

	I N D E X					
	WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	EXAM
1						
2	LANKSBURY		578H			
3	EXHIBITS	MARKED	ADMITTED			
	T-24		577			
4	C-25		577			
	26		577			
5	C-27		577			
	28		577			
6	29	609	614			
	30	615	618			
7	31	618	623			
	32	635	636			
8	C-33	639	642			
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9	35	645	647			
	36	651	659			
10	C-37	651	659			
	38	652	659			
11	C-39	653	659			
	C-40	659	661			
12	C-41	660	661			
	C-42	660	661			
13	C-43	661	661			
	44	673	674			
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(COLLOQUY)

1 JUDGE HAENLE: The hearing will come to
2 order. This is an 11th day of hearing in docket
3 No. UT-920174. This is taking place on October 13,
4 1993, and we're beginning at 1:30 in the afternoon.
5 When we broke last time I had continued the hearing
6 until Tuesday morning, but to be sure we would have a
7 quorum of commissioners, I notified all of you Monday
8 afternoon by telephone that we would be beginning at
9 1:30 in the afternoon on Wednesday instead. I believe
10 I got everyone's agreement to that. Is that all right,
11 Mr. Harlow?

12 MR. HARLOW: That's right, Your Honor.

13 MR. SHAW: Yes, Your Honor.

14 MS. BROWN: Yes.

15 JUDGE HAENLE: Appearances are the same as
16 they were on Monday. Is there anything we need to
17 discuss before we continue with -- I think we were
18 discussing the admissibility of exhibit. Anything
19 we need to talk about before that?

20 MR. HARLOW: No, Your Honor.

21 JUDGE HAENLE: At the time we had broken,
22 we had continued the hearing to give the other parties
23 the opportunity to conduct some discovery on the
24 revisions to Exhibit T-24 for identification and C-27

25 that were brought in for the first time at the

(COLLOQUY)

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1 hearing on Monday. Now that you've had a chance to
2 conduct discovery -- at least some chance to conduct
3 discovery -- do you still have an objection to the
4 exhibits, Mr. Harlow?

5 MR. HARLOW: Yes, Your Honor, and I would
6 like to state that briefly.

7 JUDGE HAENLE: Go ahead, sir.

8 MR. HARLOW: Thank you. We have taken
9 Mr. Lanksbury's deposition, and we appreciate the
10 opportunity to do that. I am not going to try and
11 repeat everything here, but at the conclusion of the
12 deposition, I think, is basically about the same as it
13 was at the conclusion of voir dire, and that is that
14 there is no new data that was available to
15 Mr. Lanksbury on the eve of hearing that could not
16 have been incorporated into the exhibit many months
17 ago. Unfortunately, in addition, Mr. Lanksbury did
18 not have his work papers for the revised exhibit with
19 him at the deposition and couldn't quite remember
20 everything in the work papers.

21 Additionally, this is in the nature of cost
22 or imputation study. I don't know exactly what you
23 call it, but it involves expert issues. I have
24 attempted each day since Monday to get ahold of my

25 client's expert, Dr. Nina Cornell. She is and has been

(COLLOQUY)

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1 unavailable. I believe she's still on the east coast,
2 but, in any event, I have no number where I can reach
3 her, and although I left messages, she did not get back
4 to me.

5 These are exactly the kinds of problems
6 that the prefiling rules of the Commission are
7 intended to avoid. The idea is that counsel in
8 proceedings of a technical nature like this should not
9 be ambushed at the last minute with exhibits that are
10 highly technical in nature. I see the Commission has
11 a couple of remedies here. Number one is Commission
12 could deny the substitution, or number two, the
13 Commission could further delay these hearings. So
14 it's clear what our position is; although we
15 definitely think that the Commission should take option
16 number one and not allow US West to get away with this
17 last minute substitution, the complainants, if the
18 Commission doesn't want to do that, do not want these
19 hearings further delayed. We've already had these
20 proceedings delayed a couple of times already due to
21 last minute actions by US West and we think it's high
22 time we go forward with this. So we are not seeking
23 further delay of these hearings.

24 If the Commission does choose to admit the

25 revised exhibit, the complainants respectfully request

(COLLOQUY)

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1 that there be two conditions attached to that. The
2 first one is that after I am able to reach Dr. Cornell
3 that we have another opportunity to take
4 Mr. Lanksbury's deposition so that I can have the
5 benefit of our expert counsel to cross-examine on the
6 work papers and such; and secondly, that we be allowed
7 to call Mr. Lanksbury as a rebuttal witness to testify
8 regarding the changes in the new studies that resulted
9 in the revision of LDL C-4. Thank you.

10 JUDGE HAENLE: Mr. Shaw.

11 MR. SHAW: Yes, briefly, Your Honor. First
12 of all, this hearing has not been delayed at the action
13 of US West. This complaint was filed clear back on
14 February 2, 1992. And over my objection this
15 complainant was allowed to take a year for discovery,
16 not being able to file any testimony in support of
17 their shotgun complaint against US West. The hearings
18 were further rescheduled for the Commission's
19 convenience and complainants have previously been
20 granted a motion of continuance to take yet further
21 discovery. US West has never in any action delayed the
22 process of these hearings.

23 There's no intent to ambush anybody by the
24 amendment of our testimony. Routinely, we are all

25 busy, we reviewed the testimony Wednesday last and I

(COLLOQUY)

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1 discovered for the first time that the company had done
2 a further refinement of its cost revenue analysis and
3 so we took timely action to substitute our updated
4 exhibit. But for the delays in the hearings occasioned
5 by the complainants, this hearing would have been over
6 and an order issued long ago.

7 There was no attempt to ambush anybody.
8 The deposition yesterday went into every aspect of the
9 rather limited and simple changes that US West has
10 proposed. So I don't believe that there's any need
11 for any further discovery, but that bridge can be
12 crossed at a future date if there is a motion for
13 further discovery. Complainants have the opportunity
14 for rebuttal. Their expert witness can testify on
15 rebuttal. All the data, such as it is, that underlies
16 the changes to Exhibit C-27 has been voluntarily
17 supplied to Mr. Harlow as of yesterday -- excuse me --
18 the day before, Monday, and there is just no new
19 issue injected into this, other than the simple issue
20 that it is US West's opinion that a cost revenue study,
21 if it were to be deemed relevant in this proceeding,
22 properly done shows a slightly different result than
23 our preliminary study of almost a year ago.

24 I believe that complainants have not been

25 harmed by this. It's consistent with past Commission

(COLLOQUY)

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1 practice; rather than put in data that is wrong, we
2 would rather withdraw our original Exhibit 27 or not
3 offer it, more properly speaking, than to proceed on
4 data or to sponsor data that we now believe to be
5 wrong.

6 JUDGE HAENLE: Mr. Harlow has made two
7 specific alternate recommendations to the Commission.
8 The second one, which he indicates is not his
9 preference, is to allow additional depositions of
10 Mr. Lanksbury and to allow complainants to call
11 Mr. Lanksbury as a rebuttal witness. Do you have any
12 position on that alternative?

13 MR. SHAW: I suppose that under the
14 Commission's rules the complainants are always free to
15 attempt to subpoena Mr. Lanksbury as an adverse
16 witness in their rebuttal case. I would object to it
17 if they did that if it was going to be redundant in
18 any way to his testimony that he is going to give
19 today.

20 JUDGE HAENLE: Any brief response, Mr.
21 Harlow.

22 MR. HARLOW: Just briefly. We don't agree
23 with Mr. Shaw --

24 MS. BROWN: I'm sorry, I believe I've

25 missed several turns. I would like to make my record

(COLLOQUY)

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1 as well.

2 JUDGE HAENLE: I was going to take the
3 comments, the response and the comments, then I was
4 going to take you in the same order. Seems to me you
5 had slightly different comments and I don't want to
6 leave out your opportunity to comment but I would
7 like, while Mr. Shaw's comments are still fresh in Mr.
8 Harlow's mind, for him to be able to respond.

9 MS. BROWN: Certainly.

10 MR. HARLOW: You won't have to wait long,
11 Sally. First of all, we don't agree with Mr. Shaw's
12 characterization of why this case has taken so long.
13 However, that's not the issue on this objection, and
14 I will turn to the issue, and once again, I see no
15 excusable neglect here. True, US West may have been
16 neglectful, but there's no excuse for them not having
17 followed the rules and given the parties prior notice
18 of this exhibit. And we could have avoided the
19 delays, and not to mention substantial additional
20 expense with all of our clients with having to take
21 this extra deposition and additional delay. So again,
22 I would respectfully urge that the exhibit go in as it
23 was originally offered.

24 JUDGE HAENLE: Ms. Brown.

25

MS. BROWN: Thank you, Your Honor.

(COLLOQUY)

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1 Although staff hasn't had very much time to review the
2 work papers provided to us by fax on Monday from US
3 West which support the revised LDL C-4, which is now
4 Exhibit C-27, staff is satisfied that it can proceed
5 with the case; that the revised exhibit does not
6 materially impact staff's position on issues in this
7 case. Staff's position is rather limited and narrow,
8 as I am sure you are aware. And while we appreciate
9 the Commissioners allowing the parties the additional
10 two days to prepare, in light of U S West's newly
11 revised exhibit, as a general proposition I would like
12 to go on the record as strenuously objecting to this
13 sort of sandbagging. I think that late-filed exhibits
14 and testimony, particularly when there's no conceivable
15 reason as to why we're seeing late-filed exhibit and
16 testimony, should not be permitted as a general matter.
17 That's all I have.

18 JUDGE HAENLE: Mr. Shaw.

19 MR. SHAW: Well, I am concerned that it's
20 being represented by the assistant attorney general
21 that this is some sort of sandbagging or violation of
22 either the practice for many years before this
23 commission or the rules, the actual rules. As I
24 related previously the GTE case, and we attempted to

25 work with that objecting to the late-filed exhibits and

(COLLOQUY)

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1 so forth, but attempting to work with that, given
2 overall desire to get at the best data, despite the
3 limitations of the hearing schedule. Staff routinely
4 files its exhibits and has for years and years in these
5 cases, reserving the right to change their testimony up
6 until the date of the hearing. There is a standard
7 form letter that staff has used since I've been doing
8 this. So I am surprised at the comments of Ms. Brown.

9 JUDGE HAENLE: Anything else, Ms. Brown?

10 MS. BROWN: No. Although I would like to
11 point out for the record that with regard to the GTE
12 primary toll carrier case, I did have an opportunity to
13 talk with the assistant attorney general assigned to
14 handle that matter. It's my understanding that there
15 were severe time constraints with the hearing of that
16 matter, and that, in light of the time constraints, all
17 of the parties were dashing around trying to gather
18 information and exhibits and data and eventually the
19 late-filed exhibit, which I believe was referenced by
20 Mr. Shaw yesterday, was stipulated to ultimately by the
21 parties in that case. So I don't think that the GTE
22 primary toll carrier case is the best example for that.

23 JUDGE HAENLE: Commissioners, did you have
24 questions of any of the parties regarding their

25 objections to the exhibits or responses before we go

(COLLOQUY)

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1 back to consider them?

2 CHAIRMAN NELSON: No.

3 JUDGE HAENLE: Let's go off the record. We
4 will be back in a few minutes.

5 (Recess.)

6 JUDGE HAENLE: Let's be back on the record.

7 During the time we were off the record the
8 Commissioners were considering the objections to the
9 exhibits. Although it remains concerned about the
10 last minute nature of the changes, the Commission is
11 going to overrule the objections and enter the
12 documents into the record. It is going to enter both
13 the original as prefiled and the revisions. Be sure
14 that your copies are clearly marked either revised or
15 not revised. That's both the page of the testimony
16 and Exhibit C-27. Both the revision and the original
17 to be sure that the record is clear which is which and
18 what this was all based on.

19 After considering, the Commission feels it
20 is reasonable to say that if the complainants feel the
21 necessity for additional discovery of Mr. Lanksbury,
22 they can do that discovery. I would suggest you might
23 want to do it by interrogatories or something, rather
24 than another deposition, but once you've checked with

25 your expert, do what you can to do it quickly, please.

(COLLOQUY)

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1 Then if you feel that it's necessary to call
2 Mr. Lanksbury as a rebuttal witness, you may subpoena
3 him if you choose to. The Commission is not going to
4 comment on that at this time. I hope it won't be
5 necessary.

6 MR. HARLOW: Procedurally, will they both
7 be numbered as part of Exhibit 27?

8 JUDGE HAENLE: I think if you can say C-27
9 either original or revised. Will that be okay for
10 everybody? If we do an A and B everybody will be
11 confused. Just call them original and revised. And
12 then, in the official document, I will put it --
13 because there is no indication at the bottom of the
14 revised page that it is revised, I will write that on
15 the official copy. That's revised page 21. That will
16 be included as well as original page 21. So T-24,
17 C-25, 26, C-27 and 28 are entered into the record with
18 those comments and with those revised
19 pages.

20 (Admitted Exhibits T-24, C-25, 26, C-27,
21 and 28.)

22 JUDGE HAENLE: Anything else of your
23 witness, Mr. Shaw?

24 MR. SHAW: No. The witness is available

25 for cross.

(LANKSBURY - CROSS BY HARLOW)

1 JUDGE HAENLE: Go ahead, Mr. Harlow.

2 MR. HARLOW: Thank you.

3

4 CROSS-EXAMINATION

5 BY MR. HARLOW:

6 Q. Mr. Lanksbury, you're the primary witness
7 responsible for rebutting Dr. Cornell's testimony on
8 behalf of US West; is that correct?

9 A. Yes, I am.

10 Q. You're also the primary witness responsible
11 for rebutting Mr. Coulson's testimony?

12 A. Yes, I am.

13 Q. Could you please tell us and the
14 Commissioners, what is US West's purpose in providing
15 payphones in the state of Washington?

16 A. Well, our purpose of providing payphones is
17 twofold under the regulations of the state. One, to
18 meet the public need; and two, to provide them to our
19 customers that wish to have payphone service either
20 public or semipublic, the semipublic being a tariffed
21 service with a monthly rate that has a subscriber, and
22 the public being one with a nontariffed rate that are
23 provided normally to provide a profit to the company
24 through the coins and calls placed from that payphone.

25 Q. When you say meet the needs of your

(LANKSBURY - CROSS BY HARLOW)

1 customers, are you classifying space providers as
2 customers?

3 A. I think I am classifying end users as
4 customers, more so than space providers. Space
5 providers provide us the premise location to place
6 that payphone and are not our ultimate customer.
7 They're really a way of marketing the service, and we
8 rent space from them to provide that service.

9 Q. Is one of the goals of providing payphones
10 to earn a profit for US West?

11 A. One of the goals is to provide -- to earn a
12 profit for those public telephones and semipublic
13 telephones that are placed, yes.

14 Q. Would you say the primary goals are service
15 to the public and your customers or profit?

16 A. I think it's a balance of both. I think
17 that under our understanding of the regulations that
18 we have a public responsibility in the state of
19 Washington; and secondly, we are trying to have a
20 profitable service and have maintained a profitable
21 service for some time under the current costing
22 mechanisms which is long-run incremental costs.

