represents of
13 your total budget and your total telecommunications
14 budget?

15 A. Yes, I do.

16 Q. Do you have that answer in front of you?

17 A. Yes.

18 Q. And is it true, then, that the city of
19 Bellevue has budgeted for 1994 pay U S WEST \$342,000?

20 A. Yes, that's correct.

21 Q. And that's 68.4 of your total
22 telecommunications budget?

23 A. Yes.

24 Q. And three-tenths of one percent of your
25 total city operating budget?

(OFFNER - CROSS BY SHAW)

1 A. Yes.

2 Q. Do you have any idea of what the remaining
3 approximately 32 percent of the telecommunications
4 budget is spent on other than U S WEST billings?

5 A. Well, there's a variety of different kinds
6 of communications equipment. Obviously the phones
7 that are installed, various parts, miscellaneous
8 services involved with maintaining our switch and then
9 there is a few ancillary costs essentially associated
10 with maintenance and phones.

11 Q. Do you know whether or not you purchased or
12 leased this switch and associated equipment from U S
13 WEST or any of its subsidiaries?

14 A. No, I do not.

15 Q. Do you know whether the city of Bellevue
16 has provided itself telecommunications cable or wire
17 in the city of Bellevue right of way or conduits or
18 whatever to serve the city's official needs?

19 A. I am aware of a couple of instances that
20 has been installed as the -- generally as a part of
21 a capital improvement program project.

22 Q. Am I correct that Initiative 601 has no
23 impact on certainly your city's capital budgets?

24 A. Well, as I recall it will impact us in
25 that, as I recall, there's certain provisions that

(OFFNER - CROSS BY SHAW)

1 will have an impact on the way that -- I'm trying to
2 recall the specifics, but it relates to sales tax
3 applicability and some provisions that do have some
4 minor impacts but not major impacts.

5 MR. SHAW: Your Honor, I would like to have
6 a two-page newspaper article in this morning's
7 Journal American marked as the next exhibit in order.

8 JUDGE CANFIELD: I will mark that two-page
9 document as Exhibit No. 34 for identification.

10 (Marked Exhibit 34.)

11 Q. Mr. Offner, I've handed you a photocopy of
12 a clipping from this morning's Bellevue newspaper.
13 Did you have a chance to read this this morning?

14 A. No, I didn't.

15 Q. Have you had a chance to read it yet since
16 I handed it out?

17 A. About half of it.

18 Q. Why don't you just take a quick skim
19 through there. I believe it quotes you at some length
20 and I wanted to direct your attention to that.

21 JUDGE CANFIELD: It's been marked as
22 Exhibit 34.

23 Q. Have you had an opportunity to finish it?

24 A. Yes.

25 Q. Are you the same David Offner that's quoted

(OFFNER - CROSS BY SHAW)

1 in this article beginning at the bottom of the first
2 page of the exhibit?

3 A. Yes, I am.

4 Q. Do you recall giving an interview to Joann
5 Plange or somebody else of the Journal American?

6 A. I recall a very brief phone conversation
7 couple of days ago, yes.

8 Q. Now, directing your attention to your quote
9 attributed to you, "'Frankly we have better things to
10 do with the taxpayer's money,' he said." Do you see
11 that on the second page of the exhibit about three
12 paragraphs down?

13 A. Yes, I do.

14 Q. Does that correlate with your testimony at
15 page 5, the answer beginning at line 9?

16 A. I would say they're related, yes.

17 Q. Is the thrust of your testimony here in the
18 quote attributed to you in this morning's paper the
19 effect that it is bad public policy to require the
20 city to pay for utility services?

21 A. No, it is not. I believe that my
22 conversation with the reporter, as I often find, is
23 that they will generally glom on to the most juicy
24 comment or most quotable kind of comment you make as
25 opposed to the rest of the conversation that we had

(OFFNER - CROSS BY SHAW)

1 with them. I actually did use the testimony. I had
2 that in my file on my desk at the time, and I did use
3 the information that was in my testimony to share with
4 the reporter, and I believe that the broader context
5 of what I told her was that it was not in line with
6 our city council's established budget priorities that
7 a substantial amount of dollars would be redirected
8 away from those budget priorities towards providing
9 something that I thought fell kind of into what
10 council would consider an overhead kind of thing
11 rather than a direct service. And I can't recall
12 whether I used those specific words or not but
13 apparently that's what she chose to print.

14 Q. You have my sympathies in terms of being
15 quoted in the newspaper. Directing your attention to
16 page 5, beginning at line 9. The thrust of that
17 answer suggests to me that the city believes that it
18 should not be required to pay either in whole or in
19 part for utility services that it receives, that your
20 limited budget money should be spent on things like
21 firemen and policemen instead of utility services. By
22 that are you suggesting that this Commission should
23 not require the city of Bellevue and other similarly
24 situated customers to pay for telephone service from
25 regulated telephone companies?

(OFFNER - CROSS BY SHAW)

1 A. No, that isn't what was intended at all.
2 It was intended to simply state that our city council
3 and our citizens are primarily interested in seeing
4 direct service provisions. They like to see police
5 and fire and parks and transportation kind of services
6 as being the focus of what we're doing and like to see
7 their tax dollars go in those directions, but that is
8 not to say that any bill for any service that is
9 provided to us that we're asking for any special
10 treatment in it.

11 Q. The newspaper article goes on to talk about
12 the Bellevue School District. Do you have any
13 familiarity with the plans of the Bellevue School
14 District to spend capital dollars on building
15 apparently a digital high capacity network that will
16 substantially cut its phone bill?

17 A. No, I do not.

18 Q. Are you aware in your capacity as the
19 financial director for the city of a like city of
20 Bellevue plan?

21 A. No, I am not.

22 Q. City of Bellevue has a reputation as a
23 progressive upscale community and certainly the home
24 of a lot of software and telecommunications entities.
25 Noted in the newspaper article talks about Mercer

(OFFNER - CROSS BY SHAW)

1 Island investing in such a system. Does the city of
2 Bellevue, if I understand you, has no plans at all to
3 expand into a more modern digital high capacity
4 network?

5 A. We do not currently have anything budgeted
6 in our long-term capital plan, which is covering the
7 next seven years, so we do not have any specific
8 telephone equipment budgeted.

9 Q. Is one of the alternatives that you're
10 considering, in light of the request of the phone
11 company, to increase rates for existing services to
12 examine such alternatives?

13 A. Obviously, if we are faced with different
14 economies than at the time -- if we make a decision to
15 go in one direction at one point and the economics
16 over which we don't have any control change, we will
17 look at new things, but we had not and we do not even
18 have in our financial plan right now the rate increase
19 that's before us because it's not included in our
20 budget planning for 1995.