23 Q. Do you believe that payphones as a whole are
24 profitable to US West in Washington?

25 A. Depends on the cost standards you want to
 (LANKSBURY - CROSS BY HARLOW)

1 use. Today the standard that is applied to our
2 payphones is a long-run incremental cost standard.
3 We're trying to move to imputed because we think it's
4 fair in the competitive marketplace, but if you look at
5 LRIC costs and you look at the entire base of payphones
6 we are profitable.

7 Q. Does US West have any classification of
8 payphones that it considers to be unprofitable?

9 A. I am not sure that we have a
10 classification. We've had a lot of language around
11 the public policy phone and if, on an imputed basis,
12 we're required to have our payphones be profitable,
13 then we feel that those that are there for public
14 policy, health and safety reasons, probably shouldn't
15 be part of that base, and they would be unprofitable
16 and subsidized by the general rate base, because if we
17 were a private payphone vendor who is unregulated, we
18 would not provide those stations.

19 Q. Other than for so-called public policy
20 stations, does US West pay commissions to space
21 providers for the placement of payphones?

22 A. US West's commission schedules are paid on
23 a sliding scale in most cases for those types of stand-
24 alone payphones. We pay commission on those that

25 provide revenues enough to be profitable and for those

(LANKSBURY - CROSS BY HARLOW)

1 that do not provide revenues enough to be profitable
2 and that are not a part of a major account, we do not
3 provide compensation.

4 Q. Which of the goals that you mentioned, of
5 US West in providing payphones, does the payment of
6 commission further -- payment of commissions to space
7 providers further?

8 A. The payment of commission to space
9 providers for the space rental fee provides the
10 availability of payphones to the end users. Without
11 commissions we probably wouldn't have the number of
12 payphones we do today. Every business is entitled to
13 make money for the space -- for their premises or their
14 retail space that they provide vendors to sell their
15 services, and so we feel that compensation provides us
16 the ability, one, to earn from that location, so it
17 provides profitability; and two, to serve the end user
18 and place payphones out there. We've been paying
19 commission far longer than competition has been here
20 and that's because we feel we have a responsibility to
21 rent that space.

22 Q. Does US West intentionally pay commissions
23 to space providers at locations where the phones are
24 not expected to be profitable?

25 A. As I think I mentioned, unless it's part
 (LANKSBURY - CROSS BY HARLOW)

1 of a major contract which should be profitable, our
2 sliding scale of commission payment would not in fact
3 pay commission to those that were unprofitable.

4 Q. So the answer to that question would be no?

5 A. The answer would be no.

6 Q. Would you accept subject to check that
7 US West pays commissions of up to at least 30 percent
8 of its gross intraLATA revenue from payphones?

9 MR. SHAW: Objection to the form of the
10 question. For all of our payphones?

11 MR. HARLOW: No. For some locations.

12 MR. SHAW: Objection to the form of the
13 question. I think it's confusing to the witness as to
14 what the 30 percent relates to.

15 JUDGE HAENLE: Do you understand the
16 question, sir?

17 THE WITNESS: I am not sure. If we're
18 talking about individual locations I think I understand
19 the question.

20 JUDGE HAENLE: Mr. Harlow, are you talking
21 about individual locations?

22 MR. HARLOW: If he understands it, I have
23 no response on the objection. I think that takes care
24 of it.

25 JUDGE HAENLE: The witness has indicated
(LANKSBURY - CROSS BY HARLOW)

1 that he's responding to a particular version of the
2 question. Is that what you are asking?

3 MR. HARLOW: I think so.

4 A. Subject to check, yes.

5 COMMISSIONER HEMSTAD: I would like to ask
6 the question to be reasked so I understand the answer.

7 Q. The question was -- I forgot it. The
8 question was: Would you accept, subject to check, that
9 at least for some locations US West pays commissions in
10 an amount up to 30 percent of the gross intraLATA
11 revenue earned from those payphones? Is that how you
12 understood the question?

13 A. No. That's not how I understood the
14 question. You added intraLATA. I am going to have to
15 have a definition of what you mean by intraLATA.
16 That significantly changes the question.

17 Q. What I mean is revenues earned on calls
18 placed within the LATA. That would include sent paid,
19 nonsent paid, local and toll, but only intraLATA
20 calls, not interLATA calls.

21 A. Given those conditions that you explained
22 to me, yes, that would be subject to check. I would
23 agree with that.

24 Q. Perhaps, just so we don't lose anyone, you

25 should explain -- I know you and I understand, but for

(LANKSBURY - CROSS BY HARLOW)

1 the record, explain the difference between a sent paid
2 and a nonsent paid call.

3 A. A sent paid call is a cash call where coins
4 are deposited into the payphone; a nonsent paid call is
5 a call that is alternatively billed through calling
6 card, third party billing, or on a collect basis,
7 either person-to-person or station-to-station.

8 Q. Getting back to the situations where 30
9 percent of gross intraLATA revenues are paid as a
10 commission to the space provider, is it the intention
11 of US West in entering into contracts such as that to
12 earn a profit?

13 A. Yes.

14 Q. Would you accept, subject to check, that
15 SeaTac Airport would be an example of a location where
16 the commissions can be up to 30 percent of gross
17 intraLATA revenue?

18 A. My recall of the contract for SeaTac that
19 it isn't upwards of 30 percent, so I can't agree to
20 that. That is subject to check.

21 Q. Well, let me move on. Would you accept,
22 subject to check, that the contract with the Port of
23 Seattle for furnishing payphones at Sea-Tac Airport
24 calls for payment of commissions in excess of 25

25 percent?

(LANKSBURY - CROSS BY HARLOW)

1 A. As I recall, it's somewhere near 25
2 percent. I don't know if it's over or under, and of
3 course, again, that's subject to check.

4 Q. Using Sea-Tac as an example, is that
5 considered to be a profitable contract for US West?

6 A. I have not looked at the profitability
7 statement of Sea-Tac. I think we provided something
8 on a long-run incremental basis and we showed with the
9 cost of -- on a long-run incremental basis that it was
10 profitable. So I would assume that it would be
11 considered profitable at this time.

12 Q. What about a category of phones known as
13 inmate phones? Are those considered to be profitable
14 by US West?

15 A. Yes, they are.

16 Q. What relief do you understand the
17 complainants to be seeking in this proceeding?

18 A. Well, that's been a rather gray area for
19 me, so you will have to bear with me as I think
20 through the complaint and the items in that complaint.
21 As I believe the complaint was written that there
22 is a feeling that there is a price squeeze from US West
23 by the way they price their own local calling and --
24 local calling and then the PAL line. I

25 believe there is allegations of marketing practices

(LANKSBURY - CROSS BY HARLOW)

1 that --

2 Q. Excuse me, Mr. Lanksbury. I don't know if
3 you're leading up to something in a long way but I
4 am simply asking for the relief rather than the
5 allegations of wrongdoing by US West. What is it that
6 you understand that the complainants are asking the
7 Commission to do as a result of the allegations you
8 started listing off?

9 A. Well, I guess to end the following things
10 based on the Commission's decision: To end the price
11 squeeze that the complainants think we have between
12 the rates we charge and the PAL rates that are charged
13 them; to do imputation; to end any marketing practices
14 that they perceive disadvantage them or they perceive
15 are anticompetitive; to change the advertising that is
16 done by US West. There were a number of things.
17 Those are the key things that I remember that the
18 complainant was looking for relief on.

19 Q. Are any of the four things that you listed
20 things that you do not oppose in your testimony?

21 A. I think I address each of those issues in
22 my testimony.

23 Q. I take it you don't admit there's a price
24 squeeze; is that correct?

25 A. I do not admit there's a price squeeze with
 (LANKSBURY - CROSS BY HARLOW)

1 the present costing methodology that's approved by
2 this Commission, that's correct.

3 Q. So you wouldn't agree with that request for
4 relief?

5 A. No, I would not agree with that.

6 Q. Am I correct in understanding your
7 testimony that you're not opposed to imputation?

8 A. That's correct. US West has filed imputation
9 in numerous jurisdictions over the years.

10 Q. Is there any anticompetitive marketing
11 that you believe has been alleged by the complainants
12 that US West would be willing to admit that it has
13 engaged in or is willing to stop whether it admits
14 that that's wrongful or not?

15 A. I think in my testimony I've said that I do
16 not believe there's any anticompetitive marketing and
17 I've responded to your allegations.

18 Q. Is there any advertising that US West is
19 willing to change in response to this complaint?

20 A. The advertising that has been alleged as
21 being detrimental to the competitive payphone provider
22 is no longer in place. We are using other
23 advertising, but we felt that the advertising was
24 appropriate, so the answer is no.

25 Q. Do you understand the complainants to be
(LANKSBURY - CROSS BY HARLOW)

1 seeking elimination of the one phone per public access
2 line rule and that provision that complements it in
3 U S West's tariff?

4 A. The provision that -- yes, I understand
5 that.

6 Q. And I understand you're not opposed to that
7 request?

8 A. We're not opposed to it, but it is not
9 something we're in control of. It is part of the
10 administrative rules and our tariffs merely support
11 those rules.

12 Q. If US West were to find that there were a
13 price squeeze, or at least an issue there, and would be
14 looking at some ways to alleviate that and concluded
15 that a 35 cent local call rate might alleviate that
16 problem, would you be opposed to a 35 cent local call
17 rate?

18 A. No, we would not be opposed to that.

19 Q. If the Commission considered as another
20 possible resolution to the price squeeze, if
21 hypothetically, they found a price squeeze to exist,
22 would be to lower charges to public access line
23 customers, including the PAL rate itself, answer
24 supervision and screening, would you be opposed to

25 lowering any of those rates?

(LANKSBURY - CROSS BY HARLOW)

1 A. Yes, we would. We feel the PAL rates are
2 appropriately priced.

3 Q. Including answer supervision and screening?

4 A. I am not in the product group that's
5 responsible for answer supervision and screening. I
6 can only surmise that they feel that it's
7 appropriately priced.

8 Q. I understand you're not an economist by
9 training. Is that correct, Mr. Lanksbury?

10 A. That is correct.

11 Q. And I understand you do not have any
12 undergraduate or postgraduate degree in accounting or
13 economics; is that correct?

14 A. That is correct.

15 Q. Do you hold any college degree?

16 A. No, I do not.

17 Q. Have you ever had any college level courses
18 in economics?

19 A. No, I have not.

20 Q. Have you ever done any self-study in
21 economics?

22 A. No, I have not.

23 Q. Since you went to work for US West, you've
24 taken a number of management courses ranging from a

25 few hours to a couple of weeks. But I understand none

(LANKSBURY - CROSS BY HARLOW)

1 of those have been devoted to economics?

2 A. Not solely devoted to economics, no.

3 Q. I understand you've never had any college or
4 US West courses that have taught you how to
5 analyze from an economic perspective the impact of
6 pricing by one company on other companies operating in
7 the same market?

8 A. That is correct.

9 Q. And when you've testified on market issues
10 for US West I understand that you have to rely on
11 economists to review your testimony to make sure it is
12 correct from an economic standpoint?

13 A. I am not sure have to, but I do ask them to
14 review it, yes.

15 Q. It's my understanding that your
16 responsibilities as the legislative and regulatory
17 manager for US West covers both public access lines as
18 well as U S West's own payphones; is that correct?

19 A. Yes, that is correct.

20 Q. I'm sure you recall on Monday when we were
21 arguing about our objection to Exhibit 27, Mr. Shaw
22 stated that in the original study US West payphones
23 were shown to be priced a half a cent below cost and
24 the new study showed them to be priced roughly

25 half a cent above cost. Do you recall that statement

(LANKSBURY - CROSS BY HARLOW)

1 by Mr. Shaw?

2 A. Yes, I do recall that statement.

3 Q. Was that statement accurate?

4 A. No, it was not.

5 Q. Do you consider to be confidential what the

6 -- strike that. Let me back up. What portion or

7 portions of the statement were accurate and what

8 portions were inaccurate?

9 A. The new cost study, the revised cost study,

10 and its cost with imputation -- summary, I guess I

11 should say -- is below cost by the amount stated by

12 Mr. Shaw. The original study was somewhat higher than

13 that as stated by Mr. Shaw.

14 Q. Do you consider the correct figure of the

15 original cost study to be confidential still?

16 A. Yes, I do.

17 MR. HARLOW: Your Honor, at this time I

18 would like to ask that that figure be allowed to be

19 placed on public record. I do not think it's

20 appropriate for public record to reflect that the

21 original exhibit shows US West payphones to be below

22 cost and yet have an inaccurate below cost number for

23 that figure. Secondly -- and we went over this in the

24 deposition and I am sure Mr. Shaw will want to respond

25 to this -- but I frankly cannot see why it should be

(LANKSBURY - CROSS BY HARLOW)

1 considered confidential, sensitive, competitive
2 information to know how much below cost
3 U S West's phones were priced according to this
4 original exhibit, particularly when the company now
5 asserts that that exhibit was incorrect and that they
6 have a new exhibit. I will respond after Mr. Shaw
7 gives his reasoning for that, but it's a composite
8 figure that's composed of a number of individual cost
9 elements, and I can see where those individual cost
10 elements are confidential, but I don't see how the
11 bottom line cost -- that is, the spread between the 25
12 cent local call rate and X, which remains confidential
13 -- I don't see how that number could be of any
14 significant advantage to the competitors, particularly
15 when they already know that Mr. Lanksbury has admitted
16 on the record that his own exhibit showed US West to be
17 priced below cost.

18 JUDGE HAENLE: Does the number not appear
19 on the original or revised C-27?

20 MR. HARLOW: The number appears on the
21 original C-27 and it's in the bottom right-hand
22 corner. It's not the very bottom number. It's the
23 third one up from the bottom where it says "aggregate
24 equals."

25 JUDGE HAENLE: You're asking that that

(LANKSBURY - CROSS BY HARLOW)

1 number be not confidential?

2 MR. HARLOW: That's correct. That was the
3 number that Mr. Shaw stated was two cents below cost
4 -- may be getting it backwards. The number that
5 reflected that U S West's costs were half a cent above
6 their price, and I would like the record to reflect
7 the accurate difference there between 25 cents and
8 that number.

9 JUDGE HAENLE: Well, the record will
10 reflect it in terms of the exhibit. What you're
11 asking is that it be pulled out of confidentiality?

12 MR. HARLOW: Yes, that the public record
13 reflect that.

14 JUDGE HAENLE: Mr. Shaw, do you have an
15 objection to that or do you need to discuss that with
16 your client before you respond?

17 MR. SHAW: If I could just briefly, Your
18 Honor, we can probably cut this short.

19 JUDGE HAENLE: Let's go off the record a
20 minute.

21 (Discussion off the record.)

22 JUDGE HAENLE: Let's go back on the record.
23 During the time we were off the record Mr. Shaw was
24 conferring with his client.

25 MR. SHAW: Yes. In order to ease the

(LANKSBURY - CROSS BY HARLOW)

1 process of the hearing, we will withdraw our objection
2 to the introduction in the record of the number .273
3 from the original exhibit C-27 with the understanding
4 that that does not waive in any way our claim of
5 confidentiality, the rest of the numbers of the
6 computation.

7 JUDGE HAENLE: Thank you, Mr. Shaw. That
8 number is what?

9 THE WITNESS: That number is .273 or 27.3
10 cents.

11 JUDGE HAENLE: Thank you. Go ahead, Mr.
12 Harlow.

13 MR. HARLOW: Appreciate the courtesy,
14 Mr. Shaw.

15 Q. Now that we have the number .273, as I
16 understand it, just to clarify for the record, that
17 reflects the calculation that you made in original C-27
18 of the cost to US West of providing a local call
19 from a payphone on an imputed basis; is that correct?

20 A. Yes. That is the number that is the cost
21 with imputed tariffed rates, that is correct.

22 Q. And the revenue associated with the cost of
23 each of those calls is 25 cents currently; is that
24 correct?

25 A. Yes. The rate, tariffed rate, for a local
 (LANKSBURY - CROSS BY HARLOW)

1 call is 25 cents, that is correct.

2 Q. So, according to original Exhibit C-27, for
3 each local call that US West processes it loses about
4 2.3 cents; is that correct?

5 A. That would not be correct in the fact that
6 this is a cost with imputation model and it is not a
7 true cost of doing business, so if we were to look at
8 the LRIC cost we would have a totally different
9 number.

10 Q. But on the basis of this imputation study,
11 that would be correct?

12 A. On the basis of this cost-to-revenue
13 summary that includes imputed rates, that would be
14 correct.

15 Q. Now, do you recall, Mr. Shaw, in the
16 argument on Monday, stating that the difference between
17 -- not his exact words, but he characterized the
18 difference between the original and the revised Exhibit
19 C-27 as being very small. Do you recall that?

20 A. I do not recall that exact language. I
21 think he quoted the .5 and the .5, I do remember that,
22 but I don't remember him saying it was small. I'm
23 sorry.

24 Q. Do you recall in your deposition on Monday

25 morning that we did an extrapolation of that figure to

(LANKSBURY - CROSS BY HARLOW)

1 find out the difference between the original Exhibit

2 C-27 and the revised Exhibit C-27?

3 A. Yes. I do remember that calculation.

4 Q. And we calculated a number that you stated

5 was not confidential that was the difference on an

6 annual basis by looking at all of U S West's phones

7 what the difference was between this .273 and the new

8 figure in the revised study. Do you recall that?

9 A. Yes, I do.

10 Q. What was that difference, approximately?

11 A. Approximately \$2 million.

12 Q. Does that sound like a little bit of money

13 to you or a lot of money to you?

14 A. Certainly sounds like a lot of money to me

15 personally.

16 Q. Try to put it in perspective to something

17 that might mean something to my client. Would you

18 accept subject to check -- and just ballparking this

19 here -- approximately 6,000 public access lines in

20 this state?

21 A. In this state I would believe it is. That

22 grossly understates the number of PAL lines. If you're

23 talking about US West only then I would accept

24 that.

25 Q. I'm talking about US West, thank you for the
(LANKSBURY - CROSS BY HARLOW)

1 qualification. And the rate for PALs, at least in
2 rate group 3, is \$28.45 a month?

3 A. That is correct.

4 Q. So if you multiply out the 6,000 PALs by
5 \$28.45 a month by 12 months in a year, will you accept
6 subject to check that you come up with a number that's
7 a little bit over \$2 million?

8 A. Subject to check I would accept that.

9 Q. So to put it in perspective, a magnitude
10 of what you, I believe, characterizes as a small
11 difference between the two exhibits would be a
12 sufficient number to subsidize PALs and not charge them
13 the flat rate at all for an entire year; is that
14 correct?

15 A. Since I do not remember him calling it a
16 small amount, I can't agree with that.

17 Q. Do you recall roughly what the .2 -- before
18 I ask you the question, would it be considered
19 proprietary and confidential for you to extrapolate
20 the annualized losses based on that .273 figure in
21 your original Exhibit 27?

22 A. Again, I would have to correct you that
23 these are not losses. This is an imputed model and
24 that these are revenues based on an imputation process

25 that we have undertaken, and it's not a true cost of

(LANKSBURY - CROSS BY HARLOW)

1 providing payphone service.

2 Q. Let me revise my question then. The losses
3 on an imputed basis, would that extrapolation be
4 considered confidential?

5 A. I do not believe so, no.

6 Q. Can you just give us, to the nearest hundred
7 thousand, what those losses on an imputed basis are
8 according to your original C-27?

9 A. A million-seven. That's the closest
10 100,000.

11 Q. Now, in your revised Exhibit 27 you had a
12 notation at the top just below the title. Is that
13 first line confidential?

14 A. No, I don't believe it is.

15 Q. Would you please read that into the public
16 record?

17 A. When you say the first line --

18 Q. Starts out "LRIC"?

19 A. That's the second line.

20 Q. No. I meant below the title.

21 A. Below the title I don't believe that's
22 proprietary, and I believe it reads -- actually it
23 reads here, "LRIC study summary monthly cost. 10.2 of
24 public stations are removed -- excuse me -- 10.2

25 percent of public stations are removed as public

(LANKSBURY - CROSS BY HARLOW)

1 policy stations."

2 Q. That notation did not appear in the original
3 exhibit; is that correct?

4 A. That was one of the changes in the revised
5 exhibit, that is correct.

6 Q. And I understand that you made that change
7 based on some kind of a study that you undertook
8 starting in January of this year and concluding in
9 April or May of this year; is that correct?

10 A. Yes. It went for some time. It was a
11 study that we did on public policy; that is correct.

12 Q. Did we just call it the public policy study
13 for shorthand?

14 A. Certainly.

15 Q. The policy study started in January, as I
16 understand it, and you extracted some data from
17 US West computer systems; is that correct?

18 A. Yes. We extracted some data for all 14
19 states; that is correct.

20 Q. Can you recall the approximate month when
21 the data was extracted?

22 A. I think the data was extracted in January
23 of that year. I would have to check that.

24 Q. And in March you filed your testimony in

25 this case; is that correct?

(LANKSBURY - CROSS BY HARLOW)

1 A. That is correct.

2 Q. Did you have any plans when you commenced
3 this public policy study to include any of the data
4 that you obtained in that study in your testimony in
5 this case?

6 A. At the time we undertook the study, no, I
7 did not.

8 Q. Let's talk briefly about what the computer
9 did for you in January of this year. First of all, I
10 understand that you had the computer do some kind of a
11 sort or summary of your payphones in certain industry
12 categories; is that correct?

13 A. That is correct.

14 Q. And some of the industries that you looked
15 at would include hospitals, government buildings,
16 parks, schools, things like that?

17 A. I think, actually, in checking the study
18 after the deposition we asked for all industries and
19 it provided us based on a daily average revenue.
20 That's what we were asking for.

21 Q. It told you how many phones were at schools,
22 for example?

23 A. Yes.

24 Q. And it told you how many phones were in

25 parks, for example?

(LANKSBURY - CROSS BY HARLOW)

1 A. Parks were not one of them, but the same
2 type of categories were broken out, yes.

3 Q. And as I understand it, the revenue
4 threshold, you used two different thresholds based on a
5 daily average revenue of the phone, \$2 -- less than \$2
6 or less than \$3 depending on the industry category?

7 A. The computer did not sort that. It
8 provided us all revenues broken down into 50 cent
9 increments from 50 cents through \$4 and above. The
10 last category was \$4 plus.

11 Q. Are you changing your testimony from your
12 deposition based on your review of your work papers?

13 A. Yes. As I mentioned in the deposition, I
14 needed to review the work papers. I had not looked at
15 them for six months or so and I do a lot of studies.

16 Q. So that data was available, just wasn't
17 broken out that way?

18 A. That data is what we ended up with through
19 manual sort, but the computer did not sort that out.

20 Q. Did the computer sort out whether or not
21 the payphones were a part of a larger contract with a
22 space provider?

23 A. Yes, it did.

24 Q. Did the computer sort by city?

25 A. A separate sort. It sorted by wire center
 (LANKSBURY - CROSS BY HARLOW)

1 and city, yes.

2 Q. And I believe you mentioned a couple of
3 times in your deposition the computer sorted by
4 whether or not the payphones were in a bank of phones;
5 is that correct?

6 A. The bank of phones were eliminated from
7 this, is my understanding, and fall into the major
8 category. So they were eliminated from the study,
9 yes.

10 Q. Can you clarify what you mean by how they
11 were eliminated, the bank of phones were eliminated?

12 A. The computer would look -- a special
13 program was written for us to do this process that was
14 written to look at any payphones that had the same
15 customer name and the same address is my understanding,
16 and then they were eliminated if you had more than one
17 phone?

18 Q. So the computer was able to do this sort
19 with the advent of this program. Somebody wrote --

20 A. Yes. With the writing of a special program,
21 that is correct, yes.

22 Q. I understand from your deposition that it
23 was a decision of you and two other people at your
24 level of management to undertake this public policy

25 study?

(LANKSBURY - CROSS BY HARLOW)

1 A. Yes. Based on some input we had from the
2 FCC, we felt it was important to do this as managers
3 of the business, yes.

4 Q. At the time of your deposition you didn't
5 know how much cost or time was involved in writing
6 these computer programs to produce this data. Is that
7 still the case?

8 A. That is still the case. The analyst was
9 not available and I did not check with him.

10 Q. And you never got a bill or something or an
11 intercompany transfer to reflect how much it cost you
12 to write this computer program?

13 A. Our intercompany transfers aren't broken
14 down to individual projects, so we would not be able to
15 tell what that amount would be.

16 Q. Anybody ever object when you came to them
17 with this program and said this is too difficult and
18 time consuming to do?

19 A. No, no one objected.

20 Q. Do you remember me taking your deposition
21 on September 23rd in this case?

22 A. Yes, I do.

23 Q. I asked you about your work in connection
24 with some proceedings before the Oregon PUC regarding

25 public policy payphones. Do you recall that?

(LANKSBURY - CROSS BY HARLOW)

1 A. Yes, that is correct.

2 Q. As of the date of the 23rd my understanding
3 is that there has been some consensus reached in Oregon
4 on how to define public policy phone for purposes of
5 the Oregon PUC proceeding; is that correct?

6 A. I don't know that you could call it
7 consensus. There's some preliminary agreements on the
8 principle of defining public policy, but I don't think
9 that we have a stipulated agreement as to the public
10 policy phones, nor the criteria, nor the number of
11 phones. So we have done some work with the Northwest
12 Payphone Association and the other LECs, local exchange
13 companies, and the Commission, but there are no
14 agreements reached at this time.

15 Q. Have some criteria been identified at this
16 time?

17 A. Some preliminary criteria have been
18 identified as a starting place to look at individual
19 accounts on public policy phones, yes.

20 Q. Let me see if I can kind of describe and
21 summarize those criteria. I gather that first you're
22 looking at an existing local exchange or LEC, payphones
23 that are not profitable, and that the preliminary
24 number being used is less than \$100 a month in revenue;

25 is that correct?

(LANKSBURY - CROSS BY HARLOW)

1 A. That is correct.

2 Q. Secondly, the phones can be -- public
3 policy phones can be either coin or coinless phones
4 according to the participants?

5 A. That is correct.

6 Q. And third, there needs to be at least one
7 phone that's available 24 hours a day in every
8 municipal government entity; is that correct?

9 A. That is correct.

10 Q. And fourth, the phones must not be part of
11 a contract with a space provider; is that correct?

12 A. They must not be part of a major contract.
13 There are contracts in place for single stand alone
14 phones, but they cannot be part of a major contract,
15 that's correct.

16 Q. So in other words, you might be making
17 money at Sea-Tac Airport, but the port also requires
18 you to put a phone on Pier 112, which doesn't make any
19 money, but that wouldn't be considered a public policy
20 phone?

21 A. That is correct.

22 Q. And fifth, special public sites, for
23 example, parks, pools and boat ramps that have public
24 access and where there's no fee charged and there's no

25 phone within a quarter of a mile would be considered

(LANKSBURY - CROSS BY HARLOW)

1 as public policy sites?

2 A. I am not sure that quarter-of-a-mile was
3 really part of the preliminary criteria, but other
4 than that quarter mile that you placed there, that is
5 correct.

6 Q. I believe the write-up of the PUC staff
7 indicated that -- gave the example of boat ramps
8 provided there was signage to a phone within a quarter
9 of a mile would not need to have a separate phone; was
10 that correct?

11 A. The agreement was that at the boat ramp, for
12 instance, there may be a sign at the boat ramp saying
13 that the public policy or public telephone was within a
14 quarter of a mile, but I don't think
15 there was any criteria that said if there was a
16 competitive phone at a 7-Eleven a quarter of a mile
17 away that the phone that was existing at the boat ramp
18 would be removed and would not be considered public
19 policy. So there's a difference there.

20 Q. Are you in agreement with the criteria that
21 we've just described as having been discussed in -- I
22 think your deposition called it consensus -- in
23 Oregon?

24 A. I'm just going through this to make sure

25 we've covered all the elements here. I am in

(LANKSBURY - CROSS BY HARLOW)

1 agreement with those, yes.

2 Q. Do you recall at your deposition that after
3 we discussed these criteria I asked you the following
4 question: "Are you involved in a similar process or
5 have you been involved in a similar process in any
6 other states?" Do you recall that question?

7 A. Yes, I do.

8 Q. You gave the answer, "No. No, I have
9 not." was that your answer?

10 A. Yes, I was.

11 Q. Then I followed up: "Do you have any kind
12 of a ballpark estimate as to what percentage of
13 US West phones would meet those public policy
14 criteria?" And Mr. Shaw asked, "In what state or in
15 all 14 states?" I responded, "All 14 states, and you
16 answered, "No, I do not. I have not looked at it." Do
17 you recall that testimony?

18 A. Yes. And I have not looked at this
19 criteria in the state of Washington, so that answer
20 still stands.

21 Q. Are you familiar with the process that was
22 undertaken with the California PUC to identify public
23 policy phones in California?

24 A. Yes, I am.

25 Q. And to the best of your recollection, how
(LANKSBURY - CROSS BY HARLOW)

1 many public policy phones were ultimately identified
2 in California?

3 A. It depends on the jurisdiction.

4 Q. Total for California?

5 A. I don't have the total for California. I
6 know the number for PacTel, but there are some other
7 less urban companies where the number is considerably
8 higher.

9 Q. What was the number for PacTel?

10 A. The number for PacTel was approximately 11
11 to 12,000 -- hundred, excuse me. 11 to 1200 payphones.

12 Q. Out of how many PacTel payphones in total?

13 A. In talking to the director of payphone or
14 public services in California, he gave me the number
15 of 90,000 phones were the base, and that they
16 negotiated an amount with the staff and the
17 association to be the number of 11 to 1200.

18 Q. I mean out of a total of how many payphones
19 total did PacTel have?

20 A. Well, Mr. Ruiz, the Director of Public
21 Service, says it was out of a 90,000 base. That was
22 the number he gave me.

23 JUDGE HAENLE: Can you spell his name,
24 please?

25

THE WITNESS: R U I Z.

(LANKSBURY - CROSS BY HARLOW)

1 Q. We talked about the California process in
2 your deposition, your first deposition as well. Do
3 you recall that?

4 A. Yes, I do.

5 Q. Do you recall me asking you a question, "Do
6 you have any reason to believe that the ratios," --
7 that is, between this 90,000 and 1100 -- "that the
8 ratios would be significantly different in the state
9 of Washington from California?" Do you recall that
10 question?