21 Q. Were you aware of this filing when it was
22 made approximately a year ago?

23 A. Yes, I was.

24 Q. Did that cause you to make contingency
25 plans at all for the possibility that it may be

(OFFNER - CROSS BY SHAW)

1 allowed to go into effect?

2 A. Yes, we have, but I guess on what I would
3 consider a back burner set of issues that we have many
4 of those kinds of things that we're watching but we
5 don't have -- did not turn it into something that we
6 thought was a real thing that was going to positively
7 happen. It was just something that had a probability
8 of happening.

9 Q. I see that you've been the financial
10 director in that line of work with the city of
11 Bellevue for about 19 years. Were you aware of
12 a proceeding in 1987 with an increase over 100 percent
13 in terminal loop rates effective in 1988?

14 A. I vaguely recall it but I couldn't quantify
15 what the amounts were at that point.

16 Q. Did the city of Bellevue protest that rate
17 increase in 1987/1988?

18 A. I cannot recall.

19 MR. SHAW: Thank you. That's all I have.
20 I would move the admission of Exhibit 34 for
21 identification.

22 JUDGE CANFIELD: Any objections?

23 MR. GOLTZ: Your Honor, yes. I object. I
24 would have no objection if the article had nothing in
25 it but statements by the witness on behalf of the city

(OFFNER - CROSS BY SHAW)

1 of Bellevue. That witness is here available for
2 cross-examination. However, the article also goes on
3 to include statements by a representative of U S WEST,
4 by the Mercer Island School District and perhaps the
5 city of Kent, I believe, or Kent School District, I'm
6 not sure. And those are clearly hearsay and those
7 people are not here available for cross-examination.
8 As far as the statements in the article attributable
9 to the witness, that statement was read, the witness
10 was examined on the basis of that statement, and so in
11 that sense that portion of the article is
12 objectionable because it would be cumulative evidence.
13 I just hate to see this getting into that sort of
14 hearsay from a newspaper.

15 MR. TROTTER: We join the objection.

16 MR. BUTLER: As do we.

17 MR. HARLOW: As do we. The grounds were
18 quite well stated by Mr. Goltz.

19 MR. KAHN: I join in that objection on
20 behalf of Bellevue for everybody other than Mr.
21 Offner.

22 JUDGE CANFIELD: I will get back then to
23 Mr. Shaw.

24 MR. SHAW: Yes. We just discussed, Your
25 Honor, just a few minutes ago the time-honored plans

(OFFNER - CROSS BY SHAW)

1 of the attorney general's office to introduce as an
2 exhibit in this case letters sent to the Commission,
3 unsworn, unexamined letters for illustrative purposes,
4 come in as evidence in this case as exhibits. Here we
5 have a contemporary report which certainly the witness
6 is familiar with and has participated and that
7 directly addresses the issues in this case.
8 Certainly, it is admissible unless this Commission
9 operates under a tremendous double standard as to
10 the evidence on the same basis for illustrative
11 purposes of the discussion and position of the
12 customers of U S WEST in this proceeding. There is no
13 basis to think it not factual and the witness has not
14 denied that it's factual so at least it's admissible
15 on that limited basis if unsworn letters from Kent,
16 Mercer Island, Bellevue School District and I don't
17 know how many others of the affected customers of U S
18 WEST are going to be admitted as exhibits in this
19 case.

20 MR. TROTTER: Your Honor, the comparison
21 between this and the ratepayer letters are as
22 different as night and day. The reason it's
23 time-honored is because the Commission struck a
24 perhaps rough but certainly practical accommodation to
25 give the public some sense that what they write to the

(OFFNER - CROSS BY SHAW)

1 Commission will be included in the record for some
2 purpose, and I will be glad to write to all 700 that
3 commented -- that filed letters on the DA filing and
4 saying that Mr. Shaw would like to cross-examine them
5 and we can see how many we can get in. I suspect we
6 might get in quite a few but that's just simply not
7 the issue here, and the Commission has treated those
8 ratepayer letter exhibits differently than the
9 extent of evidence offered through a witness here in
10 cross-examination on the record. I think that history
11 shows that, so the comparison is not well taken.

12 JUDGE CANFIELD: Let me note that during
13 the break we had discussed to some extent a request
14 from the Association of Washington Cities that they
15 plan to ask certain letters to be entered as exhibits,
16 and those were certain letters from cities of Kent,
17 Olympia, Federal Way, Vancouver and so on. And I
18 believe it was indicated that they were going to be
19 covered in an illustrative exhibit that's going to be
20 offered, I believe, at Friday's public session and
21 copies are going to be made available to Mr. Shaw
22 prior to that time, it's my understanding, but in any
23 event that puts those comments in perspective as far
24 as what the parties were just referring to, so as far
25 as that specific request of Association of Washington

(OFFNER - CROSS BY SHAW)

1 Cities, I think that's going to be taken care of in
2 the illustrative exhibit. And I believe -- I
3 understood Mr. Shaw's comments that this is being
4 offered in the same vein as an illustrative exhibit.
5 The witness has testified as to his particular
6 comments and he's been under -- subjected to cross on
7 those and as far as the balance of the exhibit. I
8 think the hearsay aspects of it are so noted, and I am
9 going to enter it as an illustrative exhibit. So
10 Exhibit 34 is so entered into the record as an
11 illustrative exhibit.

12 (Admitted Exhibit 34.)

13 MR. SHAW: I have nothing further.

14 JUDGE CANFIELD: I believe there weren't
15 many that had estimates for Mr. Offner. Maybe I could
16 just go down to briefly confirm that. Are there any,
17 questions, Mr. Harlow?

18 MR. HARLOW: None, Your Honor.

19 JUDGE CANFIELD: Mr. Finnigan?

20 MR. FINNIGAN: No.

21 JUDGE CANFIELD: Mr. Butler?

22 MR. BUTLER: No.

23 JUDGE CANFIELD: And Mr. Nettleton?

24 MR. NETTLETON: No.

25 JUDGE CANFIELD: And Ms. Frickelton?

(OFFNER - CROSS BY SHAW)

1 MS. FRICKELTON: No.

2 JUDGE CANFIELD: And I guess we're up to
3 the one that does have some questions or so he
4 indicated earlier. Before we get to Mr. Trotter, I
5 believe we went down the list, but I also indicated
6 that Mr. Goltz didn't indicate any questions. Is that
7 still the case, Mr. Goltz?