11 A. I don't remember being on ratios but I do
12 remember generally the question, yes.

13 Q. And in your response to that question you
14 did not identify your public policy payphone study that
15 you undertook between March and May of this year; is
16 that correct?

17 A. You did not ask me about it; that is
18 correct.

19 MR. HARLOW: Your Honor, I have my first
20 exhibit here.

21 JUDGE HAENLE: You've handed me a
22 three-page document. The caption at the top is
23 Responses to Complainant's Fourth Data Request
24 No. 44. This will be 29 for identification.

25

(Marked Exhibit 29.)

(LANKSBURY - CROSS BY HARLOW)

1 Q. Mr. Lanksbury, can you identify Exhibit 29
2 as being the complainant's data request No. 44 to
3 US West and U S WEST's response?

4 A. Yes, that's correct.

5 Q. Will you accept subject to check that this
6 data request was served on your counsel on September
7 24, 1992?

8 A. Yes, I will.

9 Q. And at that time you were aware, were you
10 not, that the complainants -- from this data request
11 the complainants wanted public policy telephones as
12 defined by US West identified?

13 A. Yes. I understand that given it says how
14 many phones have you had for each year since 1987.

15 Q. And will you accept subject to check that
16 the data request's introduction that was served with
17 those data requests stated, "These data requests are
18 intended to be continuing and to be supplemented up to
19 the time this proceeding is submitted to the Commission
20 for decision"?

21 A. Subject to check, yes.

22 Q. At your deposition you responded to me that
23 you understood that supplementation of responses was
24 desired by the complainants when you answered the data

25 requests; is that correct?

(LANKSBURY - CROSS BY HARLOW)

1 A. If I remember my deposition, I think I
2 remember that.

3 Q. And US West did not object to that
4 introductory language requesting supplementation; is
5 that correct?

6 A. That is correct, and that's subject to
7 check. I do not remember us objecting.

8 Q. The data request asked in the first part of
9 the question for US West to state its definition of
10 public service -- "public service phones accounts."
11 Do you see that?

12 A. Yes. And I think we corrected that to say
13 that public services is very different than public
14 policy and then attempted to answer the public policy
15 question.

16 Q. You called them "health and safety/public
17 policy payphones." Do you see that?

18 A. Yes. That's what we had to read into the
19 question the way it was framed.

20 Q. That's for all intents and purposes the
21 same as what we've been referring to as public policy
22 payphones?

23 A. Yes, it is.

24 Q. And so the question that you attempted to

25 answer then under subpart A asked, "How many phones

(LANKSBURY - CROSS BY HARLOW)

1 have you had for each year since 1987 within the
2 category of public policy phones?" Do you see that?

3 A. Yes, I do.

4 Q. Subpart F then asked, "How many of these
5 payphones are single payphones and not in a bank of
6 payphones?" Do you see that?

7 A. Yes, I do.

8 Q. And the response was, "There is no data
9 maintained on health and safety/public policy
10 payphones." Is that correct?

11 A. Yes. We do not regularly maintain data on
12 that; that is correct.

13 Q. Further, in response to subpart F you made
14 the statement that, "To the best of USWC's knowledge
15 and belief, the information related to the number of
16 the single payphone locations versus payphones located
17 in banks of payphones is not maintained in any
18 existing database." Do you see that?

19 A. Yes. Under current programming we do not
20 have it, that's correct.

21 Q. And it's correct, is it not, that after you
22 concluded your public policy payphone study in January
23 through May of this year you did not supplement this
24 data request response; is that correct?

25 A. That is correct. We still have not --

(LANKSBURY - CROSS BY HARLOW)

1 Q. Excuse me. You've answered the question.

2 MR. SHAW: Your Honor, Counsel cannot
3 interrupt. He is entitled to explain his answer.

4 JUDGE HAENLE: We generally ask for a yes or
5 no and have allowed an explanation, Mr. Harlow. We
6 don't want you to go beyond the question but if you
7 feel it necessary to explain your answer, that will be
8 allowed.

9 MR. HARLOW: It seems to me that they
10 either have or haven't supplemented and if there
11 needs to be an explanation, that could be brought out
12 on redirect.

13 JUDGE HAENLE: I'd like to hear the
14 explanation.

15 A. With the study that we did on public policy
16 we still have not identified the number of stand alone
17 versus phones in banks of phones. There are no
18 studies that have been produced and is not a regular
19 part of our business and was not something asked for in
20 the public policy study. Just isn't there. We still
21 do not have it and I have not provided it for that
22 reason.

23 Q. I'm sorry, your testimony and your
24 explanation is that you do not know how many phones are

25 in banks or not in banks?

(LANKSBURY - CROSS BY HARLOW)

1 A. I have no number available to me without
2 asking a data analyst to do a programming change in
3 the existing database to tell you how many single
4 versus banks of payphones there are in the state of
5 Washington; that is correct.

6 Q. The programming change that you're saying
7 would have to be done, is that the same kind of
8 programming change that you requested to do your
9 public policy study in January through May?

10 A. It would be a different program but
11 potentially similar. I am not a data analyst so I
12 really can't answer that technically.

13 Q. And you really can't answer how difficult
14 or how easy that might be to do; is that correct?

15 A. That is correct.

16 JUDGE HAENLE: Did you intend to move for
17 the entry, Mr. Harlow?

18 MR. HARLOW: I would move for the admission
19 of Exhibit 29.

20 MR. SHAW: No objection.

21 MS. BROWN: No objection.

22 JUDGE HAENLE: I will enter 29 into the
23 record.

24 (Admitted Exhibit 29.)

25 JUDGE HAENLE: You've handed me a one-page
(LANKSBURY - CROSS BY HARLOW)

1 document. At the top it says Response to
2 Complainant's Sixth Data Requests Data Request No. 90.
3 Mark this as 30 for identification.

4 (Marked Exhibit 30)

5 Q. Can you identify Exhibit 30 as complainant
6 data request No. 90 to US West and U S West's
7 response?

8 A. Yes, I can.

9 Q. And will you accept subject to check that it
10 was served on US West on October 16 of last year?

11 A. Subject to check, yes.

12 Q. And will you accept subject to check that
13 this response was also accompanied by an introduction
14 that requested that the responses be supplemented up
15 to the time of the Commission's decision in this case?

16 A. Yes.

17 Q. Will you accept subject to check that this
18 data request has not been supplemented by US West?

19 A. Yes, and the information still is not
20 available.

21 Q. I would like you to focus first on the
22 first sentence of the answer. It says, "There is no
23 data maintained on health and safety/public policy
24 phones as stated in our response to the complainant's

25 fourth set of data requests." Do you see that?

(LANKSBURY - CROSS BY HARLOW)

1 A. Yes, I do.

2 Q. And then the next sentence reads, "USWC is
3 unable to accurately estimate the number of health and
4 safety/public policy locations because the number of
5 such stations would only become evident if USWC were
6 to attempt to remove these stations." Do you see that?

7 A. Yes, that's correct.

8 Q. And it's your contention that this answer
9 is still correct?

10 A. Based on 44, where you asked how many
11 payphones we had in the past tense, I was responding
12 to this in that vein. And I would say that we do not
13 know how many payphones we have today. We have a
14 futuristic looking estimate from the study and I did
15 not provide it because I was basing it on the response
16 to 44A, where you asked how many we had. That was my
17 interpretation of the question.

18 Q. Are you saying Exhibit C-27 with its 10.2
19 percent of public stations removed as "public
20 policy" stations is merely a future-looking estimate?

21 A. That's a looking-forward estimate of what
22 we feel the base of stations might be. Just as
23 long-run incremental cost studies are forward-looking,
24 we felt this would be a looking of where we would have

25 to price in the future if we were to in fact use costs
(LANKSBURY - CROSS BY HARLOW)

1 with imputation and public policy. So, yes, it is
2 futuristic.

3 Q. So you do not believe it's reflective of
4 the current number of public policy phones that
5 US West has?

6 A. I think it's an estimate of where we are on
7 a going-forward basis. Question 44 asks back to 1987.
8 It was historical. This information is not historical
9 and I based it on the fact that it was related to
10 request 44.

11 Q. I heard you repeating your prior answer but
12 not answering. Let me state it again. My question
13 is, does Exhibit C-27 reflect the current number of
14 public policy phones that US West believes it has?

15 A. I think it's very close, yes, and as I
16 mentioned, I think it is looking at pricing in the
17 future. So we're not looking at historical pricing,
18 we're looking at where we may have to price if we use
19 LRIC plus imputation, so it is based on where we need
20 to go.

21 Q. So the record is clear, is your answer a
22 qualified yes?

23 A. Yes. Would you repeat the question.

24 Q. The question was: Does Exhibit C-27, with

25 its 10.2 percent public policy stations, reflect

(LANKSBURY - CROSS BY HARLOW)

1 US WEST's estimate of the current number of public
2 policy phones it has?

3 A. I think approximately where we are today
4 and where we will be in the next 12 months, yes.

5 JUDGE HAENLE: You've handed me a one-page
6 document. The caption at the top is Response to
7 Complainant's Seventh Data Requests, Data Request No.
8 130. Mark this as 31 for identification.

9 (Marked Exhibit 31.)

10 MR. HARLOW: Before we move on I would like
11 to move the admission of Exhibit 30.

12 MR. SHAW: No objection.

13 MS. BROWN: No objection.

14 JUDGE HAENLE: Exhibit 30 will be entered
15 into the record.

16 (Admitted Exhibit 30.)

17 Q. Mr. Lanksbury, can you identify Exhibit 31
18 as complainant's data request No. 130 and US West's
19 response?

20 A. Yes, I can.

21 Q. I would like to draw your attention to the
22 last few lines of that that refer back to response to
23 data request No. 44 which is Exhibit 29 now that "USWC
24 is unable to provide data on banks of payphones

25 (multiple payphones at a single location). As a result

(LANKSBURY - CROSS BY HARLOW)

1 USWC cannot provide the number of locations as
2 requested in this data request." Do you see that
3 language?

4 A. Yes, I can.

5 Q. Will you accept subject to check that this
6 data request was served on your counsel on March 23,
7 1993?

8 A. Yes, I will.

9 Q. And at the time that this was served
10 US West -- you had already concluded your computer
11 analysis as part of your public policy payphone study;
12 is that correct?

13 A. That's correct.

14 Q. And you had, through the computer analysis,
15 been able to exclude from your enumeration of public
16 policy payphones payphones that were included in banks,
17 in other words, more than one in the same address; is
18 that correct?

19 A. Not totally correct.

20 Q. Would you clarify that, please.

21 A. What we included in a lump sum was all major
22 accounts and banks of payphones, so there was no number
23 for -- there was no pure number for either single
24 location payphones or banks of payphones as a result of

25 the public policy study.

(LANKSBURY - CROSS BY HARLOW)

1 Q. Does that mean there may be payphones in
2 your public policy study or in this 10.2 percent in
3 Exhibit C-27 that are indeed in banks?

4 A. That's not what I said. What I said,
5 Mr. Harlow, is that the study that we performed lumped
6 together all the major accounts which could be single
7 stand alone payphones and the banks of payphones.
8 We did not attempt to in this study try and determine,
9 one, how many single payphones there were; two, how
10 many were in banks; and three, how many were in major
11 accounts on an independent basis. Those were lumped
12 and removed for the sum of the public policy
13 considerations and what is remaining are those nonmajor
14 competitive accounts single phones. So, that study did
15 not produce the data you requested here.

16 Q. Again, I appreciate the explanation but I
17 am still not clear. Let me try and ask it more
18 directly perhaps. Are there any -- payphones in this
19 10.2 percent that you use in C-27, would that include
20 any payphones that are in a bank of phones?

21 A. To the best of my knowledge, no.

22 Q. And somehow, the computer did a sort that
23 enables you to give that assurance to the Commission;
24 is that correct?

25 A. With the request of a special programming,
 (LANKSBURY - CROSS BY HARLOW)

1 yes.

2 Q. As I understand it from your deposition,
3 you could have requested special programming to answer
4 data request No. 130; is that correct?

5 MR. SHAW: Your Honor, I will object to the
6 question. The discovery rules of this Commission
7 clearly state that no party is obligated to create
8 data at the request of another party, particularly in
9 a private complaint. As proposed Exhibit No. 31
10 indicates, at that stage we were in our seven[th?]
11 batch of data requests and 130 in the seven batch. We
12 were not inclined to do a special studies to answer
13 Mr. Harlow's cumulative data requests as the answer to
14 No. 31 also indicates we objected to this data request
15 because it was about the fifteenth time that we had
16 gone over the same thing, just like we're doing today
17 in this cross-examination: I will object to the
18 question.

19 MR. HARLOW: Well, the Commission rule does
20 not state that parties are not going to be required
21 under the discovery rules to produce data in certain
22 formats. I believe the rule refers to cost studies
23 and, in addition, my recollection is there's an
24 exception to that. The problem with this response is

25 we never got to argue about that before the Commission

(LANKSBURY - CROSS BY HARLOW)

1 and whether or not the Commission should order US West
2 to produce the data as we requested because US West
3 represented it's unable to provide data on banks of
4 payphones.

5 And that is the point here, and I think it
6 underlines the lack of credibility of US West, and I
7 think it underlines the problem in admitting C-27 which
8 now I believe is going to be a disputed issue of fact
9 for the Commission, but I believe is exactly what US
10 West is purporting to do is produce that data at its
11 own
12 convenience and for its own advantage while denying
13 that same data to the complainants.

14 JUDGE HAENLE: I'm going to overrule the
15 objection. The question is whether that could have
16 been done. There's no issue here yet of whether
17 that's a proper subject of a data request. Could you
18 physically have done that, sir?

19 THE WITNESS: I believe if we had requested
20 someone to create a special program we could have,
21 yes.

22 Q. Mr. Lanksbury, do you believe it's
23 important to try to identify public policy payphones?

24 A. It certainly seems to be in this case and

25 we've tried to do it in other jurisdictions, so I

(LANKSBURY - CROSS BY HARLOW)

1 believe it's somewhat important. I think it's an
2 important part of the economics, especially when we,
3 the regulated company, are being challenged by
4 unregulated companies that don't have an obligation
5 to provide it. So, yes.

6 MR. HARLOW: Before we move on, I would
7 like to offer Exhibit 31.

8 JUDGE HAENLE: Any objection, Mr. Shaw?

9 MR. SHAW: No objection.

10 JUDGE HAENLE: Ms. Brown.

11 MS. BROWN: No objection.

12 JUDGE HAENLE: Exhibit 31 will be entered
13 into the record.

14 (Admitted Exhibit 31.)

15 Q. As I understand your revised Exhibit 27
16 compared to your original one, in your original
17 Exhibit 27 you lumped all of your payphones together
18 in one market; is that correct?

19 A. Are you talking about the three categories
20 here, public, universal and semipublic?

21 Q. Well, you broke it down by types of your
22 phones, but you didn't make any distinction between
23 public policy and so-called competitive phones; is that
24 correct?