8 MR. GOLTZ: That's correct.

9 JUDGE CANFIELD: So Mr. Trotter.

10 MR. TROTTER: Thank you.

11

12 CROSS-EXAMINATION

13 BY MR. TROTTER:

14 Q. First of all, as was mentioned before,
15 you're a witness solely on the financial impact of the
16 proposal before the Commission?

17 A. That's true, yes.

18 Q. And Dr. Zepp is one of the witnesses for
19 city of Bellevue also; is that right?

20 A. Yes, I believe that's true.

21 Q. And he addresses the issue of
22 grandfathering the rates and phase-in of rates.
23 Should I defer questions to him on that issue because
24 you address it, too, I think on the last page.

25 A. Yes. I comment on it strictly that in

(OFFNER - CROSS BY TROTTER)

1 terms of whenever we see -- have had rate increases
2 proposed like this -- I can recall several instances
3 where significant cost increases have been proposed
4 by other entities on the city of Bellevue -- one of
5 the methodologies preferred in the past has been
6 grandfathering people who have made economic decisions
7 based on one set of economic information, or two at
8 the very least, to phase the rate increase in over a
9 number of years to prevent the kind of rate shock that
10 this would put on the city of Bellevue.

11 Q. I will ask you then. With respect to the
12 phase-in, you testified to a three-year period
13 beginning July 1, 1995 and if that option was
14 selected, would it be one third each year for the next
15 three years?

16 A. That would seem reasonable, yes.

17 Q. And if the Commission chose grandfathering
18 in existing ratepayers, did you have in mind that
19 ratepayers that currently have term loops would get to
20 keep them under the current tariff structure or what
21 did you have in mind for grandfathering?

22 A. I'm sure that could be done in a number of
23 alternate ways anywhere from all people to perhaps
24 having it -- having rates even phased in over a longer
25 period of time, but I would think I had in mind for

(OFFNER - CROSS BY TROTTER)

1 the city of Bellevue that it would allow us to keep
2 our existing setup the way it is with no change in
3 the tariff.

4 Q. And how long would that last under your
5 proposal?

6 A. Well, from what I understand in talking to
7 telecommunications people, the technological kind of
8 things that occur make predicting the future of
9 exactly what we are going to be looking at as far as
10 options look -- make it a very hazardous profession to
11 be predicting exactly what kind of things will be
12 available. I didn't have a specific time line. As
13 far as I'm concerned it would be forever.

14 Q. Now, because of your -- the scope of your
15 testimony, if the city of Bellevue considered certain
16 alternatives to its terminal loop service, you
17 wouldn't be the one that would know or do you know
18 what alternatives the city has considered?

19 A. No, I do not.

20 MR. TROTTER: Thank you. That's all I
21 have.

22 JUDGE CANFIELD: With that, any redirect,
23 Mr. Kahn?

24 MR. KAHN: Just one question.

25

(OFFNER - REDIRECT BY KAHN)

1 REDIRECT EXAMINATION

2 BY MR. KAHN:

3 Q. Mr. Offner, you were asked a question by
4 Mr. Shaw regarding whether the city was requesting
5 special treatment. Do you recall that question?

6 A. Yes, I do.

7 Q. In objecting to essentially an overnight
8 increase of 311 percent in the rate term loops, are
9 you requesting special treatment or simply fair
10 treatment for the city?

11 A. Fair treatment.

12 MR. KAHN: Nothing further.

13 JUDGE CANFIELD: Any follow-ups?

14 MR. SHAW: Yes, Your Honor.

15

16 RECROSS-EXAMINATION

17 BY MR. SHAW:

18 Q. Mr. Offner, do you consider a rate increase
19 first discussed in 1987, implemented partially in
20 1987, and then filed for further increases over a year
21 ago an overnight increase?

22 A. As I understand it, I am not very familiar
23 with the original filing, but the effect is that it is
24 an overnight increase on the city of Bellevue
25 regardless of why it was not put into effect or if it

(OFFNER - RE CROSS BY SHAW)

1 ever will be put into effect, but if it were, the
2 prior discussions really are irrelevant. It will go
3 into effect all at once.

4 Q. Is it your testimony that you need a
5 minimum of three years to change your budgets?

6 A. I think that's at a minimum a reasonable
7 period to phase in a rate increase of this magnitude.
8 It perhaps even should be longer than that. If this
9 decision were made at this point late in the fall of
10 1994, the city of Bellevue will have a proposed budget
11 for 1995 on the table that has essentially allocated
12 all of its resources about the -- by the second week
13 in October. So effectively if the rate increase were
14 to go through as proposed, we would have to amend that
15 budget as it is being presented to the city council
16 for 1995 and then would have to of course carry that
17 same increased cost in every future year. We would
18 think it would be much more reasonable to give some
19 lead time and to phase it in over a number of years,
20 and I think three years is a minimum.

21 I might just add that when the state of
22 Washington legislature changed the utility taxes and
23 put a cap on those at 6 percent a number of years ago,
24 utility taxes are applicable to telephones and gas,
25 that many cities were over the amount the state

(OFFNER - RE CROSS BY SHAW)

1 legislature imposed as being 6 percent. They gave a
2 ten-year period in which to phase into the action, the
3 cities to phase down to minimize the annual impact on
4 their budgets.

5 Q. One last question. I'm curious. Do you
6 know how much your annual total operating budget
7 increases on a percentage basis year over year, say
8 over the last five years or whatever?

9 A. I don't have precise figures, but it's
10 probably in the -- probably over the last five years
11 it would be in the neighborhood of -- I would estimate
12 maybe 7 to 9 percent.

13 Q. Thank you.

14 MR. SHAW: Nothing further.

15 JUDGE CANFIELD: Any others? None.

16 Thank you, Mr. Offner. Were we going to
17 take another city of Bellevue/Department of
18 Information Services?

19 MR. KAHN: We're prepared to proceed and
20 suggest that we do so in the interests of time.

21 JUDGE CANFIELD: Why don't we go ahead.
22 The estimates indicate that we may not totally
23 complete the next witness but we can certainly do what
24 we can. Who are you calling next?

25 MR. KAHN: We'll be calling Tom Zepp.

(OFFNER - RE CROSS BY SHAW)

1 JUDGE CANFIELD: Why don't I go ahead and
2 assign numbers to the prefiled exhibits. Beginning
3 with the testimony of Thomas M. Zepp as Exhibit T-35.
4 And then exhibit pre-identified as TMZ-2 I will mark
5 as Exhibit 36, TMZ-3 I will mark as Exhibit 37, TMZ-4
6 I will mark as Exhibit 38. The next one was
7 identified as a confidential Exhibit TMZ-5. That will
8 be marked as confidential Exhibit C- 39. TMZ-6 will
9 be marked as Exhibit 40. The next two are marked as
10 confidential exhibits. TMZ-7 will be marked as
11 confidential Exhibit C-41 and TMZ-8 will be marked as
12 confidential Exhibit C-42. The remaining three
13 exhibits are not confidential. TMZ-9 will be marked
14 as Exhibit 43. TMZ-10 will be marked as Exhibit 44
15 and TMZ-11 will be marked as Exhibit 45 and I believe
16 that was the extent of the prefiled testimony and
17 exhibits.

18 (Marked Exhibits T-35, 36 through 38, C-39,
19 40, C-41, C-42 and 43 through 45.)

20

21 DIRECT EXAMINATION

22 BY MR. KAHN:

23 Q. Could you state your name, please, spelling
24 your last name for the record.

25 A. My name is Thomas M. Zepp, Z E P P.

(ZEPP - DIRECT BY KAHN)

1 Q. Mr. Zepp, what is your business address?

2 A. Well, my business address is Utility
3 Resources, Inc. That's at 1500 Liberty
4 Street Southeast, Salem, Oregon, 987302.

5 Q. Mr. Zepp, are you the same Thomas Zepp that
6 caused to be prepared and filed Exhibits 35 through 45
7 that have just been marked?

8 A. Yes.

9 Q. Are there any changes or corrections you
10 wish to make to those exhibits at this time?

11 A. Yes. I have one change that should be made
12 on several different pages.

13 Q. Would you identify that, please.

14 A. I would like to eliminate the two words DFI
15 trunks and then a comma.

16 JUDGE CANFIELD: Maybe we can get an
17 exhibit number reference first and page and line.

18 THE WITNESS: First instance is on page 5
19 of my testimony. That's T-35 at line 8 the word DFI
20 and then trunks and then the comma. That should be
21 deleted. Also on that same page at line 17, the words
22 "DFI trunks," should be deleted.

23 Next place would be on page 30, lines 7,
24 again "DFI trunks," should be deleted.

25 And the final page on page 31, the same

(ZEPP - DIRECT BY KAHN)

1 should be deleted "DFI trunks" and a comma on line
2 1 and on line 21 should be deleted. As far as I know
3 that's the only change I have.

4 MR. KAHN: At this time the city of
5 Bellevue would move the admission of Exhibits 35
6 through 45 and offer Mr. Zepp for cross-examination.

7 JUDGE CANFIELD: Any objections?

8 Let the record reflect there are none.
9 Entered into the record are the following: Exhibit
10 T-35, Exhibit 36, Exhibit 37, Exhibit 38, and
11 confidential Exhibit C-39, Exhibit 40 and two
12 confidential exhibits, C-41 and C-42 and Exhibits 43,
13 44 and 45. Those exhibits are so entered into the
14 record.

15 (Admitted Exhibits T-35, 36 through 38,
16 C-39, 40, C-41, C-42 and 43 through 45.).

17 MS. COX: Your Honor, the Department of
18 Information Services joins in offering Dr. Zepp's
19 testimony and also for the admission of Exhibits 35
20 through 45.

21 JUDGE CANFIELD: So noted for the record
22 and so entered into the record. With that Mr. Zepp is
23 available for cross. Mr. Shaw.

24

25

CROSS-EXAMINATION

(ZEPP - CROSS BY SHAW)

1 BY MR. SHAW:

2 Q. Dr. Zepp, as related on the front of your
3 Exhibit T-35 you're testifying on behalf of state of
4 Washington, DIS and the city of Bellevue?

5 A. That's correct.

6 Q. Are you testifying on behalf of any other
7 party in this case?

8 A. I am not.

9 Q. You used to the best of your knowledge --
10 strike that. You have long been a consultant to
11 TRACER and TCI, two other intervenors in this case,
12 have you not?

13 A. I have been a consultant to TRACER, yes.

14 Q. And you're on retainer by TRACER?

15 A. I am.

16 Q. And you're still on retainer as of today?

17 A. Yes.

18 Q. And you're not taking any position in this
19 case on behalf of TRACER?

20 A. TRACER originally sponsored me prior to DIS
21 sponsoring me in this case for the initial inquiry
22 when Mr. Spinks and I were pursuing settlements with
23 respect to this case. TRACER, however, chose not to
24 proceed and did not choose to become a party, at least
25 to sponsor me.

(ZEPP - CROSS BY SHAW)

1 Q. It is true, back when we, the company,
2 first filed this case prior to suspension and after
3 suspension, you were active in reviewing the company's
4 supporting documents?

5 A. Yes, that's correct.

6 Q. And at that time were you working on behalf
7 of DIS and the city of Bellevue?

8 A. I was working on behalf of TRACER and
9 informally I was keeping DIS informed of the progress.

10 Q. Is DIS a member of TRACER?

11 A. I don't believe so.

12 Q. You would consider the state of Washington,
13 I take it, to be a large customer of U S WEST?

14 A. Yes.

15 Q. In fact the largest customer of U S WEST in
16 Washington?

17 A. I don't know if it's the largest. It
18 certainly is a large customer.

19 Q. And TRACER's membership is generally made
20 up of other large customers of U S WEST in Washington
21 such as manufacturing companies and banks and
22 hospitals and so forth?

23 A. Yes. May not be the same services that
24 they're buying from U S WEST but they are large
25 customers also.

(ZEPP - CROSS BY SHAW)

1 Q. It's reasonable to consider term loops, tie
2 lines, a large-customer service. Would you agree?

3 A. I don't believe so, no.

4 Q. The primary use of the company's current
5 offerings in the term loop family out of the exchange
6 tariff are utilized by large customers by definition
7 that own or lease and operate their own PBXs; is that
8 right?

9 A. I know from the letters that I've read in
10 this case, and I know from the city of Bellevue's
11 interest in having me in this case and also DIS's
12 interests in having me in this case that they
13 certainly are term loop customers. I can't speak
14 directly with respect to other large customers as to
15 how they may or may not be affected by this filing
16 except I know some of the larger customers don't use
17 terminal loops that much.

18 Q. Over the long years of your association
19 with TRACER, an overwhelming percentage of the members
20 of TRACER use either PBX-based or Centrex-based
21 private switching systems, do they not?

22 A. That's true.

23 Q. Can you name one large customer that uses
24 all 1FB-type services for its business exchange
25 service?

(ZEPP - CROSS BY SHAW)

1 A. No.

2 Q. It would be exceedingly uneconomic, would
3 it not, for a large customer with many employees and
4 resulting demand for access lines to pay the rates U S
5 WEST charges per 1FB for each one of those employees,
6 would it not?