25 A. In the original 27, that is correct.

(LANKSBURY - CROSS BY HARLOW)

1 Q. In your revised Exhibit 27 you've now
2 separated out so-called public policy phones from
3 so-called competitive phones, correct?

4 A. In revised 27 I have removed the public
5 policy phones, yes.

6 Q. And you've decided through your public
7 policy study as revealed this week that 90 percent of
8 the public phones are so-called competitive and
9 approximately 10 percent you believe are public
10 policy; is that correct?

11 A. No, that's not correct. That
12 mischaracterizes what I've done here. What I have
13 done here is said that 90 percent of the payphones
14 are not public policy phones. They may or may not be
15 competitive.

16 Q. Give me an example of when a nonpublic
17 policy phone would be not a competitive phone.

18 A. A stand alone payphone that through some
19 historical event, rerouting of a highway, or through a
20 management oversight does not recover costs but is
21 still in place. And there are some of those out there
22 that periodically we go through low pay removals or a
23 low usage removal to remove from the base because,
24 one, we don't feel there is a public policy

25 obligations; and two, they no longer are competitive

(LANKSBURY - CROSS BY HARLOW)

1 contributing payphones.

2 Q. So we're really talking about an accidental
3 situation here, not the typical situation?

4 A. I don't know that I would call it
5 accidental. It's an ongoing process that we have to
6 continually review those.

7 Q. Do you believe that these nonpublic policy
8 but noncompetitive payphones should be somehow
9 subsidized by US West, other ratepayers, or other
10 services?

11 A. I don't think I've stated that and I don't
12 believe it, no.

13 JUDGE HAENLE: We need to look for a time
14 to take our afternoon recess.

15 MR. HARLOW: About 3:00 all right?

16 JUDGE HAENLE: Find a good place between
17 questions. Relatively soon here.

18 Q. Just so it's clear for the record, the
19 effect of bifurcating the market into so-called public
20 policy and so-called competitive was to change the
21 results of your imputation study from 1.7 million
22 dollars losing proposition to a profitable proposition
23 for US West on the so-called competitive phones; is
24 that correct?

25 A. That was the result, but the effort was to
 (LANKSBURY - CROSS BY HARLOW)

1 make us look more like our competitors, the
2 unregulated payphone provider.

3 Q. Do you recall in your original deposition I
4 asked you whether or not you agreed with Dr. Cornell
5 that US West had its competitors in a price squeeze
6 based on your original Exhibit 27?

7 A. Yes, I remember that question vaguely.
8 Yes.

9 Q. And I believe you responded to the effect
10 that, no, because US West has to support a bunch of
11 public policy payphones. Is that more or less
12 correct?

13 A. Well, I think I went on to say that also
14 our competitors have totally different revenue
15 streams. I am not sure where I've said that. We've
16 got 200 plus discovery and six hours of deposition,
17 but I know I have stated that, that there are
18 significant difference in the revenue streams and the
19 way we provide service as a regulated company versus
20 the unregulated competitive provider.

21 Q. Mr. Lanksbury, let's talk about that just
22 for a minute. I take it you believe that revenue
23 streams other than the local call revenues of the
24 competitive payphone providers should somehow be

25 attributed to their payphone operations.

(LANKSBURY - CROSS BY HARLOW)

1 A. I don't think I've ever said that they
2 should be attributed to our payphone operations.

3 Q. Excuse me. I meant to the competitive
4 payphone provider's operations?

5 A. I'm sorry, I misunderstood. I guess I do
6 believe that given Mr. Coulson's testimony and talking
7 about the contribution of MCI and store and forward so,
8 yes, I believe they do attribute it.

9 Q. But for US West you don't think that
10 revenues from other sources should be attributed to
11 US West payphones; is that correct?

12 A. I have not been availed of the opportunity
13 to get interLATA revenue so I can't attribute them to
14 my costs, no.

15 Q. Are you referring only to interLATA revenue
16 or are you also referring to operator service intraLATA
17 revenue?

18 A. I think intraLATA is a real issue for the
19 Commission to address. I mean, you can't use the
20 revenue offset for intraLATA to keep residential rates
21 low and then turn around and use the intraLATA
22 revenues from the payphones to offset the costs. I
23 mean, it just doesn't work. You can't use that money
24 twice, so traditionally we have not included it as a

25 revenue offset, the interLATA nor the OSP. They're

(LANKSBURY - CROSS BY HARLOW)

1 discrete services and they're service accessed by the
2 payphone and the revenues really aren't available to
3 offset that cost.

4 Q. Would you agree with Dr. Cornell that based
5 on your original Exhibit C-27 there would be a price
6 squeeze if there were no such thing, if the Commission
7 were to decide there were no such thing as a public
8 policy market in this state?

9 MR. SHAW: Object to that as calling for a
10 legal conclusion on whether or not facts as related to
11 the question constitute a price squeeze as a matter of
12 antitrust law. I don't think the witness is qualified
13 to answer.

14 JUDGE HAENLE: Mr. Harlow.

15 MR. HARLOW: I am not asking under
16 antitrust law.

17 JUDGE HAENLE: Answer the question with the
18 understanding that you're not an attorney and it's not
19 being asked in that regard.

20 A. It is my belief that price squeeze with the
21 original C-27 doesn't create -- it doesn't create a
22 price squeeze, and the reason I believe that is we're
23 not identical competitors. You have one competitor
24 that has multiple revenue streams that are not

25 available to the other competitor, and even though we

(LANKSBURY - CROSS BY HARLOW)

1 provide the essential service, what this model attempts
2 to do is set an equal cost basis. We do not have an
3 equal revenue stream and logic tells me that until we
4 are competing on equal terms with both regulated
5 companies or deregulated companies, there is no price
6 squeeze of the that is my belief.

7 MR. HARLOW: I think this would be
8 appropriate time to take our break, Your Honor.

9 JUDGE HAENLE: Let's break at this time.
10 Be back, please, at 3:15. Is --

11 JUDGE HAENLE: Let's be back on the record
12 after our afternoon recess. Go ahead, Mr. Harlow.

13 Q. Mr. Lanksbury, we've been talking a lot
14 about imputation but I haven't had a you [TWAOEUPB] it
15 yet. Would you please define the imputation test as
16 you understand it.

17 A. Well, the imputation in the model we have,
18 the summary, the imputation test that we show here is
19 that we charge ourselves the tariffed rate for the
20 services that are essential to the private payphone
21 provider in providing their service, for instance, the
22 public access line, the usage the end user access
23 charge. Those services that they would have to
24 purchase from US West communications to in fact

25 operate their payphones.

(LANKSBURY - CROSS BY HARLOW)

1 Q. I think you've gone beyond my question and
2 started getting into my follow-up which is whether US
3 West believes an imputation approach is appropriate,
4 and I take it from your answer the answer would be
5 yes?

6 A. Yes, we do. We've been filing imputation
7 since 1988 in different regulatory jurisdictions.

8 Q. And the reason for that is that it end
9 insures that US West and the competitive payphone
10 providers, in this market anyway, will all have the
11 same cost floor for the monopoly elements of payphone
12 service; is that correct?

13 A. That is not correct. It would be the price
14 floor for pricing our product.

15 Q. Okay, thank you for that correction. What
16 does it mean if a service does not pass the
17 "imputation test"?

18 A. It [TKPEPBZ] on whether the Commission
19 accepts imputation as the proper mechanism for setting
20 that price floor. If they do not accept imputation,
21 then it's business as it's been historically. If they
22 do accept it then it could require reprice [-G].

23 Q. No. I don't mean what is the consequence.
24 I mean, define, if you will, whatnot passing the

25 imputation is.

(LANKSBURY - CROSS BY HARLOW)

1 A. Not pricing imputation would be the rates
2 that we currently charge don't fully defray the cost
3 of providing the service with imputed tariffed rates.

4 Q. And on September 23rd of this year you
5 testified that US West payphone services do not --
6 did not at that time, according to your opinion, pass
7 the imputation test.; is that correct.

8 MR. SHAW: Testified in what?

9 MR. HARLOW: Deposition on September 23.

10 A. Based on the original exhibit C-27, that's
11 correct.

12 Q. And my understanding from your direct on
13 Monday is that you've now changed that testimony?

14 A. Based on Exhibit C-27 revised that is
15 correct.

16 Q. Who prepared the original C-27?

17 A. I did.

18 Q. Did you have some assistance in preparing
19 that?

20 A. The only assistance I had in preparing that
21 was to receive the long-run incremental cost studies
22 that are a part of that study from the cost analysts,
23 and that would be true with both of those studies
24 because they are the same costs.

25 Q. Did you have an economist review the
(LANKSBURY - CROSS BY HARLOW)

1 original C-27?

2 A. I have met with our costing folks and one
3 of the people that is involved in imputation for the
4 business.

5 Q. And who have you met with, quote, costing
6 folks?

7 A. Geraldine Santos-Rach and Dan Purkey who has
8 dealt with imputation for the company.

9 JUDGE HAENLE: Can you spell all of those
10 names?

11 THE WITNESS: Sure. Santos-Rach, S A N T O
12 S-R A C H and Purkey is P U R K E Y.

13 Q. Is Ms. Santos-Rach an economist?

14 A. I do not know her background.

15 Q. Do you know if Mr. Purkey is an economist?

16 A. I do not know his background.

17 Q. Do you know if they purport to be economic
18 experts?

19 A. Mr. Purkey, I understand, testifies on
20 economic issues for the company, but I don't know if
21 he considers himself an expert.

22 Q. Did Mr. Purkey review revised Exhibit C-27?

23 A. No, he did not.

24 Q. Did you ask Mr. Purkey and Ms. Santos-Rach

25 to approve the methodology you had followed in your
(LANKSBURY - CROSS BY HARLOW)
1 original Exhibit C-27?

2 A. I did not ask for approval, no.

3 Q. What was the purpose of their review?

4 A. To see if the general principles were
5 appropriate.

6 Q. And they agreed the general principles were
7 apparently?

8 A. Yes.

9 Q. Did Ms. Santos-Rach review your revised
10 Exhibit C-27?

11 A. No, she did not.

12 Q. As I understand it from reviewing your
13 Exhibit C-27, you agree with Dr. Cornell that in
14 preparing an imputation study for US West payphone
15 services it is not appropriate to include revenues
16 from operator-assisted toll calls?

17 A. That is our current position, yes.

18 Q. Do you believe that this Commission should
19 re-examine local calling rates for US West?

20 MR. SHAW: Payphone local calling rates?

21 MR. HARLOW: Yes, thank you for the
22 clarification.

23 A. I believe that's, yes, part of the process.
24 I think we constantly need to be reviewing the rates,

25 that's correct.

(LANKSBURY - CROSS BY HARLOW)

1 Q. If the Commission accepts imputation in
2 this case, how do you feel that should impact local
3 calling rates?

4 A. Depends on whether accept the revised or the
5 original C-27.

6 Q. What if they accept the original?

7 A. Then I think we need to look at some
8 pricing mechanism or some change in rates to
9 appropriately recover the long-run incremental cost
10 plus imputed PAL rates.

11 Q. Are there other ways to resolve an
12 imputation problem if the original C-27 is accepted
13 besides raising local call rates?

14 A. Yes, there are. There are a number of
15 ways.

16 Q. What are some of those ways? What are all
17 the ways you can think of?

18 A. All the ways I can think of. You could set
19 up a unique incremental charge -- we refer to it as a
20 set use fee -- for nonlocal type calls, intraLATA toll
21 calls or intrastate toll calls to be a contributor to
22 the cost. You could raise the semipublic rate to a
23 level if you're very close that could recover the
24 cost. You could reduce the PAL rate if that is the

25 decision to in fact reduce costs. You could reduce

(LANKSBURY - CROSS BY HARLOW)

1 the usage rate associated with PAL to reduce costs.

2 Q. Do you recall Dr. Cornell's supplemental
3 testimony that purported to show on an imputation basis
4 that US West loses money on local credit card calls and
5 collect calls from its payphones?

6 A. Vaguely, yes.

7 Q. Is there anything in your testimony that
8 responds or in any way rebuts Dr. Cornell's
9 supplemental testimony?

10 A. I did not address the operator service
11 piece in my testimony. I did not feel it was a
12 payphone issue per se. I feel that the services for
13 operator -- or the rates for operator services are
14 unique to that service and I have not been involved in
15 pricing of operator service rates nor toll rates.

16 Q. So with that explanation the answer is no?

17 A. So, no.

18 JUDGE HAENLE: You've handed me a one-page
19 document. At the top is the caption Response to
20 Complainant's Third Data Requests Data Request No. 40.
21 Mark this as 32 for identification.

22 (Marked Exhibit 32.)

23 Q. Can you identify Exhibit 32, Mr. Lanksbury,
24 as the complainant's data request No. 40 to US West and

25 US West's response?

(LANKSBURY - CROSS BY HARLOW)

1 A. Yes.

2 Q. And that data request shows the taxes that
3 are paid by public access lines subscribers; is that
4 correct?

5 A. That's correct.

6 MR. HARLOW: I would offer Exhibit 32.

7 JUDGE HAENLE: Any objection, Mr. Shaw?

8 MR. SHAW: I don't object to the exhibit
9 but I object to the characterization of the exhibit
10 just made by counsel that it reflects the taxes paid
11 by PAL line subscribers. That does not purport to
12 represent that at all. It represents the taxes that
13 US West is required to collect and remit to the state
14 authorities per PAL line.

15 JUDGE HAENLE: I think that is a more
16 accurate characterization, Mr. Harlow.

17 MR. HARLOW: It goes, I guess, a little bit
18 further in that it reflects the remission. I don't
19 have any problem with that characterization.

20 JUDGE HAENLE: Ms. Brown, do you have any
21 objection?

22 MS. BROWN: No objection.

23 JUDGE HAENLE: 32 then will be entered into
24 the record. Thank you.

25

(Admitted Exhibit 32.)

(LANKSBURY - CROSS BY HARLOW)

1 Q. Taking a look -- first of all, can a
2 competitive payphone provider elect not to pay these
3 or remit these taxes to US West?

4 A. They can certainly elect, to yes.

5 Q. What's the result of that?

6 A. I am not sure what the collection policies
7 are and what happens as a result of not paying them.
8 I just don't know.

9 Q. Would you accept subject to check that if
10 ultimately they weren't paid they would have their PAL
11 -- their service disconnected?

12 MR. SHAW: I object to that. That is a
13 subject to check. The witness has testified that he
14 does not know, and I frankly do not know either,
15 whether that is simply reported to the state and the
16 state does something or whether or not the company has
17 to disconnect, but that is not something that this
18 witness can check.

19 MR. HARLOW: Let me rephrase the question.

20 Q. Are these charges optional charges on the
21 bill? Is that your understanding?

22 A. My understanding is that they are
23 nonoptional charges. They are billed on every bill.

24 Q. First of all, taking a look at the state

25 TTD excise tax of 10 cents per access line. Do you see
(LANKSBURY - CROSS BY HARLOW)

1 that?

2 A. Yes.

3 Q. That tax is not included in your imputation
4 study as reflected by both the original and the
5 revised C-27; is that correct?

6 A. That is correct.

7 Q. How about the state 911, is that 50 cent
8 charge included in your imputation study?

9 A. No, it is not.

10 Q. How about the telephone assistance program
11 of 5 cents per line, that also is not included in the
12 Exhibit C-27; is that correct?