7 A. I have not made that calculation. The 1FB-
8 type service is not going to provide the same quality
9 of service or the same type of service, and that's one
10 aspect of it. The other is I have not quantified how
11 much those large customers would pay if they did buy
12 1FBs.

13 Q. Just appearing on the face of it, doesn't
14 it, that \$28 a line per month for just access to the
15 network to make exchange and interexchange calls such
16 phone service could be an exceedingly poor value for a
17 large consumer, would it not?

18 A. It depends on the price for alternative
19 services.

20 Q. And the price for access line to provide
21 the equivalent access to each employee to the exchange
22 and interexchange service through a Centrex or a PBX
23 is substantially less per line and provides more
24 features and functionality, correct?

25 A. That's not necessarily the case.

(ZEPP - CROSS BY SHAW)

1 Q. Well, let's take a large customer such as
2 the state of Washington with thousands and thousands
3 of employees and therefore phone lines. State of
4 Washington would never consider buying a 1FB for each
5 one of its employees or phone number needs, would it?

6 A. I haven't done that analysis for DIS or
7 either agencies for the state of Washington. I don't
8 know if they have considered 1FB as an alternative.
9 The alternatives that I've discussed in the past with
10 DIS generally are tradeoffs between Centrex-type
11 systems and PBX systems. So I don't know in what
12 instances they may or may not consider 1FB service.
13 They obviously -- with the 1FB service they don't have
14 many of the advantages that they have with a private
15 system, so they may not consider it for that reason,
16 and that reason alone.

17 Q. And including a much lower cost per line,
18 correct?

19 A. I don't know if that's true.

20 Q. You have not in your work as a long time
21 consultant and economist for TRACER and DIS formed an
22 opinion that a PBX or a Centrex-based system is a much
23 more economic solution for them?.

24 MR. BUTLER: Excuse me, Your Honor. I am
25 going to have to object that the question is

(ZEPP - CROSS BY SHAW)

1 misleading in the sense that it assumes that it would
2 be possible for a large customer to buy 1FB lines for
3 each and every employee when in fact under the U S
4 WEST tariff as soon as you buy your fifth line you get
5 charged the complex rate, so buying a 1FB line for
6 every employee is a legal impossibility.

7 MR. SHAW: Well, Counsel is being too
8 literal with the term 1FB which is not a term of art.

9 Q. I mean by that, Dr. Zepp, to mean
10 residential-based -- business basic exchange service
11 whether rated simple or complex. Understanding that,
12 do you recall the question?

13 JUDGE CANFIELD: I will allow that.

14 A. No, I don't recall the question.

15 MS. COX: Can I interrupt? Mr. Shaw, would
16 you using the mike, please. I'm having a hard time
17 hearing you.

18 A. Could you repeat the question.

19 Q. Is it apparent on the face of it that it's
20 exceedingly uneconomical for a large customer to buy
21 business exchange service in lieu of operating a PBX
22 or Centrex private-switched network?

23 A. As I say, I have not done that analysis for
24 the state of Washington. There are instances, if
25 terminal loop prices, for example, are increased, or

(ZEPP - CROSS BY SHAW)

1 other kinds of things were to happen that certainly
2 1FB lines would be less expensive, so I don't know. I
3 have not done the analysis, and I have not used the
4 current prices. Everything depends upon the prices
5 for that type of comparison and no one has ever asked
6 me to make that.

7 Q. And you have absolutely no opinion on that
8 one way or the other without doing a study, is that
9 what you're saying?

10 A. For the state of Washington, yes.

11 Q. For any member of TRACER?

12 A. I have not done that analysis.

13 Q. So it would be the same answer for any
14 large business customer or public sector customer --

15 A. I've indicated to you that, number one,
16 buying complex lines, generally speaking, will not
17 satisfy the telecommunications requirement of these
18 customers, as I understand them, which in particular
19 includes a lot of intercom calling which means they do
20 not have access to the public network when they're
21 doing that intercom calling so they're different kinds
22 of services right upfront.

23 Q. You can call anybody with a phone number
24 with a public switched network whether they're down
25 the hall or across the state, can you not?

(ZEPP - CROSS BY SHAW)

1 A. Yes, and then you're paying for the price
2 of access network.

3 Q. Exactly the point. It's an uneconomical
4 solution for a large customer, wouldn't you agree with
5 that?

6 A. No. No. I have not made the study.

7 Q. Okay. Is the economic attractiveness of a
8 PBX-based system enhanced by low term loop-type rates
9 so that the system can be expanded off of the main
10 premise of the large customer?

11 A. I don't exactly know how to respond to you,
12 Mr. Shaw. The low term loop rates, right now they are
13 \$6. If you compare that to a Centrex station line,
14 you're talking \$12 for one versus whatever you're
15 charging for a station line, which is still in that
16 ballpark. I don't know necessarily that term loops
17 are a, quote, low-priced service which you've
18 characterized it to be.

19 Q. I don't want to mislead you. The thrust of
20 the question is simply that the economic
21 attractiveness of a PBX-based system is enhanced by
22 lower rather than higher term loops rates where the
23 customer has need to extend the private network off of
24 their central premise?

25 A. Yes. I would agree, everything else the

(ZEPP - CROSS BY SHAW)

1 same, that if you have lower prices for terminal loops
2 as opposed to higher prices for terminal loops that a
3 PBX system is more attractive than it would be.

4 Q. And it's in the economic interest of the
5 entire large business community, including large
6 public sector customers, to keep term loop rates as
7 low as possible?

8 A. I don't agree with that. It may well be in
9 terms of the public sector because the public sector
10 is currently buying terminal loops. But to a
11 large extent, as I understand it, the larger business
12 customers are buying PIs and other types of
13 alternatives and are not using the terminal loops as
14 much as they used to use them.

15 Q. Large business customers, non-public sector
16 business customers utilize term loops, do they not?

17 A. I don't know the extent to which nonpublic
18 entities are using terminal loops. I have not
19 examined that. All I know is from the evidence I've
20 seen there are an awful lot of governmental agencies,
21 governmental bodies, that do use terminal loops. I
22 don't know about the businesses, I haven't examined
23 that.

24 Q. In your work as a consultant for TRACER in
25 the early stages of this proceeding before it was set

(ZEPP - CROSS BY SHAW)

1 for hearing, you had no idea of the demand or
2 quantities of term loops used by your clients, the
3 members of TRACER?

4 A. Yes. And that's what I was referring to in
5 that generally speaking the TRACER members that I
6 talked to were not using very many terminal loops and
7 that's one reason they chose not to sponsor this
8 testimony.

9 Q. Are you aware of the evidence and the
10 testimony in this case that generally indicates the
11 quantity of term loops that U S WEST sells is
12 declining?

13 A. Yes. I've seen that.

14 Q. And you have no reason to doubt that, that
15 evidence, I take it?

16 A. I do not doubt that.

17 Q. And is the primary reason for that, in your
18 view, the fact that large sophisticated customers,
19 both public sector and private sector, are replacing
20 term loops with T1 and other large capacity
21 facilities?

22 A. I don't know that. I have not made that
23 study. Another option certainly would be if you've
24 been more successful selling Centrex products. I have
25 not made a study of it. I don't know the answer.

(ZEPP - CROSS BY SHAW)

1 (Recess.)

2 Q. Are you familiar with the plans of a
3 associate of your client, the Bellevue School
4 District, to replace their term loop-type system with
5 a high cap loop system?

6 MR. KAHN: Your Honor, I believe he
7 referred to the school district as an associate of my
8 client which is incorrect and misleading.

9 MR. SHAW: I didn't use it as a term of
10 art. I presume the city of Bellevue and the Bellevue
11 School District have something in common but I wasn't
12 trying to infer anything.

13 MR. GOLTZ: That's what this proceeding is
14 about.

15 JUDGE CANFIELD: Maybe we could get it
16 rephrased.

17 Q. Are you familiar with the Bellevue School
18 District's plans to upgrade their private switched
19 system from a term loop-type analog voice grade system
20 to high cap system presumably capable of more
21 sophisticated data and video-type applications as
22 well as voice?

23 A. No, I am not.

24 Q. Assuming for the purposes of the question
25 that that is their plan, would you find in your

(ZEPP - CROSS BY SHAW)

1 experience that that's typical that large more
2 sophisticated customers, both public sector and
3 private sector, are evolving to upgrade their private
4 switching systems to more high capacity facilities?

5 A. Based only on my experience and my
6 discussion with different folks, I would say some of
7 them are moving in that direction, but some of them
8 are not.

9 Q. Like all the rest of the economy, more and
10 more businesses and public sector entities in
11 Washington are becoming more and more reliant on
12 computers and data transfer?

13 A. Yes, that's true.

14 Q. And use their private network to accomplish
15 some of that data transfer?

16 A. That's fair, yes.

17 Q. Switching subjects a little bit, you were a
18 participant on behalf of TRACER in the private line
19 special access merger docket that we've referenced in
20 this case back in 1987, were you not?

21 A. I was.

22 Q. Did you represent DIS at the time?

23 A. I don't recall if that was jointly
24 sponsored by DIS or not. I would have to check. I
25 know we have jointly sponsored testimony a number of

(ZEPP - CROSS BY SHAW)

1 times with them. I don't recall.

2 Q. Neither do I. In that case, company
3 generally had proposed to restructure an increase in
4 private line rates and merge with special access
5 tariff?

6 A. Yes, I recall that.

7 Q. And you on behalf of TRACER took the
8 position that the rate increase was excessive based
9 upon the costs data?

10 A. Based upon -- I missed what you said.
11 Based upon what?

12 Q. The supporting data.

13 A. The supporting data, yes, that's fair.

14 Q. And on the other hand the staff's filed
15 position in that case was that the increases were not
16 high enough?

17 A. I don't recall that. That may well have
18 been the case.

19 Q. The case was settled with agreement among
20 those three primary parties, the staff, the company
21 and TRACER represented by yourself?

22 A. My recollection is that case and also the
23 following case settled, yes. I can't remember if it
24 was just three parties involved, though.

25 Q. And settled that at a level of rates higher

(ZEPP - CROSS BY SHAW)

1 than TRACER proposed, lower than staff proposed,
2 different than the company proposed. Is that your
3 recollection?

4 A. I can recall the rates that we settled on
5 were higher than TRACER would have liked to have seen.
6 I don't recall the other party.

7 Q. Do costs vary in the private line world
8 whether the service is intraexchange or interexchange
9 at the same number of wire centers and the same
10 distance length of the circuit is involved?

11 A. Costs as estimated by U S WEST are the same
12 for an interoffice circuit whether it be an
13 intraexchange or an interexchange circuit. I agree
14 with that.

15 Q. A jurisdictional line drawn by this
16 Commission has no direct impact on the costs unless it
17 requires the company to pay an access charge to
18 another company?

19 A. Yes. That is also my testimony, so that's
20 not any different from what I've already said in my
21 testimony.

22 Q. So as a general proposition, costs do not
23 vary because services are interexchange or
24 intraexchange. The costs vary depending upon the
25 density, the length of haul, the conditioning

(ZEPP - CROSS BY SHAW)

1 involved, the number of switches involved. Would you
2 agree with that as a general proposition?.

3 MR. BUTLER: Excuse me. If I can ask for a
4 clarification. Are you talking about switched
5 services or dedicated services?

6 MR. SHAW: Private lines.

7 MR. BUTLER: When you say the number of
8 switches involved, are you referring to an actual
9 switch or just the central office switch?

10 MR. SHAW: No. Just the wire centers that
11 the circuit is routed through.

12 A. In response to that question, one must be
13 clear that what we're talking about here are economic
14 costs. If we're talking about costs recovery and
15 embedded costs and costs responsibilities, obviously
16 the interexchange circuits, which are the private line
17 circuits, have cost responsibilities to pay access
18 charges that certainly should not be the cost
19 responsibility for an intraexchange service which
20 never crosses exchange boundaries. So if you're
21 limiting your question specifically to long-run
22 incremental cost estimates, I would agree with you.

23 Q. Yes, the question was so limited.

24 A. Yes.

25 Q. So private lines are not different services

(ZEPP - CROSS BY SHAW)

1 just because they're intraexchange versus
2 interexchange. You would have to go much further than
3 that simple difference to decide if they're different
4 services?

5 A. Well, as I say in my testimony, that
6 depends on what the Commission determines. Certainly
7 the fact that one is an exchange service and another
8 is an interexchange service, the Commission can easily
9 identify that and the Commission for policy reasons
10 can determine that they should be treated as separate
11 services.

12 Q. That has nothing to do with economics or
13 economists, which I believe you are one. That's
14 strictly a policy decision on whether to differentiate
15 between intra and interexchange services assuming the
16 costs are no different?