13 A. That is correct.

14 Q. If you have C-27 still in front of you or
15 in mind, does that exhibit reflect any EAS additives
16 that PAL subscribers may have to pay?

17 A. No, it does not.

18 Q. How much is the EAS additive in Seattle?

19 A. I do not know.

20 Q. You have an idea of the approximate range
21 of EAS additives around the state?

22 A. No, I do not.

23 Q. Would you accept -- well, I take it the EAS
24 additives or no EAS additives are included in your

25 imputation study that constitutes Exhibit 27?

(LANKSBURY - CROSS BY HARLOW)

1 A. That is correct. No EAS additives are in
2 either the original or the revised C-27.

3 MR. HARLOW: Your Honor, the next exhibit
4 is a confidential exhibit subject to the protective
5 order. I do not intend at this time to ask any
6 questions that would require the hearing session to be
7 closed.

8 JUDGE HAENLE: I assume that the heading on
9 the front is not confidential, the first page.

10 MR. HARLOW: Ask the witness that.

11 MR. SHAW: It is not.

12 JUDGE HAENLE: I want to be able to say how
13 many pages and what the heading is and I don't want to
14 step on anyone's toes doing that.

15 I will mark as Exhibit C-33 for
16 identification a document five pages total. The first
17 page merely says Refund Spreadsheet and this will be
18 marked as C-33 for identification.

19 (Marked Exhibit C-33.)

20 Q. Mr. Lanksbury, can you identify subject to
21 check that Exhibit C-33 is one of the cost studies
22 that was supplied to complainants in response to data
23 requests for cost studies?

24 A. I think that mischaracterizes this. I am

25 not sure, but it seems to me this is part of the

(LANKSBURY - CROSS BY HARLOW)

1 backup for the public telephone cost study. Is that
2 not correct?

3 Q. Yes, I believe that it relates to your
4 Exhibit C-27.

5 A. Right, but it's a backup to the cost study.
6 It's one element of a cost study. It's not a cost
7 study per se in itself.

8 Q. Right. Does that accurately identify the
9 exhibit?

10 A. Yes, I think so.

11 MR. HARLOW: Offer Exhibit 33.

12 JUDGE HAENLE: Any objection, Mr. Shaw?

13 MR. SHAW: Well, Your Honor, I think
14 there's a lack of foundation. It's been identified
15 but its relevance has not even been touched on at all,
16 so I think we need some foundation questions to admit
17 it. It's not clear to me why it's relevant at all.
18 It's just an answer to discovery.

19 JUDGE HAENLE: Backup to a cost study is
20 the description we've gotten so far and I think
21 that --

22 MR. SHAW: Where does it tie into Mr.
23 Lanksbury's direct testimony?

24 JUDGE HAENLE: You mean his direct

25 confidential exhibit, which is the cost study or the

(LANKSBURY - CROSS BY HARLOW)

1 results of the cost study?

2 MR. SHAW: I don't know. It's a question
3 that -- I don't see that it ties in at all.

4 JUDGE HAENLE: Mr. Harlow?

5 MR. HARLOW: Well, I didn't think there was
6 going to be any controversy over this, but I will be
7 happy to ask a few more questions that make the
8 relevance quite evident, so I will withdraw my offer at
9 this time.

10 JUDGE HAENLE: Go ahead.

11 Q. Mr. Lanksbury, you have in front of you,
12 please, Exhibit C-33 and turn to the fourth page. Do
13 you see the heading Monthly Cost Per Line on the
14 right?

15 A. Yes, I do.

16 Q. There's a dollar figure below that?

17 A. Yes.

18 Q. Now, please, turn to -- keep that in front
19 of you and then turn to your original Exhibit C-27.

20 A. Yes.

21 Q. And you see the line for Refunds?

22 A. Yes, I do.

23 Q. And look under the column Public?

24 A. Yes.

25 Q. Do those two numbers correspond?

(LANKSBURY - CROSS BY HARLOW)

1 A. Yes, they do.

2 Q. Exhibit C-33 is the backup for the figure
3 that we just identified in Exhibit C-27; is that
4 correct?

5 A. That is correct.

6 MR. HARLOW: Renew my offer of Exhibit 33.

7 JUDGE HAENLE: Mr. Shaw?

8 MR. SHAW: Your Honor, it's been identified
9 but I still don't understand the relevance at all. If
10 the number was different then I could understand it
11 that this would be admissible on an impeachment basis.
12 The number is exactly the same. What's the relevance
13 to admit it into evidence?

14 JUDGE HAENLE: Ms. Brown, do you have any
15 objection?

16 MS. BROWN: No objection.

17 JUDGE HAENLE: I'm going to overrule the
18 objection and enter the document into the record.
19 When we have in the record only the results of the
20 cost study I think backup as to how some of those
21 numbers were reached is something that the Commission
22 might want to have and to look over. I feel that it's
23 relevant and will enter it into the record. Be sure
24 you treat this as a confidential exhibit.

25

(Admitted Exhibit C-33.)

(LANKSBURY - CROSS BY HARLOW)

1 Q. Mr. Lanksbury, are the cost elements, the
2 names of the cost elements, in this exhibit considered
3 confidential or just the numbers?

4 A. I am not the preparer of this document, but
5 I would assume that only the numbers would be
6 confidential. This was prepared by a cost analyst.

7 Q. Please take a look, then, at the heading --
8 we're on the same page, the fourth page of C-33, the
9 heading Total Annual Expense. Do you see that?

10 A. Yes, I do.

11 Q. The number under that corresponds to a
12 number at the top of the page; is that correct?

13 A. Appears to, yes.

14 Q. And please describe to me what you
15 understand to be included in that number.

16 A. I will be very honest with you, and I think
17 I've said this before. I am not a cost analyst so it's
18 very difficult for me to break these headings down and
19 give you exact data of what's included in there.

20 MR. HARLOW: Well, perhaps we'll have to
21 follow up with a data request. The next exhibit
22 thankfully is not confidential.

23 JUDGE HAENLE: You've handed me a one-page
24 document. The caption at the top is Responses to

25 Complainant's Seventh Data Requests, Data Request No.

(LANKSBURY - CROSS BY HARLOW)

1 138. Mark this as 34 for identification.

2 (Marked Exhibit 34.)

3 Q. Can you identify Exhibit 34 as the US West
4 response to data request No. 138 from the
5 complainants?

6 A. Yes.

7 Q. And the response or the question asks about
8 walk away toll fraud. Can you please explain for the
9 record what walk away toll fraud is.

10 A. Walk away toll fraud is fraud where on a
11 toll call the end user pays the first increment of
12 revenue requirement at the time they place the call.
13 The automated operator service or the ACTS system --
14 A C T S -- rates the call and then the voice says
15 deposit \$2 for this call. It gives a certain amount of
16 time and the central office and the A C T S system is
17 built so that it will give additional time and bill
18 after the additional time is used that was not -- that
19 the initial deposit did not satisfy. So at that point
20 the end user decides not to deposit the coins and
21 walks away and although a live operator will come on
22 and bill -- or ring the customer to bill them for the
23 unsatisfied amount, the customer just chooses to walk
24 on it and that's why we call it walk away fraud.

25 Q. I believe according to the response to data
(LANKSBURY - CROSS BY HARLOW)

1 request No. 138 apparently you're contending that this
2 is not a payphone cost; is that correct?

3 A. No, because it's associated to a toll call
4 and toll calls, as we've discussed earlier, are not
5 used to offset payphone costs.

6 Q. So I take it from that answer that the cost
7 of walk away fraud is not included in either the
8 original or the revised Exhibit 27; is that correct?

9 A. That's correct, because local calls are
10 satisfied up front because it's a flat rate for
11 unlimited usage, so this is truly a toll call only
12 associated with toll calling.

13 JUDGE HAENLE: You've handed me a one-page
14 document entitled Responses to Complainant's Eighth
15 Data Requests, Data Request No. 173. Mark this as 35
16 for identification.

17 (Marked Exhibit 35.)

18 Q. Can you identify 35 as US West's Response to
19 Complainant Data Request No. 173?

20 A. Yes.

21 Q. And in that data request the complainants
22 asked you whether or not certain categories of phones
23 are subject to walk away toll fraud; is that correct?

24 A. That is correct.

25 Q. And we listed a whole bunch of different
(LANKSBURY - CROSS BY HARLOW)
1 categories: simple, complex, business lines,
2 residence, and the bottom in sub H we said "any other
3 category of service subject to walk away toll fraud,"
4 just to make sure we haven't left anything out. Do you
5 see that?

6 A away toll fraud just to make
7 sure we haven't left anything out. Do you see that?

8 A. Yes.

9 Q. And the response on all of them, except
10 for G, which was US West provided payphones, was no or
11 none; is that correct?

12 A. Yes.

13 Q. So what this exhibit reflects then is that
14 the only kind of phone service offered by US West that
15 is subject to walk away fraud is payphone service; is
16 that correct?

17 A. Yes, that's correct. It's the only service
18 I know that we put coins in the set.

19 MR. HARLOW: We offer Exhibits 34 and 35,
20 Your Honor.

21 JUDGE HAENLE: Any objection, Mr. Shaw?

22 MR. SHAW: None.

23 JUDGE HAENLE: Ms. Brown?

24 MS. BROWN: No.

25 JUDGE HAENLE: Exhibits 34 and 35 then will
 (LANKSBURY - CROSS BY HARLOW)

1 be entered into the record.

2 (Admitted Exhibits 34 and 35.)

3 Q. On page 37 of your testimony you were asked
4 if you agreed with Dr. Cornell's statement "payphone
5 competition has been hampered in Washington." Do you
6 see that question and your answer?

7 A. Yes, I do.

8 Q. In preparing your answer to that question,
9 did you analyze the market share -- excuse me -- start
10 over. In preparing your answer to that question, did
11 you analyze what the market share of the competitive
12 payphone providers would have been but for the acts
13 alleged by the complainants?

14 A. Could you repeat the question? I'm sorry,
15 I got lost on that.

16 Q. Preparing your answer to that question, did
17 you analyze what the market share of the competitive
18 payphone providers would have been but for the acts
19 alleged by the complainants?

20 A. No, we were unable to. There were no
21 business plans provided by the complainants so we had
22 no reference point. We only know how it looks against
23 national average. It's considerably higher.

24 Q. Later on in your testimony you did refer to

25 that national average and in so doing did you do any

(LANKSBURY - CROSS BY HARLOW)

1 analysis of the competitiveness of the marketplaces

2 across the country?

3 A. I did not do analysis of the marketplaces

4 across the country.

5 Q. And I take it from your testimony by your

6 education and experience that you have no training or

7 experience that enables you to analyze the

8 competitiveness of markets such as that?

9 A. That is correct.

10 Q. At pages 25 and 26 of your testimony you

11 discuss how competitive payphone providers can obtain

12 revenues from operator service providers other than US

13 West. Do you have that testimony in mind or in front

14 of you?

15 A. Generally. I haven't reread it here, but

16 yes.

17 Q. In order for the competitive payphone

18 providers to obtain that revenues -- excuse me -- in

19 order for the operator service providers to provide

20 those services to the competitive payphone providers,

21 the operator service providers have to use some kind of

22 billing and validation and collection services; is that

23 correct?

24 A. It's advised that they do; otherwise

25 they're subject to fraud and they can't collect their

(LANKSBURY - CROSS BY HARLOW)

1 money, yes.

2 Q. Most operator service providers use US West
3 for collection/billing services either directly or
4 indirectly; is that correct?

5 A. I am not sure but a large number of them do
6 use US West, that's correct.

7 Q. I think at page 119 of your deposition you
8 said there are a couple of vendors that do it and US
9 West is one of those; is that correct?

10 A. Yes, that's correct.

11 Q. Would you agree that most subscribers who
12 receive a bill from US West would find that most other
13 charges from other operator service providers will be
14 on that US West bill?

15 A. I have no way to quantify those that don't,
16 but as I said previously, I assume a great many of the
17 operator service providers use US West billing and
18 collection services.

19 Q. For those that do they have to pay US West
20 price listed rate unless they have some kind of
21 special contract listed for the services; is that
22 correct?

23 A. That is correct.

24 Q. US West hasn't entered into 13 contracts

25 for billing/collection services; is that correct?

(LANKSBURY - CROSS BY HARLOW)

1 A. I know they have entered into contracts. I
2 don't know whether they're special or not.

3 Q. Do you know that the rates among various
4 operator service providers vary?

5 A. I think in looking at those contracts that
6 were provided by someone else, in just reviewing them
7 there were some differences due to the volumes of
8 traffic.

9 Q. Now, from US West payphones, US West would
10 perform all of the validation billing and collection
11 functions for the calls handled by its operators; is
12 that correct?

13 A. The operator services portion would do all
14 of those validations. It's not a payphone cost issue.
15 It's an operator service cost issue, but yes.

16 Q. US West would do it, though, right?

17 A. US West would do it.

18 Q. And US West would be able to do that at its
19 cost rather than at the rates it charges to other
20 providers; is that correct?

21 A. I think it's done at the long-run
22 incremental cost. In preparation for this case I
23 remember a docket 85-91 that says that billing
24 collections, if I remember right, would be done at the

25 LRIC costs. So I think that's the case.

(LANKSBURY - CROSS BY HARLOW)

1 JUDGE HAENLE: When you say LRIC, L R I C?

2 THE WITNESS: Long run incremental costs.

3 JUDGE HAENLE: You've handed me a one-page
4 document. Caption at the top is Tariff FCC No. 1. I
5 will mark this as 36 for identification.

6 (Marked Exhibit 36.)

7 Q. Will you accept subject to check that this
8 is a portion of US West's FCC tariff for validation?

9 A. Yes, I will.

10 Q. And will you accept subject to check that
11 this was provided to the complainant in response to
12 one of the data requests?

13 A. Yes, I will.

14 MR. HARLOW: The next exhibit is a
15 confidential exhibit, Your Honor.

16 JUDGE HAENLE: You've handed me a
17 five-page document. At the top is the heading Unit,
18 U N I T, Cost Element. I will mark this as C-37 for
19 identification.

20 (Marked Exhibit C-37.)

21 Q. Will you accept subject to check that
22 Exhibit C-37 is a portion of the backup for the cost
23 study -- or maybe it's a stand alone cost study, I
24 don't know -- for US West validation services?

25 A. This document was provided by someone else,
 (LANKSBURY - CROSS BY HARLOW)

1 so I would have a hard time validating that it is or
2 it isn't. Subject to check, I guess I am going to
3 have to accept that because I have not seen -- other
4 than in the deposition, I have not been involved in
5 this document previous to this.

6 Q. Will you accept subject to check that it
7 was provided to us in response to the complainant's
8 data requests?

9 A. Yes.

10 MR. HARLOW: Next exhibit is not
11 confidential.

12 JUDGE HAENLE: You handed me a two-page
13 document. The caption at the top is Section 4,
14 Billing and Collection Services. I will mark this as
15 38 for identification.

16 (Marked Exhibit 38.)

17 Q. Would you accept subject to check that
18 Exhibit 38 is a portion of US West's billing and
19 collection price list?