17 A. Assuming the costs aren't different, but if
18 the policy decision is made by the Commission then we
19 should examine the costs for the intraexchange service
20 and the costs for the interexchange service and they
21 may well be different, but once that policy decision
22 is made -- and of course that's what I was asking and
23 what Washington Commission staff was asking earlier in
24 this proceeding. We wanted to see the cost estimates
25 for the exchange services and they have never been

(ZEPP - CROSS BY SHAW)

1 produced.

2 Q. Let's examine that. You agree that there
3 is such a thing as an intraexchange private line
4 composed of two NACs and conditioning.

5 A. I would agree that there is such a thing as
6 an intraexchange private line. It may or may not
7 require conditioning.

8 Q. Depending upon the customer's needs.

9 A. No, that's not really a function of the
10 customer's needs. It's a function of what will make
11 the circuit work. Customer may need it to be a
12 certain quality, but it may not require conditioning
13 in order to achieve that quality.

14 Q. Customer needs a circuit that will work to
15 the customer's expectations and required standards to
16 make his equipment work? Isn't that true?

17 A. Yes.

18 Q. If it doesn't work it's worthless. Would
19 you agree with that?

20 A. Yes.

21 Q. And so the customer tells the company what
22 he's going to use it for, what equipment he's going to
23 hang on it, and the company may or may not, depending
24 on the engineering required, have to put some
25 conditioning on that circuit to work to that

(ZEPP - CROSS BY SHAW)

1 customer's specifications, correct?

2 A. Yes.

3 Q. Would you agree that the service that U S
4 WEST now calls term loops, an intraexchange service,
5 is provisioned and composed of exactly the same thing
6 as an intraexchange private line?

7 A. I'm sorry. I don't know what an
8 intraexchange private line is. Earlier we were told
9 that all the private lines were interexchange.

10 Q. I thought you just agreed with me that
11 there is such a thing as an intraexchange private
12 line. You can go to the private line tariff and buy
13 an intraexchange private line?

14 A. We're talking about data circuits now.

15 Q. No. Private line. Whether data or voice
16 grade.

17 A. Well, Mr. Rees entered a data response and
18 said there are no intraexchange private lines. All of
19 them are interexchange. There is none.

20 Q. Have you examined the private line tariff
21 yourself both back in 1987 when you were so intimately
22 involved in its design and for this case?

23 A. Yes. I have looked at the tariff.

24 Q. And do you recall that in fact if the
25 customer wants to, and specifically an interexchange

(ZEPP - CROSS BY SHAW)

1 carrier customer has to, they have need for an
2 intraexchange private line, can buy it out of that
3 tariff?

4 A. My recollection is that if a carrier buys
5 that, it's considered to be an interexchange service
6 because the carrier is going to take it somewhere
7 else.

8 Q. A private line from a carrier's POP in the
9 Westin building to the main in Seattle would be
10 intraexchange, would it not?

11 A. Is that a data circuit? I'm just dealing
12 with what Mr. Rees told us. He says those simply
13 don't exist. At least for voice grade 32 and 33
14 circuits.

15 Q. Let me ask you again. Have you examined
16 the tariff to determine on your own behalf that you
17 cannot order an intraexchange voice grade private line
18 out of the private line tariff?

19 A. If what we're talking about here is
20 something an interexchange carrier is buying, my
21 understanding is that's classified as an interexchange
22 service.

23 Q. When we talk about taking an identical
24 service and breaking it into two services on the basis
25 of whether it's interexchange or intraexchange, would

(ZEPP - CROSS BY SHAW)

1 you agree that conceptually what we're doing there is
2 deaveraging the services? That is, we'll look at the
3 interexchange customers as one class of customers and
4 the intraexchange customers as another class of
5 customers and we in effect will deaverage the combined
6 interexchange and intraexchange rates if we do that?

7 A. Let me state that back to you, Mr. Shaw.
8 You've indicated we're dealing with an averaging over
9 interexchange and intraexchange and looking at one
10 service, and that would give you an average rate. If
11 that's the way you want to do it.

12 Q. Well, let me use another example. This may
13 be a little simpler we're all familiar with. Do you
14 agree with Mr. Spinks's assertion -- the company's
15 assertion for that matter -- that residential basic
16 exchange service and business basic exchange service
17 are functional equivalents, that is, they are
18 engineered and designed exactly the same way although
19 business service may have more usage on it but in
20 terms of network design they're exactly the same
21 thing?

22 A. In many ways they appear to be the same. I
23 don't know if they're exactly the same or not.

24 Q. If there is an access line hooked up to the
25 switch and the rest of the network, that's what they

(ZEPP - CROSS BY SHAW)

1 are, aren't they?

2 A. In terms of the physical characteristics.

3 Q. And a number is assigned to it?

4 A. Yes.

5 Q. And whether you're at home or at work it
6 works exactly the same way, you pick it up and you
7 dial either seven or ten digits to call somebody else,
8 correct?

9 A. Yes.

10 Q. But historically this Commission, as well
11 as virtually other commissions, have classified
12 residential customers as one class of service and
13 business customers as another class of service and
14 have charged different rates for essentially the same
15 thing, correct?

16 A. That's true.

17 Q. And there's no economic basis for doing
18 that, is there? It's simply a public policy decision?

19 A. To some extent, one can argue there's an
20 economic basis for it, but that certainly has
21 diminished over time as usage costs have dropped.
22 That's traditionally been the, quote, economic
23 justification for the difference, but I agree with you
24 it's primarily a public policy decision.

25 Q. So if this Commission wanted PBX customers

(ZEPP - CROSS BY SHAW)

1 to have favorable intraexchange private lines, they
2 can classify as a class of service intraexchange
3 private line subscribers and charge them or allow them
4 to be charged a different rate than interexchange
5 private line carrier customers?

6 A. The Commission could do that if it chose
7 to.

8 Q. Is that in essence what the situation is
9 today in which you're urging be continued?

10 A. No. It's the opposite. I mean, the
11 situation the way it is today are terminal loop
12 service, tie line services, exchange services and
13 there are private line services. U S WEST proposal is
14 to get rid of one and merge them. I am recommending
15 that that not be done or at least it should not be
16 done until it's examined and the cost estimates are
17 provided to the Commission.

18 Q. You have in essence requested a cost study
19 that looks just at intraexchange terminal loop
20 customers and their associated demand, the associated
21 length of their lines, the level of the conditioning
22 supplied and so forth. Is that a fair statement?

23 A. Yes.

24 Q. And I take it you suspect, but you do not
25 know, that if you defined a service that way as

(ZEPP - CROSS BY SHAW)

1 intraexchange that the costs would be different?

2 A. Yes. That's part of it, and also I'm
3 concerned the more I spent working on the cost study
4 that the cost study itself particularly for channel
5 performances would need to be done in a different way.