20 A. Yes. Subject to check it appears to be,
21 yes.

22 MR. HARLOW: The next exhibit is
23 confidential.

24 JUDGE HAENLE: You've given me a two-page

25 document. Caption at the top is Billing and

(LANKSBURY - CROSS BY HARLOW)

1 Collection Services 1992 Cost Information. I will
2 mark this as C-39 for identification.

3 (Marked Exhibit No. C-39.)

4 Q. Can you identify Exhibit C-39 for the
5 record as being a document that was supplied to
6 complainants in a response to their data requests for
7 US West cost studies?

8 A. Only subject to check. That was provided by
9 someone other than myself.

10 Q. I understand you didn't provide the cost
11 study data, that Ms. Santos-Rach did?

12 A. Yes, that's correct.

13 Q. So you can check with her on whether or not
14 this was the cost study she provided?

15 A. Yes, that's true.

16 JUDGE HAENLE: Before we get a very large
17 collection of these we could discuss their entry.
18 I've got 36 through C-39 that I haven't been marked for
19 entry.

20 MR. HARLOW: I have four more and then I
21 was going to move.

22 JUDGE HAENLE: If there's an objection it
23 gets tangled up.

24 MR. HARLOW: I understand. Offer Exhibits

25 for the record 36, C-37, 38 and C-39.

(LANKSBURY - CROSS BY HARLOW)

1 MR. SHAW: Your Honor, if counsel is going
2 to offer four more exhibits related to billing and
3 collection costs and/or rates, I am going to be
4 objecting to these exhibits as a class so in this
5 instance it might be more economical of time to go and
6 get other ones marked.

7 JUDGE HAENLE: All right.

8 MR. HARLOW: The others are cost studies
9 but they don't relate to billing and collection.

10 MR. SHAW: They don't?

11 MR. HARLOW: They do not.

12 JUDGE HAENLE: Which ones are you objecting
13 to specifically?

14 MR. SHAW: Your Honor, marked for
15 identification 36, C-37, 38 and C-39 I would submit to
16 you are not relevant to the the issues in this case.
17 You will recall that this Commission has classified
18 US West's billing and collection services as -- for
19 other carriers as effectively competitive services.
20 They have also done that without even any comment very
21 recently for General Telephone of the Northwest. This
22 would appear to be some sort of a collateral attack on
23 that classification of services by this Commission
24 without being set forth in the complaint. The effect

25 is to apparently ask the Commission to reverse that

(LANKSBURY - CROSS BY HARLOW)

1 classification, and I think that the company is

2 entitled to notice of such an issue.

3 We objected to this discovery at the time

4 and you overruled our objection and made us produce

5 all this data relative to the billing and collection.

6 The issue is that billing and collection of US West

7 can be used or not be used by AOS, alternative

8 operator service companies, who are free to do their

9 own billing certainly or free to use Visa or Master

10 Card or any number of other ways. Whether or not they

11 prefer to use it is besides the point, they don't have

12 to, so there's no issue as to what the level of US

13 West's rates for billing and collection are vis-a-vis

14 its costs, nor is there any issue on whether or not the

15 tariff rate should be in any imputation study if an

16 imputation study is adopted by this Commission.

17 So we're getting very far afield here subject to this

18 shotgun complaint. This was not pleaded and therefore

19 these exhibits should not be admitted.

20 JUDGE HAENLE: Mr. Harlow, the objection is

21 relevance.

22 MR. HARLOW: First of all, I object to the

23 continued use of the word shotgun complaint. I don't

24 think those kind of characterizations further Mr.

25 Shaw's objections or this case at all.

(LANKSBURY - CROSS BY HARLOW)

1 Secondly, Mr. Shaw apparently hasn't gone
2 back and checked but I have. And the response to data
3 request No. 23 was "please see proprietary attachment
4 No. 4." The response to data request No. 24 was
5 "please see attachment No. 5." These were the data
6 requests responses that are the sources for these
7 exhibits regarding billing and collection and there was
8 no objection raised and there was no motion to compel
9 on them.

10 Now that we've corrected the facts let's
11 talk about the relevance. Page 25 of Mr. Lanksbury's
12 testimony, which is Exhibit 24, beginning at line 2
13 Mr. Lanksbury is asked the question: "Dr. Cornell
14 states in her testimony, page 26, line 9 that US West
15 pays location providers a commission based on all of
16 the local and intraLATA toll revenues generated at a
17 particular payphone, including both the network portion
18 of the nonsent paid toll and all of the operator
19 handled toll revenue. These amounts are not available,
20 however, for the nonLEC payphone provider to use in
21 making compensation offers to location
22 providers as these are not payphone revenues.'

23 "Is this a true representation of the
24 compensation paid to space providers by USWC?"

25 This question directly puts in issue what
 (LANKSBURY - CROSS BY HARLOW)
1 revenues are available to US West on an imputed basis
2 compared to the revenues that are available to the
3 competitive payphone providers.

4 Now, US West is certainly going to disagree
5 with this in this proceeding on brief as to what
6 should be imputed and what shouldn't be, and US West
7 certainly disagrees with Dr. Cornell's conclusion that
8 there is a price squeeze, but these cost studies and
9 comparison of the costs with the rates in looking at
10 how US West compensates its space providers based on
11 its revenues from operator service -- from
12 operator-handled calls -- certainly supports
13 Dr. Cornell's analysis and conclusion that there is a
14 price squeeze in this state, and although US West may
15 dispute that, these are clearly relevant to that, and
16 will be referred to in brief and US West may take a
17 different view of that but they're clearly relevant to
18 this proceeding.

19 JUDGE HAENLE: Any brief response, Mr.
20 Shaw?

21 MR. SHAW: Just doesn't go to my objection.
22 Billing and collection is a service that is
23 competitively classified and the costs versus the
24 rates, which all of these offered exhibits go to,

25 don't have anything to do with the assertion that

(LANKSBURY - CROSS BY HARLOW)

1 somehow US West is improperly paying compensation or

2 should be imputing some sort of revenue to itself.

3 It's just not -- these exhibits are not at issue in

4 this case. What goes into an imputation study is an

5 issue in this case, certainly. But that isn't what

6 these relate to at all.

7 JUDGE HAENLE: Ms. Brown, did you have any

8 objection to the documents?

9 MS. BROWN: No.

10 JUDGE HAENLE: Anything else, Mr. Harlow?

11 MR. HARLOW: Well, I do wish to clarify

12 that the complainants are not seeking in this

13 proceeding to have billing and collection reclassified

14 as monopoly services, but nevertheless, the witness

15 has already testified that there are a number of ways

16 that the Commission can eliminate a price squeeze if

17 it finds that one exists, and what these exhibits

18 are going to is that they may indeed influence the

19 Commission to find there is a price squeeze and the

20 Commission may take some other avenue without having

21 to reclassify billing and collection services to

22 remedy that price squeeze.

23 JUDGE HAENLE: Anything else, Mr. Shaw?

24 MR. SHAW: No.

25 JUDGE HAENLE: I'm going to overrule the
 (LANKSBURY - CROSS BY HARLOW)

1 objection and enter the documents into the record. I
2 believe that they're admissible to allow the
3 complainant to fully argue its case. I don't know
4 whether the Commission will agree with its view of the
5 possibilities or not, but I believe that it is
6 relevant. They are relevant for that purpose. So I
7 will enter 36, C-37, 38 and C-39 into the record.

8 (Admitted Exhibits 36, C-37, 38 and C-39.)

9 MR. HARLOW: This one is confidential as
10 well, Your Honor.

11 JUDGE HAENLE: You have handed me a
12 four-page document. The caption at the top is Usage
13 U S A G E Costs. I will mark this as C-40 for
14 identification.

15 (Marked Exhibit C-40.)

16 Q. Mr. Lanksbury, for the record, can you
17 identify Exhibit C-40 as being a part of the backup
18 papers supplied by US West to the complainants for the
19 public access line cost study?

20 A. Again, I did not provide this data but
21 subject to check with Ms. Santos-Rach I could see that
22 this is the backup to the cost study, yes.

23 MR. HARLOW: Next exhibit is also
24 confidential.

25 JUDGE HAENLE: You have handed me a

(LANKSBURY - CROSS BY HARLOW)

1 four-page document. Caption at the top is Responses to
2 Complainant's Fourth Data Requests, Data Request No.
3 61. I will mark this as C-41 for identification.

4 (Marked Exhibit C-41.)

5 Q. Mr. Lanksbury, can you identify Exhibit
6 C-41 as US West's response -- and if you need this to
7 be subject to check -- to the complainant's data
8 request No. 61?

9 A. Yes, subject to check.

10 Q. And that purports to show the costs for
11 outgoing call screening. Is that your understanding?

12 A. Yes, that's my understanding.

13 MR. HARLOW: Next exhibit is also
14 confidential, Your Honor.

15 JUDGE HAENLE: This is a one-page document.
16 The caption at the top is Public Access Line Telephone
17 Service Summary of Costs. I will mark this as C-42
18 for identification.

19 (Marked Exhibit C-42.)

20 Q. Will you accept, Mr. Lanksbury, subject to
21 check that Exhibit C-42 is part of the backup cost
22 data relating to public access line cost study that
23 was provided to the complainants in response to their
24 data requests for the cost studies and work papers?

25 A. Yes.

(LANKSBURY - CROSS BY HARLOW)

1 MR. HARLOW: There's one more confidential
2 exhibit in this series.

3 JUDGE HAENLE: This is a three-page
4 document. Caption at the top is Compensation. Mark
5 this as C-43 for identification.

6 (Marked Exhibit C-43.)

7 Q. Mr. Lanksbury, will you accept subject to
8 check that Exhibit C-43 is part of the backup data to
9 the cost study that became incorporated into your
10 Exhibit C-27 under the category of compensation costs?

11 A. Yes, that is correct.

12 MR. HARLOW: Your Honor, complainants offer
13 Exhibits C-40, C-41, C-42 and C-43.

14 JUDGE HAENLE: Any objection, Mr. Shaw?

15 MR. SHAW: No.

16 JUDGE HAENLE: Any objection, Ms. Brown?

17 MS. BROWN: No, Your Honor.

18 JUDGE HAENLE: All right. C-40, C-41,

19 C-42, and C-43 will be entered into the record.

20 (Admitted Exhibits C-40, C-41, C-42, C-43.)

21 Q. Mr. Lanksbury, if a US West calling card
22 customer makes a call from one of US West's payphones
23 and they receive -- let's say the calling card is
24 associated with their home, their residence telephone.

25 And they receive their residence telephone bill. I

(LANKSBURY - CROSS BY HARLOW)

1 assume that the call from the payphone would be shown
2 -- the bill for that call would be on their residential
3 bill; is that correct?

4 A. That's my understanding, yes.

5 Q. And if the residence customer doesn't pay
6 the bill for that credit card call from US West
7 payphone, will US West disconnect their home phone for
8 nonpayment of that bill?

9 A. I am not conversant with the residents
10 disconnect policy, so my answer would be subject to
11 check, but I assume because it's money owed US West,
12 that is correct.

13 Q. Subject to check, what if it were a US West
14 calling card that the customer used but they made a
15 call on a Paytel payphone and -- Paytel being one of
16 the complainants in this case -- and it was through
17 Paytel's operator service provider and pursuant to the
18 billing and collection arrangement, if they used US
19 West to bill that but the customer again didn't pay it,
20 what's your understanding as to whether

21 or not US

22 West would disconnect that customer's residence phone
23 for nonpayment of that bill?

24 A. Under the same conditions subject to check,

25 I would assume it would not be disconnected.

(LANKSBURY - CROSS BY HARLOW)

1 Q. I understand you prepared most of the data
2 requests that were sent to the complainants; is that
3 correct?

4 A. That is not correct. I would not say most.

5 Q. Do you recall testifying in your deposition
6 at page 50 that you had prepared most of the data
7 requests?

8 A. I thought it was some of the data requests
9 and not most.

10 Q. Well, at least did you review all of the
11 nonproprietary responses of the complainants to US
12 West data requests?

13 A. Yes, I did review it quite some time ago.

14 Q. I take it you're not aware of any
15 regulations in Washington about US West's compensation
16 of payphones space providers; is that correct?

17 MR. SHAW: Regulations of this Commission?

18 JUDGE HAENLE: Mr. Harlow.

19 MR. HARLOW: I think the question stands.

20 It was asked in the deposition and the witness was
21 able to answer it in the broader sense.

22 MR. SHAW: Well, I will object to the
23 question now because it's unclear.

24 JUDGE HAENLE: Mr. Harlow?

25 MR. HARLOW: There was no question.

(LANKSBURY - CROSS BY HARLOW)

1 Q. Let me repeat the question at the deposition
2 to which there was no objection.

3 "Question: Are you aware of any regulatory
4 constraints or provisions on your arrangement with
5 space provider" -- this is for US West payphone."

6 MR. SHAW: Same objection.

7 MR. HARLOW: Actually that's the wrong
8 question. Let me withdraw both of those questions.
9 "Are you aware of any regulatory provisions dealing
10 with the compensation paid to a space provider"?

11 MR. SHAW: Again, same objection.

12 JUDGE HAENLE: Why don't you ask the
13 question more clearly.

14 Q. Mr. Lanksbury, are you aware of any WUTC
15 regulations that address whether or not US West can
16 pay compensation to space providers?

17 A. I guess I will answer this one, then. The
18 only regulations that I am aware of are the fact that
19 the expenses are regulated and part of the regulated
20 costs that we provide. As far as amounts we pay and
21 how we pay it, no, I am not aware of any rules that
22 govern that, but commissions are regulated and part of
23 the regulated rate base because we are a regulated
24 company.

25 Q. Are you aware of any specific regulations

(LANKSBURY - CROSS BY HARLOW)

1 that address compensation to payphone space providers?

2 A. I am not aware of any specific rules or

3 regulations that address the way we compensate

4 space providers for the space they provide or the

5 space rental fee, no.

6 Q. Are you aware of any orders of this

7 commission that have specifically addressed

8 compensation to providers, space providers, for US West

9 payphones?

10 A. There are no specific rules that govern how

11 we do it. Again, as I say, they are a regulated

12 expense.

13 Q. My question went beyond that to whether you

14 were aware of any orders of the Commission that

15 addressed how you do it or the amounts?

16 A. No, I am not.

17 Q. Do you recall Mr. Coulson's testimony that

18 20 percent of the sites served by competitive payphone

19 providers did not previously have a payphone from the

20 local exchange companies serving the site?

21 A. I remember that testimony, yes.

22 Q. And I take it that there's nothing in your

23 testimony that disputes that?

24 A. There's nothing in my testimony that

25 disputes that, no.

(LANKSBURY - CROSS BY HARLOW)

1 Q. As I understand, you agree that the growth
2 and the number of competitive payphones in this state
3 has served the public interest?

4 A. I think there has been growth. Whether it
5 serves the public interest is really up to the
6 Commission to decide what the public interest is and
7 whether it's served by that but there is growth.

8 Q. Do you recall in your deposition in
9 response to that question you gave the answer, "I
10 think, as I've stated in an interrogatory, I believe
11 there was some public interest served in the growth of
12 private payphones."

13 A. Myself, personally, I think there is some
14 public interests served by the fact, and I think I
15 went on to say in another part of that deposition that
16 there are more payphones out there but in the total
17 public interest, I think that's a Commission decision.
18 The availability of payphones appears to me to be in
19 the public interest. If there are more there then
20 there's more availability in the case of an emergency.

21 JUDGE HAENLE: Remember to give your
22 answers slowly enough so that the reporter can get
23 them down accurately, please.

24 Q. Do you recall noting in your prefiled

25 testimony that's before us today that US West was not

(LANKSBURY - CROSS BY HARLOW)

1 required by this Commission's rules to offer intrastate
2 public access line service?

3 A. Yes, I do remember that.

4 Q. You would agree, would you not, that the
5 rule also does not state that once a local exchange
6 company offers intrastate public access line services
7 that it can later withdraw that service?

8 A. Please restate the question.

9 Q. WUTC's rule regarding intrastate PAL lines
10 does not say that once a local exchange company offers
11 an intrastate PAL service that it can later withdraw
12 that service, does it?

13 A. That is correct. It neither says we can or
14 we can't.

15 Q. US West's public access line services is
16 offered pursuant to a tariff in this state; is that
17 correct?

18 A. Yes, it is.

19 Q. And it would be your understanding that US
20 West cannot discontinue its intrastate PAL offering
21 unless the WUTC would approve that discontinuance?

22 A. That sounds to me like a legal question, but
23 I was under the understanding from a business
24 perspective that we could file to abandon a service

25 and then it's up to the decision of the Commission

(LANKSBURY - CROSS BY HARLOW)

1 whether or not it's approved.

2 Q. But that couldn't be done unless the
3 Commission approved it; is that correct?

4 MR. SHAW: Objection to the form of the
5 question. It is a legal conclusion. In fact, a
6 regulatory company can file a tariff and the Commission
7 can let it go into effect without saying a word so it's
8 misleading to say that the Commission has to approve.

9 MR. HARLOW: Not asking for a legal
10 conclusion. Mr. Lanksbury is the regulatory
11 legislative manager for the services of US West. He's
12 testified before a number of Commissions. Just asking
13 for his understanding of that.

14 JUDGE HAENLE: I think you already got it.
15 I think that's repetitive.

16 Q. US West has never considered withdrawing
17 its intrastate PAL offering in this state, has it?

18 A. We have never considered withdrawing our
19 tariff, that is correct.

20 Q. And PAL service is a money maker for US West
21 in this state, isn't it?

22 A. Based on the long-run incremental costs and
23 the rates, I assume it is a money maker, yes.

24 Q. You had some discussion about federal

25 activity in your prefiled testimony, do you recall

(LANKSBURY - CROSS BY HARLOW)

1 that generally?

2 A. Yes, I do.

3 Q. On page 9 of your testimony you discuss the
4 FCC proceeding regarding designation of regional bell
5 operating company payphones as CPE or customer premises
6 equipment. Do you recall that?

7 A. Yes, I do.

8 Q. I believe you testified in your deposition
9 that it's unlikely the FCC will rule in that case
10 before this case is over; is that correct?

11 A. That's correct.

12 Q. And I take it you aren't suggesting that
13 this Commission should defer action in this case
14 pending the FCC ruling in that case; is that correct?

15 A. I did not suggest that in my testimony, and
16 I do not suggest it now.

17 Q. And I take it you can't predict how the FCC
18 is going to rule in that case, can you?

19 A. That's correct.

20 Q. And so there's really no way that this
21 Commission can take into account the FCC CPE proceeding
22 and influence its decision in this case, is there?

23 A. I cannot presuppose what the Commission
24 will take into consideration in making their decision.

25 Q. I understand you just offered a description
(LANKSBURY - CROSS BY HARLOW)

1 of that proceeding to inform this Commission?

2 A. That is correct.

3 Q. Would it also be correct to say that you
4 simply offered your description of the FCC proceedings
5 regarding billed party preference and inmate CPE simply
6 to inform this Commission?

7 A. That is correct.

8 Q. At pages 16 and 17 of your testimony, you
9 describe the capabilities of US West repair
10 coordination service also known as RCS?

11 A. That is correct.

12 Q. Doesn't RCS have a lot of similarity to
13 linebacker service?

14 A. Yes, it does.

15 Q. Explain briefly what line backer service
16 is.

17 A. Line backer service is a repair -- a
18 specialized repair number that goes to a unique repair
19 representative and testing area that is located
20 outside the regular repair and it has interactive
21 testing with CP vendors and line backer differs in
22 some respects to RCS because we can't do some of the
23 same things, but it waives charges if the equipment is
24 in trouble and they pay a monthly fee for it.

25 Q. And does it also offer service on inside
(LANKSBURY - CROSS BY HARLOW)

1 wire, customer premises wire?

2 A. One form of line backer it's my
3 understanding does.

4 Q. Explain to me what's an end user supposed
5 to do if he has a problem at a competitive payphone
6 provider's phone that's served by RCS service?

7 A. The end user would dial a 1-800 number that
8 would go to the repair attendant in Grant Island
9 Nebraska and that repair attendant would take the call,
10 would do some testing, would take the refund
11 information, would try to determine if the trouble is
12 on the line or it's in the station. It would notify
13 the vendor of the phone as to the refund requirement
14 and then try to process the report. If it looked like
15 it was line trouble it would try to repair that, get
16 that repaired through sending a technician out.

17 Q. How does the end user know what this 1-800
18 number is?

19 A. Well, hopefully the vendor will post it on
20 the line card. That's what they're paying for that
21 service. If that number is not posted on the line
22 card they wouldn't know.

23 Q. So there's no way other than posting to
24 know that there's a special way to get refunds or

25 repair requests for that phone?

(LANKSBURY - CROSS BY HARLOW)

1 A. There's no way except posting for any end
2 user on any payphone to know how to report that
3 trouble, and/or get refunds. They can dial "0" in the
4 case of US West, but if they dial "0" from a competitive
5 payphone they would be referred back to the card for
6 that repair number.

7 Q. So if the card is lost or stolen, the US
8 West operator can't help the end user?

9 A. From a competitive payphone, that is true.

10 Q. That would be true even if the competitive
11 payphone provider has subscribed to RCS?

12 A. That is true.

13 Q. If an end user has a problem at a US West
14 payphone you mentioned they might call the operator
15 and the operator would do what?

16 A. Refer them to a repair service.

17 Q. And the operator knows that that person is
18 calling from a US West payphone?

19 A. Yes, they do.

20 Q. Is there any service that US West offers to
21 competitive payphone providers that would allow US
22 West's operators to handle refund and repair requests
23 the same way that US West operators handle those
24 calls from their own payphones?

25 A. No, there's not. There are other ways that
 (LANKSBURY - CROSS BY HARLOW)

1 the vendor can handle their repair outside the US West
2 operator.

3 Q. Do you recall Mr. Coulson's testimony that
4 competitive payphone providers have asked US West to
5 offer a service whereby the operator would be able to
6 identify the phone as being RCS equipped and transfer
7 the caller to the correct service center?

8 A. I remember that testimony, yeah.

9 Q. Such a service would be technically feasible
10 for US West; is that correct?

11 A. It would be technically feasible but can be
12 provided by many other providers.

13 Q. Are any of the elements of RCS available to
14 customers on an unbundled basis?

15 A. We have not unbundled RCS, no.

16 JUDGE HAENLE: You've handed me a one-page
17 document. The caption at the top is Response to
18 Complainant's Seventh Data Requests, Data Request No.
19 116. I will mark this as 44 for identification.

20 (Marked Exhibit 44.)

21 Q. Mr. Lanksbury, will you accept subject to
22 check that Exhibit 44 is US West's response to the
23 complainant's data request No. 116?

24 A. Yes, I will.

25 Q. And that identified certain expenses for
(LANKSBURY - CROSS BY HARLOW)
1 implementing "coin line functionality"?

2 A. That is correct.

3 Q. Are those costs for all 14 states or are
4 they Washington-specific?

5 A. I assume these costs are for all 14 states
6 but that is subject to check.

7 MR. HARLOW: We offer Exhibit 44, Your
8 Honor.

9 JUDGE HAENLE: Any objection, Mr. Shaw?

10 MR. SHAW: No.

11 JUDGE HAENLE: Any objection, Ms. Brown?

12 MS. BROWN: No.

13 JUDGE HAENLE: 44 then will be entered into
14 the record.

15 (Admitted Exhibit 44.)

16 Q. Will languages, would you agree that there's
17 a significant difference between answer supervision and
18 SIT tones, SIT tones?

19 A. Yes, there is a significant difference.

20 Q. Please explain for the record what answer
21 supervision does and what sit tones do and how they
22 differ.

23 A. Answer supervision is a function that
24 starts with the calling party placing a call to a

25 called party. If there's no answer from that called
(LANKSBURY - CROSS BY HARLOW)
1 party there is no trunk referral to indicate that
2 the call has been answered. If the receiver is taken
3 off hook by the called party, the called party will
4 pick up the phone, the trunk will reverse to say this
5 party has answered, start the billing, and that on
6 answer supervision-line side is transmitted not only
7 between the central offices through trunkage but is
8 passed on to the station or the equipment out there,
9 which is why it's called answer supervision-line side.

10 SIT tones, on the otherhand, are the series
11 of tones that you hear when you call and reach a
12 recording, such as intercept, a series of tones prior
13 to the recording coming on, so if you have equipment
14 that just starts billing because of voice recognition
15 it will give these tones and that equipment will say
16 don't bill for this call. So sit tones are at the
17 called end, so if you call and there are sit tones
18 there it will not bill when the phone -- because it is
19 going to an intercept recording or some type of
20 network recording.

21 Q. So answer supervision does really do more
22 than detect an answer. It also detects the conclusion
23 of the call; is that correct?

24 A. Yes. Answer supervision would detect the

25 conclusion of the call.

(LANKSBURY - CROSS BY HARLOW)

1 Q. Why is that important for payphone
2 providers, both US West and the competitive providers
3 to have some form of answer supervision?

4 A. To bill correctly.

5 Q. What does that mean to the end user?

6 A. It means they do not get charged for calls
7 that are not completed and they do get charged -- for
8 the vendor they do get charged for calls they
9 complete.

10 Q. In other words at most payphones you have
11 to put your quarter in before you dial a number,
12 right?

13 A. In most payphones, and I think in virtually
14 in all of them in Washington, at least in US West's
15 areas. I can't speak for the privates.

16 Q. If you dial a disconnect number and Aunt
17 Mable isn't home or whatever the quarter is supposed
18 to be returned; is that correct?

19 A. Yes. Normally it's accepted that we won't
20 bill for uncompleted calls and that's the expectation
21 of the end user.

22 Q. Do you have any understanding as to how
23 competitive payphone providers accomplish this
24 function without answer supervision?

25 A. I think they have implied answer

(LANKSBURY - CROSS BY HARLOW)

1 supervision.

2 Q. Can you be a little more descriptive of
3 that.

4 A. Well, I am not an expert on the CPE
5 payphone, but I understand there's two ways. One is
6 through an algorithm that determines the length of time
7 the receiver is off the hook and that algorithm
8 will say if it's off the hook 40 seconds they probably
9 answered the call, and collect the money, and if it's
10 off the hook 20 seconds it will hang up. The second
11 way is through voice recognition that the payphone
12 recognizes the voice on the other end and
13 appropriately bills the call, and if there is no voice
14 and it's just ringing or it's a busy or a SIT tone it
15 will return the money.

16 Q. Calls from competitive payphones can be
17 placed all over the country and there's some pretty
18 funny sounds that come across the network sometimes
19 aren't there?

20 A. It's a large network and there's multiple
21 companies out there so that very well could be.

22 Q. I think you testified that SIT tones aren't
23 used by all local exchange companies?

24 A. I don't think I testified to that, no.

25 Q. Your deposition at page 86, line 24 I asked
(LANKSBURY - CROSS BY HARLOW)

1 you the question:

2 "Question: I take it from your answers that
3 there are LECs around the country that do not use SIT
4 tones?

5 "Answer: I have never surveyed them but I
6 have been told that's true by people in the private
7 payphone industry that they have incidents where that
8 happens."

9 A. And I stand by that answer. I can't say
10 they don't. I've only been told by somebody that that
11 could be the case so I have not surveyed them. I have
12 no actual information as to who provides SIT tones and
13 who does not so I cannot say they do or they don't.

14 Q. So you would have no basis to dispute that
15 claim; is that correct?

16 A. I have no basis to dispute that claim.

17 Q. Would you agree that occasionally US West's
18 own SIT tones recordings are not properly played in
19 response to a call to a disconnected number?

20 A. There is always that potential. It could
21 happen, yes.

22 Q. And what's your understanding of what
23 effect that might have on the end user who gets a
24 recording of a disconnected phone? This is from a

25 competitive payphone.

(LANKSBURY - CROSS BY HARLOW)

1 A. It depends on the type of implied answer
2 supervision the competitive payphone uses. If it's
3 using voice recognition I would assume, then, that the
4 coin would be collected in error.

5 Q. And would that happen with the US West
6 payphone?

7 A. On sit tones, no.

8 Q. Would that happen if the competitive
9 payphone provider had subscribed to US West's answer
10 supervision-line side and were using that to detect
11 whether or not the phone were answered?

12 A. Once again, you always have the potential
13 that there's trouble in the network, and the trunk
14 reversal will not happen, but normally trunk reversal
15 does take place and for both competitive payphones and
16 US West phones if we get trunk reversal the billing
17 would be accomplished in the appropriate manner.

18 Q. Would you agree that the accuracy of US
19 West's detection of answer with its coin line would be
20 roughly the same as for answer supervision-line side?

21 A. If the answer supervision fails the
22 coin line and the answer supervision-line side
23 would both fail, so they would be the same, that's
24 correct.

25 Q. So would you agree that both of those are
(LANKSBURY - CROSS BY HARLOW)

1 more reliable than algorithms used to mimic answer
2 supervision?

3 A. I have no test of reliability of the
4 algorithms nor do I have a test of the reliability of
5 the answer supervision-line side. Manufacturers
6 claimed, as I think Mr. Coulson stated, that they have
7 97 percent reliability. So I have no measure of the
8 reliability of those two services.

9 Q. So you wouldn't have any basis to dispute
10 any claims about lower reliability?

11 A. Have no basis to dispute that.

12 JUDGE HAENLE: I think, Mr. Harlow, we're
13 looking at going until maybe quarter to 5 tonight. So
14 if you can plan -- go off the record for a minute to
15 discuss scheduling.

16 (Recess.)

17 JUDGE HAENLE: Let's go back on the record.
18 We went off the record to briefly discuss scheduling.
19 Sounds like if we start at 9:00 tomorrow we ought to be
20 able to finish this witness and take the three hours
21 that are estimated for Mr. Wilson as well. It's my
22 understanding that the other US West witness will then
23 be scheduled for Friday morning.

24 I would guess we would start at 9:00 then

25 also, but we'll set it for sure tomorrow night. So

(LANKSBURY - CROSS BY HARLOW)

1 let's recess at this time, then. We will begin at 9:00
2 tomorrow morning and continue with this witness. Thank
3 you all.

4 (Hearing adjourned at 4:35 p.m.)

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