6 Q. Assume that such a study was done and it
7 showed that the costs were different just because of
8 taking a smaller universe or a different universe
9 other than all private line-type services, inter and
10 intraexchange. That consequence of a different cost
11 result is driven by how you define the service in the
12 first place, is it not?

13 A. Yes. And that of course is my concern that
14 U S WEST has defined the service to be the two things
15 lumped together and done a cost estimate for that
16 lumping of two things together instead of doing the
17 cost study for those services for which the rate
18 increases are proposed.

19 Q. By defining the services first and then
20 doing the study to the service, you could come up with
21 different rates for essentially the same thing on any
22 service, could you not? For example, if you did a
23 cost study of just downtown Seattle business exchange
24 rates, defining downtown Seattle business exchange as
25 a different service than city of Seattle business

(ZEPP - CROSS BY SHAW)

1 exchange service, you would likely come up with a
2 different cost and a different price justification,
3 would you not?

4 A. Yes. And I spent roughly three years going
5 through this agony in the state of Oregon where we
6 went through all these iterations of somebody defining
7 them and then they would do a cost estimate, and then
8 they would look at a cost and they would say, oh,
9 let's look at it a different way and do another cost.
10 That may become an iterative process also.

11 Q. So if the public policy of this state
12 dictated that Seattle business exchange rates be
13 deaveraged into downtown Seattle and the rest of
14 Seattle, two cost studies could be done and two
15 different prices could be derived for those two
16 services so defined, correct?

17 A. I didn't get all the implication of that
18 question, Mr. Shaw. I will agree with you that you
19 can define and do a cost study the way you want to do
20 the cost study and generally speaking the more detail
21 that is provided in a cost study the more useful it is
22 for policy makers. I will agree with that if that's
23 the point you were trying to get at.

24 Q. No. I'm talking about -- use the same
25 methodology, the methodology that we all seem to be

(ZEPP - CROSS BY SHAW)

1 agreeing on that's been pounded out in Oregon and
2 that's been presented here, a long-run incremental
3 cost methodology?

4 A. Well, wait now. First I will have to back
5 up. There is no method that has been pounded out
6 anywhere that I know of to determine channel
7 performance costs. That is, of course, one of the
8 real problems that we have in this filing. Because
9 that's where a substantial portion of this price
10 increase is coming from.

11 Q. You would agree that the company has
12 applied a long-run incremental cost methodology to
13 channel performance?

14 A. No, I do not.

15 Q. Is it fully distributed?

16 A. It's not a fully distributed cost study.

17 Q. It purports to be a long-run incremental
18 cost study. Would you agree with that?

19 A. It purports to be and indeed it should.
20 However -- it may, however, give us an indication of
21 the maximum cost of channel performance and not the
22 cost of channel performance, because the way the study
23 is conducted it produces the highest numbers and not
24 the smallest. And U S WEST, of course, when they
25 provision the service are going to do it the cheapest

(ZEPP - CROSS BY SHAW)

1 way, at least I certainly hope they do when they have
2 an AFOR in place, so that's the cost study we should
3 be examining which shows the least cost way for you to
4 be provisioning the circuits and we don't have that
5 information available.

6 Q. Are you talking about just the average fill
7 versus objective fill --

8 A. Absolutely not.

9 Q. -- disagreement?

10 A. No.

11 Q. Let me return you to my question which was
12 about business exchange service in Seattle, and I am
13 just trying to get a principle established here to
14 make sure we're communicating. Assume with me that
15 we're using the same cost study methodology and we've
16 decided that we want to study downtown business
17 exchange service and the rest of Seattle business
18 exchange service. Do you have that hypothetical in
19 mind?

20 A. Downtown business exchange service versus
21 other Seattle or other state of Washington?

22 Q. Other Seattle, just in my example.

23 A. Okay.

24 Q. And we apply the methodology uniformly.
25 It's intuitive that we're going to come up with

(ZEPP - CROSS BY SHAW)

1 different costs for those two services as we've
2 defined them; isn't it true?

3 A. Not necessarily. If one were to do a study
4 of costs, as was done in the state of Oregon, for
5 example, you would have the same cost matrix and then
6 you could go into that matrix and figure out what the
7 appropriate cost for downtown Seattle is, and then
8 what is the appropriate cost for the rest of Seattle.
9 Does that answer your question?

10 Q. No, that is not my question. We're doing a
11 study here in Seattle. Remember the hypothetical?

12 A. You have two different areas in Seattle?

13 Q. Yes.

14 A. Downtown Seattle and the remaining portion
15 of Seattle.

16 Q. Business exchange service.

17 A. Yes.

18 Q. You agree that loop lengths, for example,
19 are going to be shorter in downtown Seattle than in
20 the rest of Seattle?

21 A. If that's your representation, I will
22 accept that. I don't know that that's true. I
23 haven't measured them.

24 Q. Isn't that intuitive?

25 A. I would think they would be. I don't know

(ZEPP - CROSS BY SHAW)

1 that, though, because I don't know where the -- I
2 haven't looked at where the central offices are
3 located, Mr. Shaw.

4 Q. And the density is going to be different?

5 A. It will tend to be denser in downtown
6 Seattle, yes.

7 Q. And therefore the costs will be different
8 just because of the different characteristics of the
9 services as we've chosen to define them?

10 A. Yes.

11 Q. And that's called deaveraging?

12 A. Yes.

13 JUDGE CANFIELD: Let me know when it would
14 be a good time to break for the day, Mr. Shaw.

15 MR. SHAW: Well, I believe I have enough
16 more and I am about ready to change subjects so this
17 would be as good as any, Your Honor. I didn't realize
18 it had gone so late. It's been so much fun.

19 JUDGE CANFIELD: I don't know if any
20 thought had been given to the start time for
21 Wednesday. There's no open meeting so we'll take a
22 short break off the record to discuss that.

23 (Discussion off the record.)

24 JUDGE CANFIELD: Back on the record after a
25 brief break. We'll start at 9:30 a.m. in this room on

(ZEPP - CROSS BY SHAW)

1 Wednesday for the resumption of the hearing.
2 Tomorrow's hearing is the public hearing portion in
3 Kent, and that's starting at 1:30 p.m. And we'll be
4 back in this room Wednesday at 9:30 and I will
5 endeavor to get a letter out on the change of the time
6 for filing briefs and the extended suspension date.
7 There are some parties that aren't here today so that
8 would be useful information for them, so I will
9 endeavor to get that letter out as soon as possible
10 and with that today's session is adjourned.

11 (Hearing adjourned at 5:05 p.m.)

12

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